



TASMANIA

Tasmanian Industrial Commission

Industrial Relations Act 1984

T No. 8413 of 1999

IN THE MATTER OF an application by the Tasmanian Trades and Labor Council to vary the awards of the Tasmanian Industrial Commission to reflect the decision of the Australian Industrial Relations Commission of April 1999, contained in Print R1999 - Safety Net Review - and to review the Wage Fixing Principles

T No. 8483 of 1999

IN THE MATTER OF an application by the Tasmanian Chamber of Commerce and Industry Limited to vary all State Awards and to review the Wage Fixing Principles in light of the Safety Net Review Wages 1999 (R1999) and the State Wage Case Application T No. 8413 of 1999 in accordance with Section 35(1)(d) of the Industrial Relations Act 1984

FULL BENCH:

DEPUTY PRESIDENT JOHNSON
COMMISSIONER WATLING
COMMISSIONER IMLACH

HOBART, 5 July 1999

Continued from 30 June 1999

TRANSCRIPT OF PROCEEDINGS

Unedited

(WOULD PARTIES PLEASE READ THIS TRANSCRIPT CAREFULLY)
(ANY QUERIES SHOULD BE DIRECTED TO THE COMMISSION WITHIN 14 DAYS)

HEARING RECOMMENCED 9.30am

DEPUTY PRESIDENT JOHNSON: I'll take the changes in appearances please. Mr Abey. Mr Brown.

5 MR BROWN: If the commission pleases, there are a number of matters that I would like to address on a preliminary issue. Firstly, if I could advise the commission -

MR CLEGG: Excuse me, sir, I'm a new appearance in this matter. I thought you were calling for appearances.

10 DEPUTY PRESIDENT JOHNSON: Yes, I was, Mr Clegg, I'll get to it in a moment.

Mr Brown, I was taking new appearances. I understood that Mr Abey was appearing. If you could announce his appearance, please.

15 MR BROWN: That's correct. I would like to advise the additional appearance of **ABEY T.J.** for the Tasmanian Chamber of Commerce and Industry Limited.

DEPUTY PRESIDENT JOHNSON: Thank you, Mr Brown. Perhaps I should say, Mr Abey, welcome back to an old stamping ground.

MR ABEY: Thank you, Mr Deputy President, it's not through choice but I'm pleased to be back.

20 DEPUTY PRESIDENT JOHNSON: Yes, Mr Clegg.

MR R. CLEGG: I'm appearing here for the Community and Public Sector Union (State Public Services Federation Tasmania) CLEGG R.

DEPUTY PRESIDENT JOHNSON: Thank you, Mr Clegg. Mr Rice.

25 MR RICE: If it please the commission, Mr Deputy President, some urgent matters have arisen within our organisation and I would seek leave of the commission to withdraw.

DEPUTY PRESIDENT JOHNSON: Yes, leave is granted, Mr Rice.

MR RICE: Thank you, sir.

30 DEPUTY PRESIDENT JOHNSON: I now propose to call on an application lodged by the Tasmanian Chamber of Commerce and Industry Limited, T8483 of 1999. I think the subject matter of that application is well known although I'm aware that because of the bulk of the application, not all of the parties received it or received notice of the hearing, nonetheless I think its subject matter is familiar enough,
35 but for the purposes of the record I will read it onto the record.

ASSOCIATE: Matter T8483 of 1999, pursuant to the provisions of section 23 of the *Industrial Relations Act 1984* an application lodged by the Tasmanian Chamber of Commerce and Industry Limited to vary all state awards and review the Wage Fixing Principles in light of the
5 Safety Net Review - Wages 1999 R1999 and the State Wage Case application T8413 of 1999 in accordance with section 35(1E) of the *Industrial Relations Act 1984*.

DEPUTY PRESIDENT JOHNSON: Accompanying that application was a letter of written application requesting that that matter be joined
10 with the matter currently before the commission, that is, the TTLC's application, T8413.

I'll take the appearances in respect of the TCCI's application please. Mr Brown.

MR R. BROWN: Thank you, deputy president. In respect to the TCCI, BROWN R.L. and **MR ABEY T.J.** I'd also like to advise that the TCCI will be appearing for the Chamber of Retailers and the Tasmanian Newsagents Association as well.
15

COMMISSIONER WATLING: Do the Chamber of Retailers have anyone covered by this application?

20 MR BROWN: In terms of state awards?

COMMISSIONER WATLING: Yes.

MR BROWN: I believe so. In terms of representing the Chamber of Retailers, that is a general matter that we will be announcing appearance in both matters for the Chamber of Retailers requested by
25 them to do so.

COMMISSIONER WATLING: It still doesn't answer my question. Do they have anyone covered by this application?

MR BROWN: I'm not sure of that on my feet. I'd have to check that out and advise the bench at a later time.

30 DEPUTY PRESIDENT JOHNSON: Ms Fitzgerald.

MS L. FITZGERALD: Thank you and good morning. LYNNE FITZGERALD appearing for the Tasmanian Trades and Labor Council.

DEPUTY PRESIDENT JOHNSON: Thank you, Ms Fitzgerald. Ms Shelley.

35 **MS P. SHELLEY:** I'm not entering an appearance in relation to this, Mr Deputy President.

DEPUTY PRESIDENT JOHNSON: Thank you. Are there any other union appearances to be lodged in respect of the application?

MR R. CLEGG: I'm appearing for the State Public Sector Federation of Tasmania - CLEGG R.

DEPUTY PRESIDENT JOHNSON: Thank you, Mr Clegg. Any other union appearances in the matter T8483. Mr Willingham.

5 **MR WILLINGHAM:** Good morning, Mr Deputy President and members of the bench, is it the bench's intention to join T8483 with T8413 is it?

DEPUTY PRESIDENT JOHNSON: We will hear submissions on the matter. That is the application of the TCCI.

10 **MR C. WILLINGHAM:** Yes, well all right, if it pleases the bench I will maintain my appearances as per T8413, if the commission pleases, that is for the Minister for Justice and Industrial Relations pursuant to section 27 of the Act and the Minister administering the State Service Act.

15 **DEPUTY PRESIDENT JOHNSON:** Yes, that is an appearance for both ministers in T8483?

MR WILLINGHAM: Yes, Mr Deputy President.

DEPUTY PRESIDENT JOHNSON: Thank you, Mr Willingham. Are there any other appearances? Mr Brown. Perhaps you might make the
20 formal application since I only have it in letter form and then I understand you will speak to it.

MR BROWN: Mr Deputy President and members of the bench, we would seek that the application T8483 of 1999, that being an application to amend the Wage Fixing Principles in line with the State
25 Wage Case of 1999, that being T8413 of 1999, be joined and be heard in conjunction with that application. And the reasons we would seek that are that the Tasmanian Chamber of Commerce and Industry are strongly of the view that it is not only appropriate but necessary for the Statement of Principles to be reviewed at the same time as the
30 commission consider an application to increase wages in all state private sector awards.

In this context we would remind the bench that the Statement of Principles have been developed by the parties to successive State Wage Cases as a part of a package approach to those cases in the context of
35 compromise outcomes that have been designed to balance the aspirations of the unions and the position of the employers so as to facilitate agreement on the respective State Wage Cases.

It is clearly evident that the same level of consent does not now exist and in our strongest possible submission the conditions that enabled
40 us to previously consent to the Statement of Principles no longer exist. Against this position we would contend that it is incumbent that the

Tasmanian Industrial Commission to now consider in the absence of the previous substantial consent position what Statement of Principles should exist into the future to underpin whatever wage increase, if any, it may be inclined to grant in the context of this application.

5 The increases available by way of safety net adjustments have been determined in the environment of a system of substantial wage cost restraint through the agency of the Statement of Principles which are designed to regulate the industrial relations environment.

10 There are many aspects of the existing package of principles that are not underpinned through any legislative support and have been included by the parties as a commonsense approach to the legislative differences that exist between the *Industrial Relations Act 1984* and the *Workplace Relations Act 1996*.

15 Much of the direction of the federal commission principles have been driven by the specific legislation that the AIRC are required to operate within and are inappropriate for single translation to Tasmanian equivalent principles.

20 The commission will be neglecting its obligation to develop a set of Wage Fixing Principles to guide the parties in respect to applications to increase labour costs or to guide the parties in enterprise bargaining exercises as a result of this State Wage Case.

25 And I think as previously submitted by Mr Edwards, the question of the purpose behind the utility of the Statement of Principles and whether they should be maintained was addressed in the April 1998 Safety Net Review - Wages Print No. Q1998 at page 54 of that decision and as a result of the ACTU proposing the Statement of Principles be abandoned, the Joint Governments, of which Tasmania was a part, submitted that

30 The Joint Governments submitted that a Statement of Principles should be maintained because:

the principles play a vitally important role in providing guidance to the parties and assist in shaping the parties' expectations in a wages system that continues to evolve;

35 *principles assist in providing consistency and avoiding uncertainty in the exercise of the Commission's discretion in relation to its dispute prevention and settlement powers;*

it is of value to draw together some legislative matters and codify conventions and past decisions for ease of reference in relation to the matters dealt with by the principles;

5 *it is worthwhile, for equity reasons, to specify clearly in a formalised set of principles that there is access to such avenues as past wage case decisions, work value applications and applications regarding equal remuneration without discrimination based on sex; and*

in the absence of such principles there is potential for uncertainty and instability in wage fixation.

In their decision the bench decided the following:

10 *We have decided to retain a Statement of Principles. Principles promote consistency and tend to reduce uncertainty in the exercise of the Commission's powers. Because of this, principles can enhance the stability of the industrial relations system and contribute to more equitable outcomes. Nevertheless the ACTU's submissions are not without merit and we have taken them into*
15 *account. Although we will not abandon the concept of a formalised set of principles we intend to simplify the current one.*

20 In our view the principles need to be reviewed in the context of contemporary developments in industrial relations and in light of the lack of consent that now exists as a result of the parties being unable to reach an agreement on an increase in wages.

25 And in respect to the draft principles before you, we would submit that those principles go to simplifying the principles as they are currently written and also removing duplication and providing for a more flexible document and set of principles for all parties including the commission to utilise in any matters pertaining to awards or enterprise agreements. If it please the commission.

30 DEPUTY PRESIDENT JOHNSON: Mr Brown, I want to ask you a couple of questions for which purpose I make two assumptions, but neither you nor the bar table are to assume anything from those assumptions, they're merely raised to allow me to ask the questions.

35 The first assumption is, that assuming the commission were to be persuaded to grant the application of joinder, what is the TCCI's position concerning the time at which such a review should occur, and in particular I address you to the remarks Mr Willingham made on behalf of the minister on the last occasion at transcript pages 31 and 32.

MR BROWN: That was the September date that it was proposed?

DEPUTY PRESIDENT JOHNSON: A suggested -

MR BROWN: A suggested date.

DEPUTY PRESIDENT JOHNSON: Yes.

MR BROWN: Our position in respect to when to that review should take place is now. We are saying that in terms of this State Wage Case we are asking that these matters be joined and to be considered as one
5 and that hence our proposed set of principles was put forward with that application as being our position in respect to the principles and I would understand that the other parties would be making submissions in respect to those principles - the draft principles that were provided to them. So in answer to your question, we would see that the
10 principles be reviewed in the context of the other application.

DEPUTY PRESIDENT JOHNSON: Thank you. Now the other assumption is of course the other side of the coin. If we are persuaded by those who presumably will oppose this application to not grant your application for joinder, what is the TCCI's position regarding the
15 duration of the Wage Fixing Principles?

MR BROWN: The duration?

DEPUTY PRESIDENT JOHNSON: Well assuming that we're not persuaded to grant your application, the question will arise as to the duration of the Wage Fixing Principles.

20 MR BROWN: The current principles?

DEPUTY PRESIDENT JOHNSON: Well, presumably the current principles, as amended, if the commission is persuaded to grant the TTLC'S application. This was the matter considered by the full bench of the Australian Commission.

25 MR BROWN: We would consider that they would be in place until formally reviewed in total.

DEPUTY PRESIDENT JOHNSON: Thank you, Mr Brown. Ms Fitzgerald?

30 MS FITZGERALD: Thank you. As you have said, we oppose the TCCI's application being joined with ours. As a general principle, the commission joins applications where they deal with the same matter so as not to require re-hearing.

While both applications address two matters, 1) the decision of the Australian Industrial Relations Commission Safety Net Review - Wages
35 1999, and 2) Wage Fixing Principles, there are no similarities in objectives.

Importantly, the scope of the applications is very different. Firstly, in terms of the AIRC Safety Net Review - Wages decision, the TTLC seeks an increase in wages consistent with the decision of the AIRC for 25%

of the Tasmanian workforce as from the first full pay period on or after 14 July.

5 The TCCI on the other hand seeks a significant lesser amount and a later operative date, that is, 14 October 1999, and that's from transcript page 36.

In terms of the Wage Fixing Principles, the TTLC's proposed amendment to the Wage Fixing Principles deals only with the wage increase, the operative date and consistent with the AIRC's decision, the Economic Incapacity principle.

10 The TCCI on the other hand seeks an extremely extensive review of the Wage Fixing Principles to, amongst other things, ensure that labour costs are primarily drawn from enterprise bargaining and that other labour cost increases are minimised. Page 43 of transcript.

15 So whilst we seek minor amendment, the TCCI seeks to rewrite the whole book.

In terms of the scope of the applications, our application affects a relatively small percentage of the Tasmanian workforce; as I've said, less than 25%. The TCCI's application, through its review of the Wage Fixing Principles, affects a much larger percentage, that is, all workers covered by state, private and public sector awards.

I submit that it would be an abuse of the process to join the TCCI's application with the TTLC application.

25 The TCCI's application will delay a decision on the principal matter of the TTLC application, that is, to vary all wage rates in private sector minimum rates and paid rates award by the arbitrated safety net adjustments from the beginning of the first full pay period to commence on or after 14 July 1999.

30 The matter of review of the Wage Fixing Principles is secondary and contingent upon a decision regarding the quantum of the increase and the date from which the increase would apply. The most urgent matter to be dealt with is the matter of a wage increase for workers who are eligible for a safety net increase.

35 The Tasmanian Trades and Labor Council made application to ensure eligible workers receive this wage increase as quickly as possible. Last year, our objective was the same; to ensure a wage increase as quickly as possible for eligible and indeed low paid workers. In this instance we achieved this objective through agreement with the employers. Low paid workers received 71% of the increase awarded by the AIRC, that is, \$10 and \$14 on 14 July and the remaining \$4 on 14 October.

40 I am appalled that the TCCI now seeks to penalise workers because of the accommodation we reached last year, that is, they argue that any

increase should apply as from 14 October, that is when the last 29% of the increase was paid.

5 The practice in the past with regard to a general review of the Wage Fixing Principles has been for the parties, all relevant parties, to consider, discuss and negotiate, and obviously this takes some considerable time.

10 There is no equity for low paid workers in joining these applications and thus delaying a decision on the wage increase. There is no equity for the greater majority of workers whose interests have not been considered or represented thus far in a full review of the Wage Fixing Principles.

15 When this matter was adjourned last week because of the serious ill health of the employer advocate, the TCCI undertook to provide their economic exhibits either later that day or early the next morning. I received those exhibits at 2.00pm the next day. Anyone less generous than I would suggest that the TCCI's application to extensively review the Wage Fixing Principles was yet another attempt by the TCCI to delay a decision in this matter.

20 I call on the commission not to join the two applications and to set aside the TCCI application.

25 DEPUTY PRESIDENT JOHNSON: Ms Fitzgerald, I put the same two assumptions to you as I put to Mr Brown, assuming that the commission should be persuaded to grant the application of joinder, what is the view of the organisation you represent regarding when that review should occur?

30 MS FITZGERALD: Well, we've considered the proposal by Mr Willingham, the government advocate, in terms of a review of the Wage Fixing Principles taking place or occurring some time later and I think the date that was suggested was September. Now we see no problem with a review occurring around about that time, sometime after a decision as regarding our application is made.

DEPUTY PRESIDENT JOHNSON: Thank you. And in respect of the assumption that should we decide to dismiss the application for joinder, what is the TTLC's view as to the duration of the guidelines?

35 MS FITZGERALD: Well, I would assume that the -

DEPUTY PRESIDENT JOHNSON: Or the principles.

40 MS FITZGERALD: - yes - the Wage Fixing Principles that are currently in place, and will not be substantially altered by our application, would remain in place until there is agreement on another set of principles. So until that process is finalised.

DEPUTY PRESIDENT JOHNSON: Thank you, Ms Fitzgerald. Mr Clegg, did you wish to make any submissions in respect to this matter?

5 MR CLEGG: If you don't mind, Mr Deputy President, we haven't had a chance to look at the TCCI's application on the principles and as a result of that we haven't had a chance to consult with our membership and on that basis we'd be suggesting to you - or saying to you - that the application not be joined and that you proceed with the matter of the wage increases that are before you by the - or the TTLC's
10 application. If the commission pleases.

DEPUTY PRESIDENT JOHNSON: Thank you, Mr Clegg. Mr Willingham?

15 MR WILLINGHAM: Yes, thank you, deputy president. Members of the bench, the Tasmanian Government as intimated does not oppose the joinder of the application by the TCCI number T8483. However, our position in relation to the review of the Wage Fixing Principles is, if anything, even stronger now as a result of the application that was received, certainly in my office, late on Friday - eight o'clock on Friday evening in fact in its full form.

20 It is not my role to offer an opinion as to why an application to review the Wage Fixing Principles in such a comprehensive form as has been lodged by the TCCI should be made some three months after the National Wage decision was handed down and at least a day following the start of the State Wage Case.

25 Nevertheless, the fact that has arrived means that the Tasmanian Government's position needs to be put again but in light of this application on the basis that the commission may well join the matters as sought by the applicant. And our position is very, very simple; the view that the Tasmanian Government takes is that the most urgent,
30 pressing need in our respectful submission for this commission is to deal with the question of the application made by the Trades and Labor Council, that is, for the flow-on of the safety net increases to relevant awards so that eligible employees may receive the benefits of those increases from as earlier date as is feasible.

35 Our secondary position - or second position - is the Wage Fixing Principles of the commission, as they currently exist, should be modified *mutatis mutandis* in the manner suggested by the Trades and Labor Council only to the extent that they can reflect what is necessary as a result of this commission adopting the National Wage
40 Case decision and those principles may remain in force and should remain in force until such time as an appropriate amount of consideration has been given if the parties want that, if the parties want that, to a wholesale reviewing of the Wage Fixing Principles.

And we will see, we will test the eagerness of the parties to a wholesale review of the Wage Fixing Principles once this case is concluded. I have no doubt of that, and we will see whether the enthusiasm for such an undertaking is as evident in the ensuing weeks as it is today.

5 But if that enthusiasm continues to be maintained, be assured, Mr Deputy President and members of the bench, that the Tasmanian Government will both in its overall role and as a major employer take a very active and interested part.

10 There is no need at this precise moment, Mr Deputy President and members of the bench, for a significant review of the Wage Fixing Principles. The Wage Fixing Principles are intended to underpin the wage fixing system adopted by this commission. There is nothing - there has been nothing to date to suggest that the current principles are inadequate or are not serving their purpose. There is nothing to
15 suggest that they are disadvantaging employees or employers, therefore their continuance, until reviewed, in the form proposed by the Trades and Labor Council should do no violence to anyone.

20 And if it is sought by some parties that some detriment, some disadvantage, is being caused by the continuance of those principles, that will act a spur, would it not, Mr Deputy President and members of the bench, to ensure that peoples enthusiasm and their level of commitment to a wholesale review is maintained and we can meet perhaps in August or September to embark upon the project. If the commission pleases.

25 DEPUTY PRESIDENT JOHNSON: Thank you, Mr Willingham. Mr Brown?

MR BROWN: We have nothing further to add, Mr Deputy President.

30 DEPUTY PRESIDENT JOHNSON: We will adjourn to consider this issue. We will endeavour not to take too much of the parties' time. You will be advised by my associate when we're ready to resume. Accordingly I adjourn this hearing.

INTO CONFERENCE 10.10am

HEARING RESUMED 11.20am

35 DEPUTY PRESIDENT JOHNSON: This is our decision regarding the joinder application.

40 There is no doubt in our minds that the TCCI's application is considerably broader in scope than that of the TTLIC especially in the sense that it goes beyond private sector awards in that it concerns all awards of this commission both public and private sector, and secondly, it goes to a review of all Wage Fixing Principles rather than

only those that would give effect to any decision that this commission might make in respect of the TTLC's application.

5 Against that difference in scope there is the question of how, as a matter of jurisdiction under section 23 of the Act, a registered organisation might initiate in this commission a review of Wage Fixing Principles in the absence of claims for award variation.

10 In the circumstances we believe it is in the public interest for the commission to clearly establish jurisdiction for the parties to review all the Wage Fixing Principles should they wish to do so. Accordingly, for that reason we will join the applications and we so order.

15 That decision brings us to the question of timing as to when a review of the Wage Fixing Principles should take place. In that regard we note the employer's submissions that we should review the principles contemporaneously with our consideration of the TTLC application. In broad terms we were told that such a procedure would maintain the purpose and utility of the Wage Fixing Principles, which need to be reviewed in light of contemporary developments.

20 We make two observations about those submissions. First, nothing was put to us that tended to show disadvantage or prejudice to the employers should the review occur at some near time in the future rather than immediately. To the contrary, however, we were told by those opposing a review at this time that the delay such an exercise would occasion would substantially prejudice the employees covered by the TTLC's application.

25 As for contemporary developments we note that, while it was not put to us in the present proceedings, it is nevertheless a matter of wide public notoriety that the government proposes to amend the *Industrial Relations Act 1984* later this year in possibly a significant and substantial manner. In our view it would be unwise to proceed to a full review of the Wage Fixing Principles a mere few weeks before such an important contemporary development.

30 In the circumstances, having joined the two matters, we will now proceed to hear and deal with the application in two parts. In the present proceedings we will deal only with wage rates and the necessary amendments to the Wage Fixing Principles, including the Economic Incapacity principle that would flow as a consequence of any favourable decision that this commission might take in relation to the TTLC application. In future proceedings, to commence no later than 1 October 1999, we will deal with a full review of the Wage Fixing Principles in their entirety.

40 This method of proceeding, in our view, will fairly accommodate the substantial difference in scope that exists between the two applications, especially the inclusion of public sector awards in the TCCI application. Our method of proceeding will also accommodate the

late notice that many parties received of the substance of TCCI's application.

5 That is our decision on both joinder and future procedure. We will now proceed to hear and determine the wages part of these proceedings. Mr Brown?

10 MR BROWN: Thank you, Mr Deputy President and members of the bench. Firstly, may I just express our disappointment in that as it is our position, we believe, that the two issues are intrinsically linked but nevertheless we'll press on and address some of the impacts of that in our submissions.

15 So if I may commence from where I believe Mr Edwards left off on Wednesday and that is, that the commission, in our view, are also required to have regard to the existing principles in the execution of its functions. In the current context, the commission might have regard to Principle 6 - The Award Safety Net, and Principle 16 - Award Review Process.

Principle 6 - The Award Safety Net, states that:

20 *Existing wages and conditions in the relevant award or awards of the Commission shall be the safety net underpinning enterprise bargaining.*

25 *The award safety net may, on application be reviewed and adjusted from time to time to ensure its relevance. Generally the detailed nature and timing of any adjustments will be determined in the context of specific applications and in the light of prevailing economic, social and industrial circumstances.*

We say this principle allows for the adjustment periodically and on an application of the safety net of awards to ensure their relevance. The application currently before the commission is such an application.

30 Principles 6 goes further and states that such an application including the nature and timing is to be determined in the context of the detail of the application and in light of the prevailing economic, social and industrial circumstances.

To our knowledge there are no industrial circumstances at play in respect to this application.

35 The commission is required by virtue of this principle to consider the dual and conflicting issues of the social and economic circumstances which attend to this claim in considering the revision of the safety net of wages in private sector awards of this commission.

The other principle that has an impact in the commission's deliberations is Principle 16 and especially Principle 16.3. Principle 16.3 requires the commission:

5 *At the time of an application for any future arbitrated safety net adjustment (however described) the Commission must take account of the extent to which the parties to the Award have actively pursued the Award review process.*

10 This principle in the context of the decision that you have just read to us, in our submission, clearly establishes that the commission is restricted to an award-by-award approach to any safety net adjustment to allow the commission to take account of the extent to which the parties to the award have actively pursued the award review process.

15 This principle was considered at some length by the parties at the 1998 State Wage Case proceedings and was framed in its current verbiage as part of the package outcome of those proceedings to be applied to any increase arising from these proceedings.

20 There should not be any relaxation of this requirement other than by further consent as issues agreed between the parties should not be lightly interfered with. Given that the TTLC application does not seek to amend Principle 16, the application by the TTLC for an across-the-board increase cannot succeed by virtue of Principle 16.

25 And we would just like to add there that that point was covered by Mr Edwards prior to commencing his submissions to ensure that there were no further submissions in relation to the principles and the proposed changes to the principles as provided by the TTLC, at tab F, I believe.

30 So therefore, in our view, the principle must be applied as currently written as was originally agreed between the parties and adopted by the commission.

I would now like to hand over to Mr Abey to provide submissions in respect to the Tasmanian economy.

DEPUTY PRESIDENT JOHNSON: Thank you, Mr Brown. Mr Abey?

35 MR ABEY: Mr Deputy President and members of the bench, at this stage I'd like to table to the bench an exhibit book. This has been made available to the applicant and the statutory intervener last week and we do have additional copies of the separate exhibits which we will table to the other parties to this application as we proceed.

40 At State Wage Case proceedings over recent years, the TCCI has made brief comments about the comparative state of the Tasmanian economy in contrast to its national counterpart. I do not contend that

we have put any detailed material before the commission to substantiate our general and brief comments of recent cases because we have been in circumstances where we've had a consent situation.

5 We have invariably advised the commission that the Tasmanian economy has consistently under-performed the national economy on virtually every acknowledged barometer of economic performance and that this disparity of performance was increasing rather than abating.

10 We have already taken the commission briefly to the reasoning in the AIRC decision - R1999 at page 32 and specifically paragraphs 82 and 83 where the full bench determined that the economic materials placed before them warranted a safety net adjustment of \$12 and \$10. It is relevant to note however that the AIRC also sounded a note of caution in the light of the projected slowing in economic growth and a reduction in the level of new private investment both of which may
15 slow employment prospects.

Of particular relevance is the finding of the full bench at paragraph 82 of their decision, and I quote:

20 *As noted elsewhere, Australia's economic performance in the year since the last safety net decision has been good, as it has been since the early part of this decade. Economic and productivity growth are strong, investment has been at historically high levels and inflation has been low. The immediate economic outlook is positive.*

25 In the light of this finding, the full bench determined at paragraph 83, and I quote:

In all of the circumstances we have decided that a safety net adjustment is warranted.

30 In our view, the AIRC was substantially influenced in reaching their decision to award increases of \$12 and \$10 by the very positive state of the national economy, albeit with some reservations, and by the increasing gap between award wages and wages generally.

35 A significant portion of the decision is devoted to an analysis of the competing economic arguments of the various parties and governments to the commission. In fact, pages 11 to 25 of the decision are devoted to this subject.

The commission set out a number of conclusions on the economy at paragraphs 20 to 29 and analyse the economic effects of a safety net adjustment at paragraph 36 on page 18 of the decision.

At paragraph 20 the commission observed that they have set out an assessment of recent economic trend data and the immediate economic outlook in Attachment B.

5 I will deal with that data and put it into the Tasmanian context shortly. I wish firstly to deal with the conclusions of the full bench on the economic data. At paragraph 20 the bench said, and I quote from halfway through the second line:

10 *From that assessment, we conclude that Australia's economic performance over the past year has been positive, continuing the strong, low inflationary growth which has been achieved in Australia since the early 1990s, with:*

- * *low inflation and moderate wages growth;*
- * *continuing reasonable levels of economic growth;*
- 15 * *strong employment growth, particularly through 1998 and into 1999, with a continuing reduction in unemployment;*
- * *high levels of growth in business investment; and*
- * *an absence of major economic imbalances.*

20 *The immediate economic outlook is for the continuation of reasonable growth, notwithstanding some weakening, a less favourable investment outlook and continued international uncertainty, the maintenance of low inflation and increased employment levels. The low inflationary growth which has been achieved in Australia over most of the 1990s is expected to continue, albeit with a modest acceleration from recent*

25 *historically low levels.*

30 *Looked at as a whole, the economic material shows a generally favourable recent economic performance and a positive immediate outlook, although the level of economic growth is expected to moderate and private business investment is expected to weaken after six years of strong growth. These generally favourable economic circumstances are reflected in developments since the April 1998 decision:*

- * *underlying annual inflation of around 1.5% in each of the first three quarters of 1998;*
- 35 * *trend annual economic growth of 4 - 4.5% over each of the first three quarters of 1998;*

* *employment growth strengthened over the course of 1998, with unemployment falling from 8.7% in early 1997, to 8.1% over the first half of 1998. It has fallen further, to 7.4%, in February and March 1999; and*

5 * *growth in wages, measured by Average Weekly Ordinary Time Earnings (AWOTE) has increased only marginally from 4.1% over the year to February 1998 to 4.3% in the year to November 1998 and bargaining outcomes continue to moderate, with estimated average annualised wage increases*
10 *of around 4% per annum.*

The economic material before us shows no sign of adverse economic consequences arising from the 1998 safety net increases awarded. Indeed, it suggests that the increases were compatible with a continuation of the positive economic conditions prevailing
15 *at the time of the decision. It also shows that the Australian economy has coped relatively well with the economic consequences of the financial crisis in much of Asia. Notwithstanding the generally positive Australian economic circumstances, those opposing the ACTU claim urged a cautious*
20 *approach on several grounds:*

* *better inflation and employment outcomes would result from smaller safety net adjustments;*

* *the continuing high level of unemployment;*

25 * *the moderation in growth and decline in private investment activity;*

* *the uncertainty associated with world financial markets which originated in Asia, but is now apparent in Russia and Latin America; and*

30 * *the economic conditions of particular sectors of the Australian economy which are masked by aggregate data.*

The first two propositions relate to the extensive submissions as to the likely economic effects of the ACTU claim, which are addressed below.

35 *We accept the need for caution in the context of the projected slowing of growth and the fall-off in private investment. However, these developments need to be put into context. The slowing in growth is from historically high levels. Economic growth of*

3.25% projected for 1998-99 compares favourably with other developed economies and most countries in our region. The 1% growth in private investment forecast for 1998-99 and the fall in anticipated investment in that year and 1999-2000 shown in the Australian Bureau of Statistics (ABS) Private New Capital Expenditure Survey [Cat No. 5625.0] comes after six years of strong growth and record high levels of investment expressed as a proportion of Gross Domestic Product (GDP). Further, as noted in the Joint Governments' submissions, the fundamentals for investment remain good, with recent improvements in business confidence, low interest rates and sound corporate profits.

From this assessment it can be confidently determined that the federal commission founded their decision on Australia's strong economic performance over the preceding year coupled with low inflation.

These factors are said to be characterised by - and if I can summarise from page 13 and 14 of the safety net decision: an underlying inflation rate around 1.5%, annual economic growth of 4.45%, unemployment falling from 8.7 to 8.1 and to 7.4 by March 1999, growth in average weekly earnings from 4.1 to 4.3, average annualised wage increases of approximately 4%.

In our view this material and the findings of the federal commission require critical assessment and analysis in the context of the Tasmanian economy and its relative strengths and weaknesses.

In our submission this analysis is required as part of the commission's statutory obligation pursuant to section 36 of the Act and especially by virtue of section 36(2)(b) of the Act.

Attachment B to the federal decision which commences at page 63 outlines the economic data, the commissioner says, and which it says at para 20 on page 13, is the commission's assessment of recent economic trends. We will endeavour to provide the commission with data which shows how the Tasmanian economy compares with this data.

Firstly, I wish to put some contextual commentary that in many respects is at odds with the upbeat, confident assessment of the AIRC in the national economy. If I may refer the commission to the exhibit book, and in particular refer to the exhibit which is Budget Paper No. 1 from the May 27 State Budget.

I preface my remarks by stating that this is the state government's assessment of the state economy. It is not the TCCI's. In the 1999 State Budget, the Tasmanian Government, in Budget Paper No. 1 made the following comments under the heading, Current Economic Position and Outlook. This was on 27 May. Beginning at page 19, it says:

Since 1991-92, the Tasmanian economy has fallen behind the Australian average in nearly all measures of economic performance and over the past few years this gap has widened.

5 *Some of the factors that have contributed to the State's relatively subdued economic performance include: major job shedding and negligible growth in the public sector, a traditionally important source of growth for the economy; the centralisation of financial services and corporate management in Sydney and Melbourne; a period of prolonged weakness in the price of some of the State's*
10 *key commodity exports; subdued business confidence and hence low levels of business investment and, more recently, negative population growth.*

15 *Against this backdrop, Tasmania's economy has struggled to match the growth rates recorded nationally and its recent economic performance has been characterised by:*

modest rates of economic growth;

a low labour force participation rate, together with a relatively high unemployment rate;

20 DEPUTY PRESIDENT JOHNSON: Mr Abey, I'm sorry to interrupt you. Are you continuing to read - if you are, my exhibit goes from page 19 to page 23. I don't have anything after the words, negative population growth. We all seem to be in the same position.

25 MR ABEY: Sorry. If you can just bear with me for a moment. My apologies, Mr Deputy President and members of the bench. Page 20 has not been included, by mistake, in the exhibit book. We will rectify that over the luncheon break.

DEPUTY PRESIDENT JOHNSON: Perhaps if you're reading it, we could just take a few moments and have it copied now.

OFF RECORD 11.50am

30 **ON RECORD 11.53am**

DEPUTY PRESIDENT JOHNSON: Mr Abey, I think we're able to keep up with you now. If you'd like to start from the top of page 20, we would be grateful.

35 MR ABEY: Thank you, Mr Deputy President. Continuing from the top of page 20:

Against this backdrop, Tasmania's economy has struggled to match the growth rates recorded nationally and its recent economic performance has been characterised by:

- *modest rates of economic growth;*
- 5 • *a low labour force participation rate, together with a relatively high unemployment rate;*
- *a decline in full time employment, only partially offset by an increase in part time work;*
- *falling levels of private sector investment; and*
- 10 • *a decline in population caused by strong interstate out-migration.*

15 *Economic indicators for the year-to-date suggest that, on the whole, there was a further slight deterioration in Tasmania's economic performance over 1998-99, led by a decline in both private business and dwelling investment. Treasury expects that the underlying growth rate for Tasmania will be in the order of -0.6 per cent in 1998-99, with employment, on a year average basis, projected to record a further marginal decline relative to 1997-98.*

20 *In recent months, however, some economic indicators have shown signs of improvement. These include a recent improvement in retail sales, business confidence, housing finance commitments and a rebound in construction employment. There are also early signs that the decline in employment has been arrested and that*
25 *the population decline has stabilised.*

I interpose here to observe that whilst at the time that the author of that publication was preparing the report, that was a fairly accurate comment but as recently as last Friday, we see in 'The Examiner' whereby dwelling constructions have fallen to an all time low, retail
30 sales have dropped in May after periods of sustained growth in previous months and indeed we will be producing evidence that the rise in business confidence, which was evident in the December and March quarters has in fact dissipated somewhat significantly over the last few months.

35 I return now to the Treasury document:

Coupled with a number of known investment projects over the coming financial year, for example, the Abt railway project and

further call centre developments, Tasmania's economic performance in 1999-00 is expected to improve relative to 1998-99. Overall, Treasury expects that Tasmania's economic growth will be around 2.4 per cent in 1999-00.

5 *Against this backdrop, and with signs that the decline in employment has bottomed, Treasury expects employment growth in 1999-00 of 1.1 per cent, the first rise in three years. This is expected to result in an increase in the participation rate as discouraged job seekers re-enter the labour market, which will*
10 *limit the decline in unemployment. The unemployment rate is forecast to average 10.0 per cent in 1999-00, which is 2.5 percentage points above the forecast national average (Commonwealth Treasury estimate 7.5 per cent).*

15 This overview encapsulates the performance of the Tasmanian economy over essentially the same period as the period viewed and commented on by the AIRC in their decision and provides, in our submission, a reasonable datum point for comparison.

I will now take the commission to, commencing at page 27 of the same document, where the Treasury starts to analyse Tasmania in some greater detail. Beginning under Recent Economic Performance, it had
20 this to say:

This section provides a brief overview of Tasmania's economic performance over the 1990s and a more detailed analysis of more recent economic trends. Data limitations, arising from the
25 *decision of the Australian Bureau of Statistics (ABS) to calculate Gross State Product (GSP) and related estimates using a new system of national accounts, prevent a detailed analysis of the Tasmanian economy as a whole prior to 1990-91 and hence preclude comparison with national economic performance over*
30 *this earlier period. The data that are available over the 1980s show that, on balance, the performance of the Tasmanian economy closely tracked that of the Australian economy with the major exception of population growth, which trailed the national average over this period.*

35 *Since the 1991-92 national recession, the Tasmanian economy has fallen behind the national average in nearly all measures of economic performance and this gap has widened since the mid-1990s. The gap in performance has been such that in the period between 1991-92 and 1997-98:*

- *the national economy grew by 27.5 per cent, whereas the Tasmanian economy expanded by only 12.8 per cent;*
- *national employment increased by 11.3 per cent, whereas employment in Tasmania rose by just 0.5 per cent;*
- 5 • *the national population grew by 7.1 per cent while Tasmania's population rose 0.8 per cent; and*
- *real private sector investment in the national economy averaged around \$4 700 per capita per annum, whereas investment in the Tasmanian economy averaged*
10 *\$3 100 per capita per annum.*

From the above it is clear that the Tasmanian economy has failed to recover substantially following the 1991-92 recession. This is demonstrated in Chart 2.1.

15 *Some of the factors that have contributed to the State's relatively subdued economic performance include: an industry structure that lacks sufficient growth sectors; major job shedding and negligible growth in public sector spending, a traditionally important source of growth for the economy; the centralisation of financial services and corporate management in Sydney and*
20 *Melbourne and restructuring in the finance industry more generally; a period of prolonged weakness in the price of some of the State's key commodity exports (including beef, wool, aluminium and copper); low levels of business investment and, more recently, negative population growth due to a rise in*
25 *interstate out-migration.*

Over the course of the 1990s, the total amount spent in Tasmania on goods and services has exceeded the total value of goods and services produced in the State (GSP). From 1990-91 to 1997-98, the level of GSP was, on average, around 90 per cent of the level
30 *of State final demand. This indicates that growth in aggregate production is not matching growth in aggregate spending. Setting aside any inventory changes, this suggests the value of imports from interstate and overseas has been exceeding, by some margin, the value of Tasmania's exports.*

35 *The components of State final demand are consumer spending, private sector investment and total expenditure by the public sector. Over the 1990s, the average annual Tasmanian growth rate has been lower than the national rate for each of these*

components. In the case of consumer spending, the largest component, average annual Tasmanian growth was 1.0 percentage point lower than the national average (2.2 per cent compared with 3.2 per cent nationally), private investment growth was 5.0 percentage points lower (2.4 per cent as against 7.4 per cent) and growth in public sector spending was just under 1.0 percentage point lower (0.7 per cent as against 1.6 per cent).

In our submission, these figures should be viewed against the finding of the federal commission that there has been during the 90s at page 13, and I quote: *continuing reasonable levels of economic growth*; at page 25, paragraph 57 - *Economic and productivity growth have been strong*, and at page 63 - *relatively strong economic growth*.

It is evident that if the national growth and GDP of 30.77 per cent since 1990 can be viewed as reasonable, or relatively strong, or strong, the Tasmanian experience of GSP growth of 11.85 per cent over the same period must be categorised as low, weak, or even dismal in comparative terms.

Average growth rates for GSP in Tasmania have been in the vicinity of 1.32 per cent over the last nine years compared to a national GDP growth rate of 3.42 per cent or more than double the Tasmanian rate. This position has worsened dramatically over more recent years as aggregate growth in GSP since 1995 has been .98 of 1 per cent compared to a national aggregate growth of 15 per cent. On any reasonable and objective analysis, Tasmania is significantly underperforming the national economy and forecasters are suggesting that they will continue to do so.

I will deal with the forecasts a little later in our submission.

The next issue that is addressed in this section of the Budget Paper is Consumer Spending which commences at page 29. The Treasury has this to say:

Consumer spending or household final consumption expenditure (HFCE) represents in excess of 60 per cent of final demand and has been one of the stronger performing components of the Tasmanian economy over recent years.

Growth in consumer spending in Tasmania has exceeded growth in State final demand in each of the past three years, rising at an annual average rate of 2.8 per cent since 1994-95 compared with an average growth rate of only 1.8 per cent in State final demand. Although still below the growth rates recorded nationally (as shown in Chart 2.2), HFCE has been the indicator that has most consistently and closely tracked the national average. Over the

past year or so the growth differential has begun to widen, although a recent rebound in retail sales suggests that this slowdown may prove to be temporary.

5 I interpose again and say, that the latest retail sales figures indicate that perhaps it is not temporary. Returning to the paper: -

10 *In 1997-98, real HFCE increased by 3.6 per cent in Tasmania, compared with a rise of 4.6 per cent for Australia as a whole. However, growth in consumer spending has slowed over calendar 1998, such that in trend terms spending has been flat in each of the four quarters of 1998. This suggests that consumer spending growth in Tasmania in 1998-99 will be well below the strong rate of growth expected nationally, estimated by the Commonwealth Treasury to be 4.5 per cent.*

15 This indicator of economic performance is not addressed within the federal decision, however we contend that it is a relevant indicator and one that should be considered in the context of an examination of the Tasmanian economy. The commentary in the Budget Papers supported by Chart 2.2 suggests that it is an area where Tasmania has most closely followed the national trend and has therefore been one of the
20 stronger performing components of our economy.

25 Even given that statement, it is still nevertheless evident that Tasmania's growth rate and household final consumption expenditure expressed in trend terms has continually under performed the national average since June 1994 and that rate of under performance has been increasing. Clearly, again, Tasmania is not matching the economic performance of the rest of Australia and extreme care is required to ensure further pressure is not exerted on this relatively important sector of the Tasmanian economy.

30 In this context I note from the Budget Papers at page 25, which is an assessment of the industry contribution for the Tasmanian economy, that the retail industry is proportionally larger in Tasmania than it is in a national average setting.

35 In order to obtain a more simplistic understanding of this measure of economic performance, we have constructed our own chart that simply tracks trend data for retail turnover, comparing national material with the Tasmanian material. That exhibit is in the book immediately following the Treasury paper. It's Retail Turnover.

DEPUTY PRESIDENT JOHNSON: It's the document titled, Retail Turnover?

40 MR ABEY: Yes, that's the one.

DEPUTY PRESIDENT JOHNSON: Yes. Thank you.

MR ABEY: This graph reveals that whilst previously Tasmania outperformed the national economy, this situation is no longer the case and the gap has widened noticeably from the September quarter 1997 to now. Therefore, whilst the government Budget Paper properly states that HFCE has been one of Tasmania's stronger performing measures of economic activity, considerable caution must be exercised when viewing the actual performance of the retail sector.

The conclusion to be drawn from this material is that whilst retail turnover has grown reasonably strongly over the last two quarters, this has been from a low base and should be treated with great care.

The next aspect of the Budget Paper that I wish to take the bench to deals with the question of wages and compares the picture in Tasmania with the data collected on a national basis, and I take the commission to pages 30 through to 31, and it says:

The rate of wages growth in Tasmania has not kept pace with that of Australia as a whole, although it has held up comparatively well given the State's subdued labour market.

Since the mid-1990s, total earnings in Tasmania have risen at an average annual rate of 1.9 per cent in nominal terms, below Australia's 2.9 per cent growth rate. While full time average weekly ordinary time earnings (AWOTE) is the benchmark measure of growth in wage rates, total earnings provides a better guide to movements in average income levels as this covers juniors, part time workers and overtime payments. It is also particularly relevant in the Tasmanian context, given the relatively high proportion of employed persons in part time work.

The level of total earnings in Tasmania has been the lowest of all the Australian States and Territories since 1993-94. The level of Tasmanian total earnings was only around 89 per cent of the Australian average in 1997-98 (\$528.80 per week versus \$592.10) and this ratio has been declining over the 1990s. This decline is due, in part, to the greater (and growing) importance of part time labour in Tasmania relative to Australia as a whole. Part time positions currently account for over 30 per cent of all employment in Tasmania (26 per cent nationally), the highest ratio of all the States and Territories.

In terms of AWOTE, however, the State has recorded considerably stronger growth over the past two years. Tasmanian AWOTE has risen by an average (nominal) rate of 5.1 per cent over the past two years, above the 4.0 per cent growth recorded nationally. One explanation is that full time jobs have been lost in

5 *relatively low paying sectors (such as agriculture, manufacturing and wholesale and retail trade) while new full time jobs have been created in the relatively higher paying tertiary sector, including transport services and property and business services. Data on full time employment trends by industry support this explanation.*

10 *Although the rate of wages growth has kept pace with Australia in recent years, it is worth noting that the level of AWOTE in Tasmania remains below the national average. In 1997-98, Tasmanian AWOTE was just over 95 per cent of the Australian level (\$684.20 per week versus \$716.80), although this was not the lowest in Australia; AWOTE was lower in South Australia and Queensland in 1997-98.*

15 *The rate of growth in AWOTE has slowed over the past few quarters such that growth in 1998-99 is expected to be below 1997-98 levels. Growth in total earnings, however, has accelerated in recent quarters (albeit off a low base) and hence a stronger rate of growth is anticipated in 1998-99.*

20 The Budget Paper has not included a graph that demonstrates the above data pictorially, so we have included in our exhibits a chart which we have prepared which tracks trend changes in AWOTE during the 1990s. That's the one - Average Weekly Ordinary Time Earnings.

25 It can be reasonably discerned from this chart that AWOTE in Tasmania have largely retained their comparative position. The maintenance of this position has been achieved against the backdrop of an economy that has seriously under performed in virtually every other respect.

30 Immediately following that exhibit, we have calculated what the change in average weekly ordinary time earnings has been in real terms, that is, after taking into account the effects of inflation. I guess the conclusion that you can reach from this is, just looking at the graph, that average weekly earnings have remained comfortably ahead of inflation over the relevant period.

35 I now turn to a consideration of the Tasmanian labour market and its comparative performance with the national perspective. It is fair to say that this area is one where Tasmania's performance is in stark contrast to the national economy and the one that provides a significant cause for concern. This material can be found in the Budget Paper, commencing at page 31. Under Labour Market, the section, Employment and Hours Worked, the Treasury has this to say:

40 *One of the most obvious areas of the State's economic underperformance of recent years is the labour market. Between*

1991-92 and 1997-98, national employment increased by over 11 per cent whereas employment in Tasmania was virtually unchanged. As shown in Chart 2.3, employment growth in Tasmania has been negligible since the 1991-92 recession and the gap between Tasmania's performance and the strong growth recorded nationally has become even more marked in recent years.

As at April 1999, the Tasmanian economy employed 7 800 fewer people than at January 1996, [7,800 fewer people than at January 1996 - that's a sobering figure] when the most recent downward trend in employment commenced. This represents a decline of 3.9 per cent. Over the same period, employment at the national level has risen by 398 000 persons (or 4.8 per cent), led by strong gains in the Northern Territory, Queensland and Western Australia. The gradual increase in employment over the three years to 1995-96 was partly due to the Commonwealth's Working Nation labour market initiatives, which ceased in the 1996-97 financial year.

On a full time/part time split, the State's employment picture is no more favourable. Since its peak in June 1990, full time employment in Tasmania has fallen by 21 900 as at April 1999 (or 13.9 per cent) while nationally it has risen by 213 000 (3.4 per cent). Full time employment in Tasmania is currently near its lowest level for at least 20 years. Over the same period, the number of part time positions has increased by 32.3 per cent, a little slower than the 36.3 per cent increase recorded for Australia.

While part time employment has been trending upwards over most of the 1990s, the decline in full time employment has occurred in two distinct stages. The first was during the early 1990s recession and the second stage has occurred over the past two to three years. This first stage of decline was associated with a period of business and government downsizing, which was evident to varying degrees in most States and Territories. The latter stage, however, appears to be Tasmania specific and reflects a further decline in full time positions in the public sector (notably the Commonwealth) and a decline in full time jobs in those industries linked to population movements (particularly construction).

Total employment in Tasmania has fallen outright in each of the past two years: by 2.1 per cent in 1996-97 and 1.1 per cent in 1997-98. As mentioned, this has been due entirely to a decline in

full time positions and the percentage decline has been similar for male and female workers. The modest increase in part time employment over this period has been almost entirely accounted for by increased male employment.

5 *Based on current trends a further, marginal decline in total employment is likely for 1998-99, with strong growth in part time employment unlikely to offset a large decline in full time positions. Nationally, employment is expected to rise by 2.3 per cent in 1998-99 (as forecast by the Commonwealth Treasury), the sixth*
10 *consecutive annual increase.*

The impact of this reduction in full time employment is evident in Tasmanian hours worked data. Over the past two years, the number of aggregate hours worked in Tasmania has fallen by a total of 1.5 per cent: nationally, hours worked have risen by
15 *3.5 per cent. While there has been significant growth in part time employment and hence part time hours worked, this has not matched the decline in full time hours worked. In 1997-98, aggregate weekly hours worked in Tasmania were the lowest in four years and, on current trends, a further decline is anticipated*
20 *for 1998-99.*

Two paragraphs further down:

In summary, there has been a large reduction in full time employment over the past two years, with those in full time employment working longer hours per week but working a declining proportion of those hours as official overtime.
25

At page 33, the Treasury talks about labour force participation and unemployment:

The lack of employment opportunities, especially in more recent years, is reflected in the State's relatively low labour force participation rate. The State's participation rate has been below
30 *the national average over the course of the 1990s, although this gap has widened over the past two years in line with the relative (and outright) deterioration in the State's employment market. This trend is clearly highlighted in Chart 2.4.*

35 *Over the two years to 1997-98, Tasmania's participation rate averaged 59.3 per cent compared to 63.3 per cent for Australia as a whole. The average participation rate in 1997-98 (59.1 per cent) was the lowest annual rate since the mid-1980s. On current trends, the participation rate is expected to decline to*

around 58.7 per cent for 1998-99, which would be 4.5 percentage points below the expected national average and the largest differential in at least 20 years.

5 *Not surprisingly, Tasmania's poor employment record is also reflected in the highest unemployment rate in Australia. In the two years to 1997-98, the unemployment rate in Tasmania averaged 10.8 per cent, which is 2.4 percentage points above the Australian average of 8.4 per cent.*

10 *Data for 1998-99 indicate that on year-to-date trends, the State's unemployment rate will decline to around 10.5 per cent, or 2.7 percentage points above the expected national average. This decrease, albeit modest, is principally due to a lower level of labour force participation, as outlined above.*

15 Mr Deputy President, members of the bench, this material clearly demonstrates that the employment market in Tasmania has been in decline and is significantly at variance with the national picture. The federal commission in their decision R1999 use the employment situation from an entirely different perspective than the one that confronts Tasmania and, we submit, the commission. At paragraph 20
20 of the federal decision the full bench summarised recent economic trends as including, and I quote:

- strong employment growth, particularly through 1998 and into 1999, with a continuing reduction in unemployment

25 They further summarise the immediate outlook as including, and I quote:

- increased employment levels.

In viewing economic circumstances since the April 1998 decision, the bench stated at para 21 on pages 13 and 14, and I quote:

30 * *employment growth strengthened over the course of 1998, with unemployment falling from 8.7% in early 1997, to 8.1% over the first half of 1998. It has fallen further, to 7.4%, in February and March 1999;*

On the basis of this material the federal commission concluded at paragraph 22 on page 14:

35 *The economic material before us shows no sign of adverse economic consequences arising from the 1998 safety net increases awarded. Indeed, it suggests that the increases were compatible*

with a continuation of the positive economic conditions prevailing at the time of the decision.

5 In our view, these findings by the federal commission cannot be made in the context of the Tasmanian situation and indeed the available data suggested further deterioration given the state's labour market since the implementation of the 1998 State Wage Case.

10 We have, in the exhibit book, prepared a brief analysis of the Tasmanian labour market with a 12-month period since the 1998 State Wage Case, which we will now table. This has a cover page, Analysis of the Tasmanian Labour Market Since the Implementation of the 1998 State Wage Case. Executive summary at the beginning of the document is a brief overview of the findings of this analysis. It shows that:

- 15 • *Full-Time Employment has increased marginally by 1,400.*
- *Part-time Employment has decreased by 3,100.*
- *Consequently Total Employment has decreased by 1,700.*
- *Full-time employment as a % of total labour force has increased but remains 3.23% below the national average.*
- 20 • *The unemployment rate has fallen but only [through a fall in the participation rate].*
- *The Participation Rate has fallen substantially.*

25 I emphasise at this stage that had the participation rate in Tasmania matched the national average the real unemployment figure for Tasmania would in fact be 16.5 per cent, not 10 and a bit, as the official statistics show. That underpins the significance of the participation rate as an indicator of economic activity.

30 The charts which follow cover Full-Time Employment, Part-Time Employment and Total Employment and the Unemployment Rate and the Participation Rate. The vertical line in the right-hand side of each of the charts is the datum point from the last Safety Net Wage decision. All these charts have been sourced from ABS Catalogue 6202 and they show that since the 1998 State Wage decision, the labour market in Tasmania has continued to decline and at an increased rate in comparison to the national data.

35 It is our submission that the AIRC upbeat analysis of the labour market data in trend terms during the 1990s in reference to the State Wage Case 1998 and in forward data is not available to this commission in the context of an analysis of the Tasmanian economic situation. This Tasmanian economic material should also be
40 contrasted with the assessment in Attachment B of the federal decision.

Another very significant indicator of economic performance is that of population for the state. In the case of Tasmania, this measure again shows the substantial variance to the generally positive national picture. This issue is discussed in the Budget Paper at page 35, under the heading, Demographics. It says:

One consequence of Tasmania's subdued economic performance has been the recent downward trend in the State's population, caused by a sharp increase in interstate out-migration.

Over the past two years, Tasmania's total population has declined by an annual average rate of 0.2 per cent, in contrast to the 1.2 per cent growth recorded nationally. This has been the first period of negative population growth for the State in over 50 years. As a result of this decline, Tasmania's share of the Australian population has slipped from 2.7 per cent in 1991-92 to 2.5 per cent in 1997-98. On current trends, a further decline in population is expected in the current year. However, there is evidence that the rate of decline has stabilised, at around 0.3 per cent per annum, as shown in Chart 2.6.

Tasmania's natural population growth rate has averaged around 0.5 per cent per annum in recent years. There has also been marginally positive inward migration from overseas, which has added to Tasmania's population. In recent years, however, these two influences have been offset by strong out-migration interstate. In 1997-98, the number of people leaving Tasmania for interstate destinations rose to almost 15 000 persons, a significant increase from around 13 000 in the mid-1990s. Over the same period, the number of arrivals from interstate has remained around 11 000 per annum. As a result, the net interstate outflow stood at 4 000 persons last year, equivalent to 0.8 per cent of Tasmania's population.

Mr Deputy President, members of the bench, this material is among the more concerning economic data that can be presented today. Much of the other material is very concerning at the extent to which Tasmania has deteriorated against national trends but this data shows an actual decline in Tasmania's population. This is the first time since World War II that Tasmania's population has actually been in decline.

Of even greater concern in this respect, is the government's prediction that they expect the population to decline, to continue at the rate of 0.3 of 1 per cent per annum. That is a loss of 1,415 people each year.

Whilst our population continues to decline the prospect of any real and meaningful recovery in Tasmania's economic reform is unlikely as so many other indicators are wholly or partly dependent on the size of

the population. For example, the retail sales, housing, investment, et cetera.

5 I wish to now turn to the investment statistics for Tasmania as they compare relevant to the national data. Firstly, I'll take the bench to the comments of the full bench of the AIRC in the federal case in respect to investments which form part of their assessment of the claim before them. At paragraph 20, the bench have concluded, that Australia since the early 1990s has experienced, and I quote: *high levels of growth in business investment.*

10 This upbeat assessment is repeated at page 63 in Attachment B, where the bench record that Australia's economic performance since the early 1990s has been characterised by: *strong business investment.*

15 And also by two charts shown at page 7 relating to private sector investment. The comparative data for Tasmania on this indicator is found in the Budget Paper commencing at page 36 and it's headed, Private Sector Investment. It says:

20 *Tasmanian investment is fairly cyclical and historically it has followed a similar pattern to the national investment cycle. However, while private investment has continued to experience solid growth at the national level over the 1990s, the level of investment in Tasmania in real terms has not risen above the peak recorded in 1988-89.*

25 *Tasmania's recent investment performance (business and dwellings) has been poor. Total private sector investment comprised only 14 per cent of GSP in 1997-98, compared with the national average of 20 per cent of GDP. Tasmania's investment as a proportion of GSP has recently been the lowest of all the States, although (as would be expected) it has been above that of the Australian Capital Territory.*

30 *Not surprisingly, employment in the construction industry has fallen sharply in recent years, down 28 per cent between 1993-94 (when construction employment peaked at 15 000) and 1997-98. Nationally, there was a rise of 7.0 per cent over the same period.*

35 *This subdued level of investment has contributed to Tasmania's relatively poor economic growth over the 1990s. Not only is investment itself a component of GSP, but it also provides for future growth in productivity and output.*

40 These comparisons between state and national data could hardly be more stark. The difference has been widened each year and now constitutes an extraordinary chasm. The data relied on by the AIRC

was understandably upbeat and positive because that has been the experience of the national economy.

5 What the AIRC decision may have been, faced with the Tasmanian data rather than the national data, we can only conjecture upon. It is frankly frightening to contemplate the cautionary commentary at paragraph 20 of the federal decision where the bench notes, that the outlook is for a less favourable investment climate.

10 At paragraph 21 they say, that the economic material shows that *private business investment is expected to weaken after six years of strong growth*. They go on to say:

15 *We accept the need for caution in the context of the projected slowing of growth and the fall-off in private investment. However, these developments need to be put into context. The slowing in growth is from historically high levels. Economic growth of 3.25% projected for 1998-99 compares favourably with other developed economies and most countries in our region. The 1% growth in private investment forecast for 1998-99 and the fall in anticipated investment in that year and 1999-2000 shown in the Australian Bureau of Statistics (ABS) Private New Capital Expenditure Survey [Cat No. 5625.0] comes after six years of strong growth and record high levels of investment expressed as a proportion of Gross Domestic Product (GDP). Further, as noted in the Joint Governments' submissions, the fundamentals for investment remain good, with recent improvements in business confidence, low interest rates and sound corporate profits.*

20
25

At paragraph 82 they say:

There is, however, need for caution in light of a projected slowing in economic growth and a reduction in the level of new private investment both of which may slow employment growth.

30 Should this decline in investment impact in the Tasmanian setting where we have not experienced the six years of strong performance reported on by the federal commission, the result could be extremely damaging to the Tasmanian economy and particularly for employment prospects.

35 Private sector investment experience is replicated in the dwelling investment in private investment data which shows glaring disparity in the performance of the state in comparison with the national economy and this can be found at page 37 of the Budget Paper under heading, Dwelling Investment and Construction. It says:

5 *The downward trend in population growth, coupled with an oversupply of housing from the early 1990s, has resulted in a significant decline in dwelling investment and construction. Over recent years, the housing industry has been one of the worst performing sectors of the Tasmanian economy.*

10 *The divergence between dwelling investment in Tasmania and Australia as a whole has increased noticeably over the past few years, as shown in Chart 2.8. By any measure, the deterioration in housing activity in Tasmania since the mid-1990s has been marked. For example, until very recently (March 1999) monthly trend dwelling approvals in Tasmania had not risen since November 1993, falling 68 per cent over this five year period. Similarly, investment in dwellings was at its lowest level in a decade in 1997-98, while nationally dwelling investment rose to a record high.*

Two paras further on:

20 *The reduction in demand for housing over the past few years has also been reflected in rising vacancy rates, which is the proportion of the existing stock of rental dwellings that are unoccupied. In 1997-98, vacancy rates in Hobart and Launceston were 6.5 per cent and 9.7 per cent respectively, substantially higher than the mainland capitals (ranging from 2.2 per cent in Sydney to 4.5 per cent in Brisbane). These relatively high vacancy rates have no doubt contributed to the sluggishness of average house prices in the State over recent years.*

Going ahead to, Business Investment. As shown in chart 2.9, growth in private business investment in Tasmania has lagged well behind the national average since the mid 1990s. As with many other indicators, this gap in performance has widened over the past two years.

30 *The recent decline in investment has been more evident in non-dwelling construction, such as office buildings and factory shells, rather than in investment in machinery and equipment, although both series remain below their late 1980s peaks.*

35 *Two key variables – interest rates and profitability – have not impeded investment in recent years. Nominal interest rates are at historically very low levels and private business profitability, as measured by gross operating surplus (GOS), has been relatively high in recent years. The total GOS (of all industries) has comprised around 31 per cent of GSP since the mid-1990s, which is in line with the national average.*

40

I pause at that point to make a comment on the government's position on gross operating surplus. Currently, the ABS produce only one series of indicators for business profitability. This series is contained within ABS Catalogue 5651.0, Company Profits Australia.
5 Unfortunately, this publication does not disaggregate the data into state tables, although it could possibly be available on an unpublished basis.

In the past a number of commentators have used the gross operating surplus obtained from ABS Catalogue 5220.0 State Accounts Annual as a proxy for estimating company profits. The methodology used in
10 calculating this series was conducted on a quarterly basis but due to difficulties in obtaining a high degree of accuracy, this publication was discontinued and it is now only printed on an annual basis.

The latest available publication relates to the 1997-98 financial year. The figures available for Tasmania have quite surprisingly been relatively high in recent years. The level of buoyancy is to such an extent that most commentators view this proxy for company profits with a fair degree of scepticism. It is virtually impossible for this indicator to track at the same rate or above the national rate when
15 every other economic indicator clearly demonstrates that Tasmania is performing below the national average.

Due to this disturbing inaccuracy, the TCCI uses the Tasmanian Survey of Business Expectation to track the performance of business profitability in Tasmania. As an introduction, I should indicate that this survey is the largest of its type and is recognised as an authoritative representation of business expectations and performance in Tasmania.
25

The survey invariably covers something in excess of 300 businesses employing in total some 17,000 to 20,000 employees. It is a survey which is frequently referred to by the state department of Treasury and Finance and indeed the government.
30

If I may take the commission to the exhibit, Profitability, survey data. I should indicate that the way this survey is conducted is that respondents are asked to comment on their own circumstances in a number of different indicators.
35

In terms of profitability, the question would be, how did you go this quarter compared to last quarter and how do you expect to go over the next three months? The outcome of the survey is measured on a net balance basis. In other words, if there is a positive net balance on any particular indicators, in this case, profitability, it would mean that more respondents expect to increase profits than reduce them, or actually experienced an increased profitability rather than a decrease.
40

Now, in this particular graph we have recorded the Tasmanian experience against the same survey data which is contained in the

national survey, bearing in mind that our national organisation, the ACCI, conducts this survey on a national basis with counterpart surveys in every state. This graph clearly shows that over the past four years the net proportion of respondents recording a decline in profitability in Tasmania has been substantially greater than the corresponding national performance.

In other words, profitability in Tasmania, according to this survey has been significantly worse than that recorded nationally. Further, for 16 of the past 17 quarters, a net balance of respondents in this survey have recorded a decline in profitability - 16 out of the last 17 quarters.

I now turn to the next exhibit which is a survey of business selling prices. Again, this is data from the same survey and is tracked against the same national survey. What this survey shows is that in Tasmania for the past 17 consecutive quarters a net balance of respondents have reported a decline in average selling prices. So, every quarter for four and a bit years, a net balance of respondents have reported a decline in selling prices. The same respondents have reported a decline in profitability in every one of those quarters, bar one.

Whilst a similar trend is evident in the national figures, the extent of decline is far more profound in Tasmania. This sustained trend in downward price pressure and reducing profitability raises the question of how is this wage claim to be funded. A fiercely competitive market rules out commensurate price increases in the vast majority of cases. This means that costs must be reduced and/or margins reduced further.

I take this opportunity to specifically invite Ms Fitzgerald and Mr Willingham to address the bench on how they believe that this wage increase, if granted, will be funded out there in the marketplace.

This leads me to the question of the impact of wage increases on employment. It is axiomatic that if you increase the price of anything demand will reduce and labour is no exception to this fundamental law of supply and demand.

The only question is the extent of the reduced demand. This issue is discussed at pages 21 and 22 of the federal decision. The table at page 22 identifies a range of academic studies on the elasticity of demand. The average of these studies is a coefficient of around 0.67 implying that for a 1 per cent increase in wages there will be a 0.67 per cent reduction in the demand for labour.

At paragraph 50, the bench had this to say:

Whilst there is no automatic relationship between the two, real wage growth will have a tendency to adversely affect aggregate employment growth. The extent of such affect will depend upon

5 *the prevailing economic circumstances and the extent of the real wage movement. A moderate safety net adjustment will have a limited impact on AWOTE growth (and a smaller effect on real wages, to the extent that the wages growth affects inflation) and a minimal effect on employment growth. Such an adjustment would not disturb recent strong employment growth which has been associated with consequent reductions in unemployment.*

10 The bench concluded that the critical issue is the prevailing economic circumstances. Whilst the bench may or may not have concluded correctly on the impact of the wage increase on employment nationally, they could not and indeed did not reach the conclusion that the impact would be minimal if the Tasmanian economic picture translated across the national stage.

15 Indeed, of all the economic indicators growth in average earnings is the one which has, for some unexplained reason, most closely matched the national position - that's earnings in Tasmania. We suggest that it is no coincidence that this has been accompanied by a significant fall in employment in recent times.

20 Turning to the business investment question, the Budget Paper concluded at page 39, and I quote:

25 *On current trends, business investment is expected to record another sizeable decline in 1998-99, with falls recorded in both the September and December quarters of 1998. As an indication, the level of investment in the December 1998 quarter was at a four year low. This downturn in investment over the second half of 1998 coincides with an extended period of uncertainty, with both State and Commonwealth elections held over this period.*

30 *Surveys of business sentiment in Tasmania show that confidence has improved in recent months and investment intentions on the whole have risen, although it is too early for this to be reflected in the official data. Another positive sign is the solid rise in construction employment over the past six months, which follows four years of decline. In the six months to March 1999, construction employment was almost 20 per cent above the levels recorded in the same period one year earlier.*

35 Now, we would agree to some extent, or to a large extent, with those comments. It is beyond argument and our survey shows it demonstrably, that in the December 1998 quarters and in the March 1999 quarters, business sentiment lifted strongly, off a low base, but it did lift strongly. I can say that in the March survey the 12 month outlook for the Tasmanian economy, according to this survey, was above 50, which is the neutral position for the first time in four years.

The first time a small net balance of respondents expected the economy to improve over the next 12 months rather than deteriorate.

5 Tomorrow at 10.30, we will be releasing the survey for the June quarter and I regret to say that whilst it's not gloom and doom, it will be very clear that the lift in business sentiment evident in the December and March quarters has gone off the boil and indeed the longer term outlook has again deteriorated below the 50 per cent mark. A copy of that survey will be made available to the commission and the parties as soon as it is released.

10 The Budget Paper deals with the performance of exports at page 41. I think it's fair to say that this is one area where Tasmania has held its own with the national economy. The strong growth in exports in recent years has however been largely driven by favourable currency movements and the rate of growth has begun to slow in recent months. The AIRC decision identifies that there is a projection for a slowing of exports which may potentially have an adverse impact on a small open economy such as Tasmania.

20 For the sake of completeness, we've included in this analysis an outline of movements in the Consumer Price Index which of course measures inflation over recent years and that is shown at the next exhibit in the book and the only conclusion that we can reach from this is that the CPI in Tasmania has almost exactly tracked the movement in the national economy.

25 It is relevant to note that Tasmania's average annual percentage growth in the CPI or inflation, has been 2.6 per cent whilst the average growth in AWOTE over the relevant period has been 4.3 per cent over the last eight years. So, again, we make the point that earnings have remained comfortably ahead of inflation.

30 Mr Deputy President, can you give me an indication - or are we going to keep batting?

DEPUTY PRESIDENT JOHNSON: I would be hope to be able to do so, Mr Abey, but perhaps I might first inquire of you - on the first day of hearing we made an announcement that we would be prepared to sit until, if necessary, 8.00 in the evening to complete these proceedings. We took that decision without advice of the parties, anticipating that we would be advised in due course whether such hours were necessary. Could you indicate how much further of today you would need and then it might enable us to take the advice of the other parties as to whether we would finish today or go into tomorrow?

40 MR ABEY: I can say, Mr Deputy President, that John Farnham fans can fear no inconvenience from what may fall from us. I suspect that we will complete the economic submissions within the next hour and that will be followed by a further brief submission from my colleague, Mr Brown. It is apparent that we're not addressing the Wage Fixing

Principles, so I guess we would conclude within an hour and a half from now.

DEPUTY PRESIDENT JOHNSON: Yes. Thank you, Mr Abey. Ms Fitzgerald, so far as you can guess, what is your position?

5 MS FITZGERALD: I think if that's the case, we would be in a position probably to respond and conclude today.

DEPUTY PRESIDENT JOHNSON: Thank you. Mr Willingham?

MR WILLINGHAM: Mr Deputy President, I didn't know that the Johnny Farnham concert - Mr John Farnham concert had been
10 rescheduled for tonight and had I known that, I would have deliberately extended proceedings but to the extent that - as I thus have heard Mr Abey and his colleagues I would not expect to take any more than about ten minutes of the commission's time, if permitted an opportunity to, as an intervener, respond to the TCCI's position.

15 DEPUTY PRESIDENT JOHNSON: Yes. Thank you, Mr Willingham. Mr Abey, I might send you away to the luncheon adjournment then with some brief outline of some questions, or issues, that I would like you to deal with - if I can express them clearly in a broad sense is, it seems to me that whilst the Tasmanian Government, when it was
20 before the Australian Commission, did not hide the parlous economic position of this state. I think the substance of the submission was, that it put an equity argument rather than an argument based on economic material and perhaps you will deal with that in due course.

I think the submissions that you make in terms of the economy also
25 touch upon the Incapacity to Pay principle and that also calls into question the submissions which we heard in your absence, that these proceedings deal with - if one takes the high end of the argument, 37 per cent of the employment in this state or if one takes the low end of the argument, 25 per cent of the employment in this state and that
30 raises the question of whether and if so, how far we would be free to accede to your submissions in terms of unfair competition as distinct from the equity argument which the government advanced before the federal commission.

We will adjourn until 2.15 this day.

35 **LUNCHEON ADJOURNMENT 1.05pm**

HEARING RESUMED 2.20pm

DEPUTY PRESIDENT JOHNSON: Yes, Mr Abey?

MR ABEY: Thank you, Mr Deputy President and members of the bench. May I indicate at this stage, that you did ask several questions
40 prior to the luncheon adjournment. I propose to respond to those at

the end of our submissions, if that meets the convenience of the bench and if I forget to, I've no doubt that you will remind me that I haven't.

DEPUTY PRESIDENT JOHNSON: That's perfectly all right. Thank you, Mr Abey.

5 MR ABEY: Thank you. It will probably be something of a collective sigh of relief, that part of our submission dealing with the State Budget Paper No. 1 has largely concluded. There will be a brief reference to it towards the end but in large measure, we've dealt with that.

10 The comparison with aggregated national data can sometimes lead to a masking of the true extent of over or under performance of a state in respect to any particular indicator of economic activity. Whilst it is quite proper to consider the material from Budget Paper No. 1, to ascertain a global perspective of the state's economy, or the state's
15 economy performance in comparison to national aggregate data, it is just as important to consider comparative data between Tasmania and the other states to ensure the material is not unduly skewed in the process of aggregation.

I wish to tender as an exhibit, a report on the relative performance of
20 the six states, separately identified, which is issued annually by the Victorian Employers' Chamber of Commerce and Industry, shown in the exhibit book, titled VECCI - The States Report. This is the seventh consecutive report of this nature which has been issued.

I don't propose to go through this report but rather take the
25 commission to page 2, which essentially covers in summary format, what is contained in some detail in the body of the report and it is clear from this report that Tasmania's performance has been significantly below that of most of the other states on virtually all indicators.

30 Tasmania's relative ranking amongst the states has fallen from four, when the rankings commenced in 1993, with the state being ranked last on seven out of 12 indicators and last overall with an index of only 28.3. Now, I hasten to interpose here because when I took over this case from my colleague and I looked at this particular document and
35 in particular the item in the first set of indicators dealing with productivity where Tasmania is allegedly ranked at number two state. From my own knowledge I knew that could not possibly be correct and as a result I have asked our economist, Nick Behrens to recalculate that figure and the reality is just what I expected, Tasmania is indeed
40 six out of six. We are the worst performing state in terms of productivity.

So, the seven out of 12 ranked from six out of six is in fact eight out of 12 and the index, calculated correctly, would be even worse than 28.3. Now, if there was any contest as to this particular assertion that I'm

5 making, then we're happy to demonstrate that by documentary evidence that we are in fact the worst performing state. I don't want to labour the point and Ms Fitzgerald and Mr Willingham are prepared to accept that, then I will just proceed without going to the documentary evidence.

MS FITZGERALD: No, I certainly don't accept it, sorry.

MR ABEY: I'd like to table a further exhibit .

10 DEPUTY PRESIDENT JOHNSON: Mr Abey, I'll mark the exhibit book as **EXHIBIT TCCI.1** and the paper that you propose to speak to now as **EXHIBIT TCCI.2**.

MR ABEY: Thank you, Mr Deputy President. This analysis was prepared in haste, so much so that it doesn't have a title or a source. The source is ABS Catalogue 5220.0 and 6202.0.

15 This analyses productivity on two criteria. Firstly, on a per capita basis, that is, per head of population and secondly, on a per employee basis. The raw figures are in the top two groups of statistics and we've converted that freeze of analysis to an index in the bottom two - and you will note that in each case Tasmania is the lowest, or worst performing state with an index of 78.87 and 86.72 respectively.

20 DEPUTY PRESIDENT JOHNSON: I suppose, Mr Abey, and I say this in case you want to make some submission, the first thought that crosses my mind is what does this amendment say about the nature of this summary as a whole? Is it reliable?

25 MR ABEY: It's clearly an error and what brought it to our attention is, that we have known from previous reports that Tasmania has invariably been six out of six. When I saw that, late on Friday afternoon, I thought this can't be right. It was late in the day and we couldn't explore it any further with the origin of the report but it is simply inaccurate on that indicator. This report has been published
30 widely - Australia-wide, no other errors have been detected and it has been in the public domain since February of this year as it is each year and indeed it gained quite a deal of publicity both nationally and in Tasmania at the time.

35 I simply put it down to an error, an isolated error of calculation, and we will take that up with the authors. I don't want to labour the point. All I am saying is, that if VECCI had us ranked six out of six with an index of 28.3, we are still six out of six but the index is indeed lower than that.

40 DEPUTY PRESIDENT JOHNSON: Was this report before the Australian commission, do you know?

MR ABEY: No, I don't know. In our submission, this report provides the clear evidence that the Tasmanian economy has not performed well in a comparative sense and the state is in danger of losing touch with the other states.

5 Of particular concern is that we have been ranked sixth in respect of growth, employment, investment and insolvencies and I add to that, 'productivity' which are all key indicators of the business operating climate within Tasmania.

10 I turn now to a summary of the economic analysis to date. It is beyond reasoned debate that Tasmania has struggled for a lengthy period of time with an economy that has under performed the national average on almost every conceivable indicator of economic performance. It is equally clear that Tasmania's economy has, throughout the 90s, been the worse performed economy in the country and continues to lag
15 behind the other states on each of the economic indicators, or virtually all of the economic indicators.

Our under performance is especially apparent in the key areas of employment, unemployment, investment, population growth, gross state product and productivity.

20 In our submission, an increase of the magnitude proposed by the TTLC would have the effect of exacerbating the perilous state of Tasmania's economy and would have the potential to place further pressure on employment numbers and especially on full-time employment. It will further limit the prospect of increased investment
25 and thereby further limit the capacity of business to increase economic performance which is the only sustainable way to provide additional employment and arrest the population decline.

I'll table an exhibit which provides a snapshot of the comparative position of the Australian and Tasmanian economies on 12 economic
30 measures. This has been compiled by the TCCI from a range of ABS data. It's shown in the exhibit book as, Summary - Growth Rates. I, again, don't propose to go through each individual item. They are self-explanatory.

35 The TTLC claim represents an increase in wage rates in the Tasmanian private sector of approximately 2.58 per cent, the key classification of the tradesman rate of pay, that is the 100 per cent reference point in the ..[inaudible].. award relativities set through the structural efficiency process.

40 This percentage increase is higher for all classifications below the trade rate and decreases further up the scale of the award classification rates. cursory inspection of private sector awards, lead me to suspect that the vast bulk of classifications fall at or below the 100 per cent relativity setting and significantly less above.

I also put the submission, without an opportunity to gather support material, that the level of incidence of overaward payments is less in Tasmania than elsewhere. This is partly revealed through the differences in average weekly ordinary time earnings, although this is not an entirely reliable measure of award wage rates as it includes the survey, non award categories of employment, for example, managers.

Certainly, award rates of pay do not differ substantially around the country and therefore the difference must lay in the overaward arena. This creates a situation where the ability of Tasmanian business to absorb all or part of the proposed increase is limited and in all likelihood the increase would amount to a direct increase in business operating costs. In an economic environment such as that prevailing in Tasmania, an increase in business costs would have an adverse effect on employment both in terms of total numbers employed and full-time employment as a percentage of total employment.

There can be no doubt that the economic picture that prevails within this state contrasts sharply with the view of the economy that was taken by the full bench in coming to the decision in the Safety Net Review.

It is our submission that had they been faced with the economic picture that confronts this commission they would have reached a different decision from the one that they did.

The commission must, in our view, proceed with extreme caution in considering the potential impact of the TTLC claim, if granted, on the economy of Tasmania which at best is fragile. An increase which adversely impacts on business confidence can only have the effect of further undermining the economy of Tasmania and may have a significant adverse effect overall.

I again bring the bench's attention, that during the 90s, average weekly ordinary time earnings in Tasmania has kept pace with the national average and has exceeded increases in the cost of living by 15.4%. Given the subdued level of investment, the low profitability of business and the high level of insolvencies in this state, we suggest that AWOTE growth has come at a price of high levels of unemployment and poor relativity of full-time jobs to total employment.

A further adjustment to AWOTE of the quantum now under consideration will again exacerbate these weaknesses and impact adversely on employment. I can advise the bench that youth unemployment in Tasmania is currently running at 26.9% compared to a national figure of 21.3. Both of these figures are tragically high and any additional pressures in this area will also lead to an exacerbation of their position.

In perusing the state government's Budget Paper No. 1, there have been some brief observations made in relation to anecdotal evidence to point to the economic outlook for the state. Some of that material has been positive but much of it has been negative. In our view, it is relevant to analyse the economic forecast for the state to enable the bench to properly consider the possible effects of an increase in wage rates of the quantum sought by the TTLC. This question was addressed specifically in the budget papers and is part of the exhibit that we previously put to the bench and I direct the commission to page 45 under the general heading of Economic Outlook.

Now the forecasts are there and I would propose that the next succeeding pages be taken as read; they are a detailed explanation about how those forecasts are reached. If I can take the commission through to page 48 where they say:

In summary, the State's economic performance is expected to remain relatively subdued but an improvement relative to 1998-99 is anticipated, especially in relation to employment growth. If Tasmania is to sustainably lift its growth rate and match the performance of the national economy, significant growth in some key sectors is required.

This outlook would give rise to a degree of optimism that there will be an improvement in the Tasmanian economy over 1999-2000. In fact it is remarkably optimistic, in our submission, given our recent track record. It must, however, be kept in perspective that the moderate improvement forecast in the budget papers is from a very low base and even if achieved in virtually all respects, it will still leave Tasmania's performance below the equivalent national forecast.

The government, in this paper, also acknowledges that private commentators do not have quite as optimistic an outlook for Tasmania in 1999-2000. On GSP growth, Treasury forecast 2.4% growth while private commentators are forecasting 1.7%.

On employment growth Treasury has forecast a growth of 1.1% whilst private commentators are much more conservative with a forecast of expected growth of 0.6% for 1999-2000 against a national forecast growth rate of 1.8%.

In the light of this divergence in the expectations for the economy for the ensuing twelve months, we submit that there is a need for a cautious approach to a claim for a substantial wage increase which has the potential to prevent growth and may in fact have the opposite effect.

One of the country's leading economic commentators, Access Economics, in April of this year, published its five year business

outlook which analyses the conditions of various Australian economies including Tasmania.

At page 107 to 109 inclusive Access Economics analyses the Tasmanian economy from an independent perspective and comments on its relative strengths and/or weaknesses. I table as an exhibit the extract beginning at page 107.

This is what Access have to say beginning under the word 'Tasmania':

Tasmania remains two case studies in one - of all that's right about community living in Australia, and all that's wrong in the nation's regional economics. In the last quarter of 1993, the trend measure of housing starts in Tasmania was 1,050. In each of the twenty quarters since then this figure has fallen. It is now just 341 (a 67.5% fall). Figures for building approvals show the same, consistent, five-year decline. These sorts of falls are an albatross that Tasmania can ill afford - the housing sector is an important industry in driving overall economic growth, and Tasmania appears to have very little drive indeed.

In a nation awash with burgeoning demand growth, the Apple Isle's pulse is barely flickering. Retail is marking time, tourism has come back off the boil, job growth is non-existent, and the population continues to fall. Canberra doesn't seem to care, and Hobart hasn't a clue.

Long term negatives hamstring Tasmania, including high transport costs (limiting ability to achieve economies of scale by selling to mainland and foreign markets), a chronic inability to tackle structural reforms (greater competition for utilities, privatisation of the Hydro), and a resultant lack of resources to address the high tax and cost base. These competitive weaknesses are a running sore, leaving growth mired in the 'rust belt' range. As a share of the national economy, Tasmania may well continue to follow the clear trend shown in State Chart 13.

This analysis of Tasmania's economy is extremely sobering and should give reason to pause and consider where this state is going and how economic growth can be stimulated. The data and the projections for the ensuing twelve months on a superficial examination would appear to give rise to a degree of optimism, but when critically analysed continue to send the message of an economy that is seriously under performing and where business operating conditions are extremely difficult.

The outlook for Tasmania should be compared with predictions for a range of economic measures at the national level through the federal

government's budget papers, and the exhibit that I will now table collates the forecast material from a variety of sources into a single document for ease of comparison.

5 This exhibit shows that even on an optimistic assessment of the growth rate for 1999-2000, Tasmania is expected to continue to perform at a lower level than for the national economy.

Before coming to our concluding remarks, I'd like to take the commission to some of the mental gymnastics embarked upon by my friend Mr Willingham at page 34 of the transcript. He says at line 5:

10 *Average weekly earnings in Tasmania at the moment are \$686 per week. An increase of \$10, because that's what such person, if we can have that average person would be entitled to, would be \$10. That's 1.45 per cent for a year.*

15 I make the point that average weekly earnings in Tasmania are not \$686 per week. They are a rough proxy for average weekly earnings for adult males and if that's what is intended then it's within a few bucks I guess - a few dollars. A better figure would in fact be average weekly earnings for all persons and that is a figure of \$548.50 and at that level the vast majority of people up to that would be getting \$12 not
20 \$10 and that equates to an increase of 2.2%, not 1.45. But of course, when you're talking about flat rate increases, it's entirely dependent upon at what level it's applied.

Indeed, a \$12 increase at \$400 a week equates to a 3% increase. The point I simply make is that it would be quite erroneous to believe that
25 what we're talking about here is a weight increase of 1.45%, as Mr Willingham appears to suggest.

In conclusion, I reiterate that it is incumbent on this commission to take into account the impact of the state economy of the safety net adjustment. If the parliament of the day had intended that we
30 slavishly follow national safety net adjustments then it would not have framed section 36 in the manner it did. Indeed, it would probably not have included a public interest test at all. We have demonstrated overwhelmingly that the performance of the Tasmanian economy is a mere shadow of the robust national performance and indeed the gap is
35 getting wider by the day.

We further contend that had the federal commission been faced with the Tasmanian position on a national basis, there is no way it would have reached the conclusion they did.

40 Neither Ms Fitzgerald or Mr Willingham have addressed the Tasmanian economy other than to say that in some way it was contemplated in the national economic data confronting the AIRC. We believe that section 36 carries a much higher onus on the applicant and the intervener. Both have addressed the equity argument at length. Both

have all but ignored the sobering economic circumstances facing Tasmania.

I again reiterate my request to both the applicant and statutory intervener to address the issue of how this claim is to be funded.

5 Deputy president and members of the bench, that concludes our economic submission. I'd now turn to the issues raised just prior to the luncheon adjournment. And the first one went to the issue of equity and I believe the substance of the question was that given that we are probably dealing with the minority of employees in this state, 10 what is the TCCI's views on the equity argument. And this really raises the question, what do we mean by equity. Does equity mean that we go back to the me too-ism of the 1970s? Does it mean that equity means that every Australian worker has to get the same wage increase because that's what's debated through the 1970s? Does it mean that 15 all workers should get the highest level of wage increase that happens to be granted by someone in an enterprise bargaining agreement? Is it equitable that workers in Sydney are probably paying three or four times for real estate what the same worker would pay in Tasmania? Does equity demand that every worker gets a yearly wage increase 20 when inflation is close to zero?

We are not denying the workers of Tasmania a wage increase; we are simply saying that given the economic circumstances of Tasmania, any wage increase for the moment should be delivered through the enterprise bargaining mechanism because it is only on that basis that 25 can an individual assessment of the capacity of an individual business to fund the increase and achieve productivity improvements be properly assessed.

We are opposed to across-the-board wage increases without any regard for productivity offsets or improved efficiencies which would have the effect of maintaining or at least trying to maintain Tasmania's 30 competitive economic position which must be an imperative.

I hear the argument on equity. I really raise the question, what does it mean. And in our submission, equity does not demand that workers under state awards automatically should receive an increase that was 35 determined in an environment totally foreign, or almost totally foreign, to the economic environment confronting Tasmania. That is a balancing act that the commission must make its assessment on.

On the question of the incapacity to pay principle, we have this to say: section 36 requires this commission to have regard to the state of the 40 Tasmanian economy. This is a global argument taking into account all factors relevant to Tasmania. We would contend that the incapacity to pay principle must be part of the Wage Fixing Principles to be accessed largely by individual enterprises in the light of whatever decision comes on the back of these global economic arguments. And I include

in that, for example, those enterprises and businesses that are largely
reliant on government funding for their very survival.

5 It may well be argued, and indeed it has been suggested, that there
have been very few examples of where employers or businesses have
sought to access the incapacity to pay principle in recent times. That
is true. I suspect the reason for that is that to go down that track is
costly to start with in running the argument and then to be faced with
a retrospective wages bill if it's unsuccessful, so it just really makes it
all too hard when businesses try to find an alternative way through it.

10 The other factor is that the track record of successful incapacity to pay
cases is almost non-existent. The tests that have been applied by
tribunals are so onerous that they are very discouraging for many
businesses which may seek to access this particular principle. I, first-
hand, only have knowledge of one successful incapacity to pay case
15 that I'm aware of.

And I think the final question relates to this issue of unfair
competition. One of the worst features and probably the worst - well,
the worst feature of wage fixation in the 1970s and early 80s was this
concept of flow-on, me too-ism. If the Metal Industry Award gets \$25, if
20 every other award within a period of two weeks hasn't got \$25, then
it's the end of the world as we know it. I'm sure you all know what I'm
talking about.

And I say with a degree of shame that employers were party to those
arrangements on the grounds of the level playing field. They didn't
25 want anyone else to get a competitive advantage and time and time
again, particularly in the cost-plus industries, you saw employers
going along cap in hand with the unions with a consent position so
that the costs were applied to everybody in an equal manner. It was
one of the worst features and least productive features of wage fixation
30 in the seventies and eighties, and that is why we had to change.

In the current environment, we have a wage system that is
characterised by variable outcomes depending on individual
circumstances and it would be our submission that it is a quite
inappropriate basis for this commission to try and address the
35 question of alleged competitive advantage as a reason to override your
statutory obligation under the public interest test. There is no
statutory obligation to try and even the playing fields, so-called, or to
prevent so-called unfair competition. It is not the role of this
commission. If the commission pleases.

40 DEPUTY PRESIDENT JOHNSON: Thank you, Mr Abey. Mr Brown?

MR BROWN: Thank you, Mr Deputy President. In continuing on
from Mr Abey, I would like to move on to outline the TCCI position in
respect to this application that is before us and if I could merely say,
Mr Deputy President and members of the bench, that in light of the

economic material that we have presented to the commission and especially in light of the commission's statutory requirement to take account of the public interest as set out in section 36 of the Act, we would submit that the only responsible and technically correct decision the commission can make is to refrain from granting any increase in wages as a result of this application.

It is very apparent that the economic circumstances prevailing within this state cannot withstand an increase of the magnitude claimed by the TTLC. This submission by the Tasmanian Chamber of Commerce and Industry to outright oppose any flow-on of the Safety Net Review - Wages 1999 is following my best research without precedent and a decision that has not been taken lightly by the Tasmanian Chamber of Commerce and Industry.

In our view, the economic performance of this state is so severe as to warrant unusual and unpalatable measures and it is for this reason that the Tasmanian Trades and Labor Council application is largely rejected by the TCCI.

However, we do support the amendment to the incapacity to pay principle, and that being Principle 17.

Should the commission be of a mind to grant any increase at all, then we would submit that any such increase should be no more than the 1.4% forecast for wages growth by the state government in its Budget Papers to which Mr Abey has previously addressed to the bench.

Any amount awarded in excess of that quantum will act to undermine the already modest growth estimates put forward in the budget by Treasury. We suggest that the increase should be capped at \$6.50 per week for each classification up to and including the base tradesperson's rate. In any event we strongly submit that should the commission be inclined to award any increase at all, then that increase should only be available on an award-by-award basis which is currently consistent with the principles as written, and should be delayed for a significant period.

We would suggest that 1 January 2000 would be an acceptable operative date given the current economic circumstances.

The TCCI clearly flagged in the 1998 State Wage Case that we had given serious consideration to opposing that increase, but, as a result of an agreement reached with the TTLC had elected not to do so. In that respect, I direct the bench to the transcript of T7702 to page 14 at about line 35 where it was stated:

I'm not personally aware of a decision of the Australian commission having been modified to this significant and extent in the past and in our view, notwithstanding the submissions of the Labor Council, we believe it is directly reflective of the condition

of the Tasmanian economy, particularly as it compares to the national economy.

5 *There can be no doubt for anyone that's read the federal commission's decision in Q1998, that they relied substantially on their assessment of the national economy and its robust nature to come to the conclusion they did as to the quantum and the timing of the increases that were awarded by that commission.*

And then further on page 15 where it is stated in transcript:

10 *It was our assessment and that of other registered employer organisations in this tribunal area, that those increases could not be sustained at a local level and it was for that reason that we sought out negotiations with the Labor Council with a view to reaching some form of amelioration which would soften the impact while still allowing the low paid access to the same level of*
15 *wage increase, albeit over a slightly longer period of time.*

And again at page 16, where it was said:

20 *In respect to the agreement itself, we would share the view that the TTLC have put, that it is consistent with the requirements of section 36 of the Industrial Relations Act. We have said in the past and I repeat now, that we did give very serious consideration to opposing outright the flow-on of this increase for the reasons I mentioned before and it was with some difficulty that we elected to take a different course. We are heartened by the fact that we have been able to reach an agreement, which softens the impact of*
25 *the national increase and at the same time meets the aspirations that have been expressed by the Trades and Labor Council.*

30 The operative date of 14 October 1998 for the second component of the increase was specifically set to ameliorate the economic impact of the safety net adjustment increase and it had not been included in the package. From our perspective there would have been no agreement.

Economic conditions have continued to decline in Tasmania since the 1998 increases and an even more economically responsible approach from the commission is now required, in our view, if further damage to the Tasmanian economy is to be avoided.

35 That is the end of our submissions, if the commission pleases.

DEPUTY PRESIDENT JOHNSON: Mr Brown, just for the purposes of clarity, what is the base figure upon which you calculate the 1.4% to arrive at the figure of \$6.50?

MR BROWN: Well, what we've done there, that isn't a direct correlation, what we have said is that should the commission be of a mind to grant an increase then it should be no more than 1.4% and what we've done is to try and get an approximate amount of money that is based upon the base trades person's rate at 1.4% and we came to a figure of around about \$6.50 per week.

DEPUTY PRESIDENT JOHNSON: Thank you, Mr Brown. I'm sorry, Mr Willingham.

MR WILLINGHAM: Deputy president and members of the bench, if I may -

DEPUTY PRESIDENT JOHNSON: I seem to have developed a habit in this case in overlooking you and I apologise for that.

MR WILLINGHAM: It's so easy to do, deputy president, there's nothing to apologise for. If it meets with the pleasure of the bench, I was speaking with Ms Fitzgerald briefly a few moments ago, I thought it might be appropriate, with your consent, if I made a relatively brief response to the submissions of the TCCI following which, as I understand it, Ms Fitzgerald will be looking for a brief adjournment and just figured this would probably get things wrapped up and give the Trades and Labor Council and other parties an opportunity to hear the intervener's response before they do their rights of reply.

DEPUTY PRESIDENT JOHNSON: Yes, we think that's a sensible approach, Mr Willingham. Thank you.

MR BROWN: Mr Deputy President -

DEPUTY PRESIDENT JOHNSON: Mr Brown?

MR BROWN: - if we could just have some explanation. It would seem highly unusual for the intervener to be given a right of reply and we are just wondering if there are any reasons that they are provided with this and say what they are.

MR WILLINGHAM: Excuse me, deputy president, if I use the words 'right of reply' it is incorrect of course because I haven't previously heard the submission of the TCCI and haven't had an opportunity to make any comment. I don't seek a right of reply.

DEPUTY PRESIDENT JOHNSON: Mr Brown, I think, without addressing my colleagues on this particular point, I would take the view from a lot of experience in National Wage Cases and perhaps a little less in State Wage Cases that these classes of proceedings ought to proceed with a fair modicum of supervision and control but not too much formality and I think in all the circumstances a bench of this nature should take a generous approach to the parties in the presentation of their submissions rather than a technical approach.

If you require anything more than that by way of an answer perhaps you had better put a more forthright proposition to me.

MR BROWN: No, we're happy with that, Mr Deputy President.

5 DEPUTY PRESIDENT JOHNSON: Thank you, Mr Brown. Mr Willingham?

MR WILLINGHAM: Thank you, Mr Deputy President, I would have gone on to say, of course, had Mr Brown wished to pursue the matter but if for no other reason, I could claim a right to rise to my feet, subject to the bench's pleasure, at the express invitation of my
10 colleague, Mr Abey.

MR ABEY: I did feel a little vulnerable ..(inaudible)..

MR WILLINGHAM: And indeed, it's good to see Mr Abey back at the rostrum after many years absence doing things other than advocacy. But he hasn't lost any of his class even if he's just marginally short of
15 a run and I think he'll have benefited from the outing in terms of tradition.

But that wasn't the case back in 1985, Mr Deputy President and members of the bench, because at that stage he was tip-top condition ..(inaudible).. the state's foremost industrial relations advocate and a
20 fact acknowledged by a lot of people. And in that it's very interesting going through that State Wage Case of 1985 - the very first State Wage Case dealt with by this commission in its then insipient and infant form.

And I don't know if my colleague, Mr Clegg, is here this afternoon - no
25 he isn't I see. I was just skipping through the appearances and I noticed that Mr Clegg actually appeared in that case but not for his current employer, but the Australian Mines and Metals Association which made an appearance but has pulled out in correspondence to the commission. And the Australian Mines and Metals Association
30 doesn't put a position in opposition to the application by the Trades and Labor Council.

The Tasmanian Farmers and Graziers made an appearance in this case today as they did in the original case. They have withdrawn. I am not aware of any submission to be put on their behalf.

35 But in 1985, Mr Deputy President and members of the bench, what were the sort of circumstances that were facing the Tasmanian economy and the national economy then? Well, I'll tell you. I'll quote from the National Wage decision of 23 September 1983; that is the decision Print F2900 which brought about the reintroduction of the
40 Wage Fixing Principles - a reintroduction, I might add, that came about as a result of the helter-skelter out-of-control wages spiral to which Mr Abey referred to, of the seventies and the early eighties - the

me too-ism; there's someone gets \$25 over here, someone over there in another state wants it. And it was at the employers behest primarily through the CAI but with every other major party included that the Wage Fixing Principles were reintroduced and enthusiastically and vigorously reintroduced because everyone had had enough of that outbreak of wages free-fall.

And the system, I might add, has lasted the test of time ever since. Ever since. What was the situation that was facing Australia then in 1983 when an increase was awarded by that first wage bench? I quote to you from page 44 of that print. It's a very short quote:

As in the case which led to the pause, [that's the wages pause] there was little disagreement on the state of the economy. The ACTU described the economy as being "in a very dismal state". The CAI said that there is no indicator of economic activity which is not in a worse position than it was twelve months ago. The Federal Government submitted that the realities identified at the Summit had not changed - the economy was in deep recession and the process of recovery would necessarily be slow. The unemployment rate has risen since December 1982; the overall profitability of business remains low and interest rates remain relatively high. Our inflation rate is still seriously out of line with those of our trading partners. But there are signs of improvement in the economy.

If ever a set of circumstances which have emerged in this country in the last quarter of a century where there was a case for no increase whatsoever to be awarded, it was in that particular case. And yet every party was unanimous that an increase ought to be awarded. And why, Mr Deputy President and members of the bench? And it is a rhetorical question because I know you know the answer as everyone else does in this room, the reason was to bring about an end to this wages explosion, of rampant industrial relations action in the field, massive wage claims, massive conditions claims, that was seriously threatening the whole economy of the country. And employers, everyone else, governments, tribunals, readily put their hands up and said, yes, in return for a system of centralised wage fixation an increase is worth it because in the long term - in the long term - it will be to everyone's benefit. And that system has endured for sixteen years - sixteen years.

It was part of that decision - that 1983 decision - was that the national bench itself and the ACTU and the CAI recognised that uniformity and consistency across the country was imperative; that if you were going to impose brakes on workers and give employers some relief, there had to be consistent application of nationally directed decisions. The full bench in that case was at great pains to recognise and to acknowledge the independence of state tribunals but it was equally at great pains to stress that without their cooperation and that without their adoption

of Wage Fixing Principles that were consistent with the national principles, the system could not work, could not survive.

5 And everyone, Mr Deputy President and members of the bench, said yes, that is correct. We agree with you. We urge other wage fixing authorities to adopt the principles and the strategies of centralised wage fixing established in that case.

10 Now I could have actually gone to the old Public Service Board and the Wages Board hearing of those principles but I thought it would be more appropriate to use the first case that came before this commission as constituted - the Tasmanian Industrial Commission. And that of course is to be found in T96 and T99 of 1985, and that decision is dated 24 April 1985.

15 Now in that decision at page 19, the then - I'm sorry, I assume it was the then president who wrote because there's a very obvious give away which you'll all notice when I come to it - but in that decision, I quote - the bench said - this is the State Wage Bench said:

20 *We have reached our conclusions both as to amount and as to principle in the hope and expectation that State tribunals will find themselves able to accept the substance in what we have done for the period for which we have done it.*

Now that's the state bench quoting the national bench. The state bench then goes on to say itself:

25 *This Commission has already adopted mutatis mutandis [there's the little give away for those of you who missed it] the Principles of the Australian Commission, and the modification to those Principles at this time is seen as being appropriate. We believe that, for the time being at least, it is in the public interest for the Principles to operate on a uniform basis throughout the various areas of jurisdiction, and do not see the adoption of such a uniform and co-operative approach, which is justifiable upon evidence and allowable by the Industrial Relations Act, as impinging upon the statutory independence of this Commission.*

35 Now I'm glad Mr Abey made reference to what I think he called my mental gymnastics, but I think that possibly he meant my arithmetical gymnastics -

..[inaudible]..

40 MR WILLINGHAM: No, ..[inaudible].. apologise, because I want to quote from him in that decision. I want to quote from Mr Abey in that decision representing the TCCI and a number of others. At page 10 - this is the summary of the submissions put by the various parties to

that Wage Case - summarised thus: The TCCI represented by [sorry, it was the TCI then not the TCCI] Mr Abey said, under the summary given here, that whilst they didn't think it was a good time to be awarding increases of any kind because of the state of both the national and the Tasmanian economy:

Nevertheless, consent was given to the granting of the application at this time because it would be industrially unrealistic to create a situation where approximately half the workforce would enjoy a 2.6% increase and the other half not.

10 If I can ask the commission to now leap forward with me fourteen years; it is undeniable that we are not as a nation or as a state facing the economic circumstances that we were back then. It is better under any measurable indicator. It is not to say that Tasmania is performing well. The state government was at great pains to paint a very stark but
15 nevertheless a very accurate picture to the Australian commission in the National Wage Case.

And it comes before you today, Mr Deputy President and members of the bench, making the submissions. Submissions which are very much borne out by Budget Paper No. 1 and to which Mr Abey has
20 given you extensive evidence.

The Tasmanian Government went to the national arena and said, Tasmania is not doing terribly well. It's hardly a secret to anyone in this state.

What was the CAI doing, acky, at that case? What was the TCCI doing
25 in that case? The TCCI do not put any economic material pertaining to Tasmania. Indeed it did not. It relied on the national figures. Well, that's okay. I think you're entitled to do that and wait for the decision and disseminate it accordingly. And as Mr Abey here talks about approximately half the workforce would enjoy a 2.6 increase and the
30 other half not, that's not the situation here now. We're talking about approximately three-quarters of the Tasmanian workforce has received the increase and a quarter not, and yet, somehow we've talked about equity and we've talked about economy but we haven't talked about this industrial realism. That's dropped out of the equation all of a
35 sudden. Back in 1985 industrial realism was a very important factor, so persuasive indeed that the TCI were prepared to give their consent to a 2.6% increase. Now that's gone out of the window and Mr Abey invites me to talk about how can it be paid for.

This tribunal is - this State Wage Case to my count is the forty-third
40 time that the National Wage Case of this year has been sought to be flowed-on. The forty-third time. Forty-two other matters have gone through where requests were looking for this increase - this modest increase of \$10 or \$12 to be flowed through. This is first time that the employers have stood up and even opposed it, let alone present an

economic argument as they were fully entitled to do under the Economic Incapacity principle.

5 Why in the name of everything that's rational do we suddenly find that a tiny, small percentage, maybe one in five of Tasmanian workers suddenly are represented as being at the vanguard of the devastation and desolation of this state's economy if they are to get this \$10 or \$12 increase. What happened to the other 80%? This is a question of the birds - the really big birds - the really juicy, plump, edible birds - have flown the coup. They've gone. We're left with these poor little scrawny
10 birds, these low paid people; these people who haven't got enterprise bargaining increases, haven't got access to enterprise bargaining because their employers don't want enterprise bargaining or because these employees - these employees wouldn't know how to start it, wouldn't know how to drive it, and probably haven't got anything to
15 bargain with.

So these scrawny birds - the rejects, the ones that Nichols don't want - these people are dependent on this commission, these people who depend on this commission to establish and maintain a proper safety net for those people unable to get wage increases any other way for a
20 period of twelve months. That's what these people are for. That's what these increases are for. And some of them may not be eligible, Mr Deputy President and members of the commission, because they may have overaward payments in there.

But it was industrially realistic to say, yes, it's not just industrially
25 realistic to say if half the workforce gets it the other half should. It's also an equity consideration. It's an equity consideration. What sort of anomaly are you going to create, Mr Deputy President and members of the bench, if you agree to the request by the TCCI? What sort of anomaly are you going to set? What sort of inequity are you going to
30 set? That the people who have got a bit of clout or are not on the bottom end of the income range, it's fine for them, people in this room can go out and earn wages for them or they've got a productive environment where they can gain the benefits of shared efficiency, they can get increases, but the people who really haven't got anyone to rely
35 on except this commission who are to maintain the safety net, they got nothing. To me, that's just an absolutely appalling prospect, it really is.

I could have understood it if the reverse was the argument, to be
40 frank, but I cannot understand it in this context and I honestly believe the commission will not either, with great respect.

Now Mr Abey says, how are we going to pay for this? Well, I'll give him an answer: just the same way that you paid the other 75%. The answers are there. The answers are there. The employers have paid out for 75% of the Tasmanian workforce. Whatever the magic pudding
45 was, whatever the magic formula was, that's the one we'll apply to

these people. I mean I don't know what it is, I don't pay it out but it's been found, it's been discovered, and it's been applied.

In the context, Mr Deputy President and members of the bench, of this case, let me say the Tasmanian Government does not resile from Budget Paper No. 1 and it does not resile from the submissions that it made in the national case or those which it has repeated today in respect of supporting the claim made by the Trades and Labor Council. But I think it's desperately important to remember what a safety net adjustment is for. It is not an across-the-board increase and it is incorrect and perhaps misleading to describe it thus.

For instance - if I could just digress a little bit - if we could take the public sector, one of the reasons why the public sector scarcely gets a mention in these proceedings is because this increase, according to my calculation would have no effect in a tangible sense to any employee in the public sector. That's some 25,000 employees. So it couldn't be called by any definition an across-the-board increase. And the reason that it isn't going to be paid is because they're all covered by workplace or overall agreements of some kind.

Now the TCCI says, well one of the reasons we're against this modest increase - this increase which will protect the lower paid, this one-off increase for twelve months, is because we have created and accepted an environment in which wage increases should only come from workplace bargaining. But that's not the system that we have created and accepted. We have created and accepted a system where predominantly wage movements are encouraged to occur from workplace negotiation, from workplace productivity and efficiency. But the very system we've got in place says, we recognise that that won't always happened, there will be lots of circumstances for lots of reasons where workplace bargaining will not occur, or if it does it won't produce a wage increase.

So what do you do in this new world of workplace bargaining? What do you do about the people who fall through there or never even get to the starting barrier? And everyone, the national tribunal and state tribunal said, well, we've got to maintain a relevant safety net. It would be immoral, it would be unjust, it would be inequitable if you didn't do that and that's what this application is about, Mr Deputy President and members of the bench. It is not an across-the-board increase. It is an adjustment to the safety net - a once per year adjustment to the safety net.

And I've already indicated to you the kinds of people who look to you for the protection of maintaining, at a relevant level, that safety net. And with great respect, Mr Deputy President and members of the bench, I urge you for those reasons - urge you for those reasons - to grant the application by the Trades and Labor Council. If the commission pleases.

DEPUTY PRESIDENT JOHNSON: Thank you, Mr Willingham. Ms Fitzgerald?

5 MS FITZGERALD: Thank you. As Mr Willingham has indicated, we would like to have a short adjournment to give us an opportunity to consider some of the points the TCCI have put and to be able to respond to those prior to concluding our submission. So I would seek, if the commission pleases, an adjournment of thirty minutes.

10 DEPUTY PRESIDENT JOHNSON: What impact will that have on your completion of your submissions and the capacity for Mr Abey or Mr Brown to respond?

MS FITZGERALD: Well, I would think that subsequently after the adjournment of thirty minutes we'd probably take a maximum of an hour, so that would then give the TCCI the opportunity to be able to respond. That takes us through to four thirty, five - till five o'clock.

15 DEPUTY PRESIDENT JOHNSON: Well, it will go past five o'clock if you're taking an hour, won't it?

MS FITZGERALD: Yes, it will.

20 DEPUTY PRESIDENT JOHNSON: I think the adjournment is a little longer than we might have expected, Ms Fitzgerald, but since I'm already, out of my own mouth, publicly committed to being generous, we will resume these proceedings at 4.00pm.

SHORT ADJOURNMENT 3.30pm

HEARING RESUMED 4.08pm

DEPUTY PRESIDENT JOHNSON: Ms Fitzgerald?

25 MR COOPER: Mr Deputy President, before Ms Fitzgerald -

DEPUTY PRESIDENT JOHNSON: I'm sorry, Mr Cooper?

MR COOPER: - I'd like to just make a couple of comments because I think it's appropriate that the Labor Council do make the main submissions.

30 My organisation, for its part, is disappointed that we have to have an argument today about the economic state of Tasmania, especially by the TCCI in the context that it's been put. The one question we just want to raise is, really how serious are they about those submissions, especially given the sequence of events that have occurred and that
35 obviously was an 11th hour application, that I'm sure a lot of people who could have been here today haven't even seen or would have got late on Friday. They are the peak employer group in the state of Tasmania, that has been said on a number of occasions, for private sector employers.

But yet we see that there has been no separate submission made in the AIRC on behalf of the Tasmanian economy by the TCCI or through their respective national group. There's been no opposition to date to the federal awards and the main award that I look after for my organisation, the Metal and Engineering Award, was varied with effect
5 from 15 May this year, a substantial award that would apply to a majority of workplaces in Tasmania when its state counterpart, the Metal Engineering Award, would apply to the minority. That saw the C10 rate go to \$477.20 which is what we are after today.

10 I'm disappointed to see that they have put up as an exhibit a major employer document which has contained an error that hasn't been picked up until the 11th hour. If people are serious about the state of the economy and they produce a document, as I understand, from Mr Abey's submissions, was available in February, then how come this
15 error wasn't picked up until Friday. If it was a serious document and it was provided for serious consideration, then why wasn't that picked up straight away or when it was prepared, but we find that on the Friday, before the State Wage Case, there's an error in it and it's been detailed here today.

20 Those things give rise to my organisation questioning just how serious the TCCI are about this application. The question we raise, in that context, who will this apply to and that's been touched on. Who will this application apply to? It will apply to those people under state awards who do not have a capacity to bargain, for whatever reason
25 that is, and generally no fault of their own or those people who are on the lowest rate, the lowest award minimum rate.

The point needs to be made, Mr Deputy President and members of the bench, that even in the mining industry which is subject to commodity prices, a base tradesman on shift work at the Renison Mine, which has
30 just seen a downsizing of 80, is earning \$66,000 and a wage increase like this is being opposed by employers when it's talking about a wage rate of \$477.20 for base tradesmen who can't bargain.

The Rosebery Mine went through a similar mine of life study not so long ago. It's just completed it. It brought to this commission an
35 industrial agreement which saw fitters on base rates on shift work earn \$62,000. We're talking about industries that are subject to low commodity prices, in Mr Abey's submissions, subject to difficult economic circumstances, but wage rates as part of those bargains have not played a significant contributing factor to the decline in
40 employment. It's a whole range of other things, and I think Ms Fitzgerald will make further point about that.

I really say that this is an important issue that needs to be considered in the context of this wage case.

45 As Mr Willingham observed, we also observe the absence of the Farmers and the Australian Mines and Metals and we note too that

there are no submissions to the contrary of the Labor Council's submission for a wage movement - from those two organisations. And whilst Mr Fitzgerald's correspondence to the commission points out that he doesn't think this decision will have impact on many of his employers, there is just simply no submission in that respect to oppose this decision, other than to support the - or pre-empt the submissions of the TCCI.

In terms of relief, I think that is mainly what the TCCI are on about. They're on about relief and Ms Fitzgerald will touch on that. They do have the capacity to seek that relief through the principles and I think if that's the main problem they've got, then I appreciate them making that public today in terms of the economic situation but perhaps the tactic that they've taken is in error and whether that's an error of judgment or whatever, it's in error because they will have the relief they're seeking once these wages are varied on a case-by-case basis.

We would rise to support the earlier submissions of the Labor Council, support the submissions of the government and disappointingly, oppose the submissions of the TCCI with respect to the operative date, being January. We would support an operative of 14 July and we would say to the full bench of this commission, that the main points that do need to be considered about the application of this rise, who it's to, should be made expediently and those people who most deserve it, shouldn't miss out. If the commission pleases.

DEPUTY PRESIDENT JOHNSON: In fairness to the TCCI, Mr Cooper, I think I should point out that, speaking for myself as I understand their submission, it's really got nothing to do with the attitude of other employers or some of the other matters you spoke about. It is, if you like, a submission directed to the commission to accede to its statutory responsibility under section 36 of the Act to consider the application in light of the economy of this state and its impact on employment.

MR COOPER: I understand that, Mr Deputy President, and Ms Fitzgerald will touch on that. Those points were made from my organisation and they had to be said and we've said them now so the bench can obviously deal with them. And I appreciate the comments you make about the TCCI in that respect.

DEPUTY PRESIDENT JOHNSON: All right, Mr Cooper, thank you. Mr Abey?

MR ABEY: Thank you, Mr Deputy President, just a point of clarification. My colleague, Mr Brown, in his closing submission made it absolutely clear that our strongly preferred position is that this bench reject the claim outright and that no increase be granted. He did however advance what you would describe as an alternative position should the first one not meet the favour of the bench.

I just want to make it absolutely clear what that alternative position is because there may have been some confusion. The alternative proposal is for a wage increase of \$6.50. That calculates at 1.4 per cent at the base tradesman level. The proposal is not for a 1.4 per cent wage increase up to that level, it is for \$6.50 up to the base tradesman's level and \$6.50 thereafter.

DEPUTY PRESIDENT JOHNSON: Yes. Thank you, Mr Abey. I think your concern probably arises only from the muddled way in which I obviously put the question to Mr Brown. The clarification is helpful. Third time lucky, Ms Fitzgerald?

MS FITZGERALD: Thank you, very much. In response to the TCCI's arguments and particularly in response to the economic material put before us, there are several threshold issues to be considered in relation to the effects of a safety net adjustment on the level of employment.

As has been stated, section 36(2)(b) requires the commission to consider the economy of Tasmania and the likely effect on the economy of Tasmania with particular reference to the level of employment. The TTLC submits that this consideration must be at the level of aggregate wage effect on aggregate employment. Considerations that relate to particular industry sectors or enterprises are not necessarily indicative of the impact on employment as a whole.

The second matter is in relation to the reliance that can and should be placed on the federal commission's decision. It is important to differentiate between the specific indicators of economic performance and the analytical approach to the assessment of the impact of wage increases.

Thirdly, the assessment of the effects of a safety net adjustment on the level of employment is highly dependent on the economic model adopted for the purpose and as the AIRC commented in its decision at page 21, paragraph 47:

That assessment ultimately requires the application of judgment.

Firstly, with reference to the likely effect on the economy of Tasmania with particular reference to the level of employment. The Tasmanian Trades and Labor Council relies on the state government's assessment in both its submission to the AIRC and the 1999-2000 Budget Papers.

The state government in its Budget Papers, and they've been referred to by Mr Abey, indicated that some of the factors that have contributed to the state's relatively subdued economic performance include major job shedding and negligible growth in the public sector - a traditionally important source of growth for the economy, centralisation of financial services and corporate management in Sydney and Melbourne, a period of prolonged weakness in the price of some of the state's key

commodity exports, subdued business confidence and hence, low levels of business investment and more recently, negative population growth. Undisputedly, many of these factors explain job losses in Tasmania.

5 On page 33 of the Budget Papers, it is reported:

10 *Since 1995-96, the largest job losses have occurred in wholesale trade, construction, government administration and defence (Commonwealth and State) and electricity, gas and water. The job losses in the construction industry in Tasmania are partly linked to the downturn in the State's population . . . while the decline in electricity jobs reflects continued restructuring in this once-dominant sector of the economy.*

15 Not at any point is reference made or the assertion made that in fact wage levels are responsible or are indeed a factor for job losses in these sectors.

Again, on page 20 of the Budget Papers it is reported that: *In recent months, however, some economic indicators have shown signs of improvement.*

20 And Mr Abey has referred to these. That includes the recent improvement in retail sales, business confidence, housing finance commitment and a rebound in the construction employment. There are also early signs that the decline in employment has been arrested and that population decline has stabilised. The Budget Papers go on to give some examples of improvements and investment projects and includes *the Abt railway project and further call centre developments.*

25 And I think it's worth noting that these, particularly the call centre developments, do not rely on state awards. There are either enterprise agreements in place or federal awards, so that expansion and those developments and hence employment, will not be affected in any way by a decision to award a safety net increase to state awards.

30 In its submission to the AIRC, the government of Tasmania clearly identified the key determinants of employment as factors other than wage increases. It is the Tasmanian Government's view that none of the structural reasons behind Tasmanian relative economic decline related to movements in wages and that was tab D of our exhibit book.

35 With regard to the reliance that can and should be placed on the AIRC decision and particularly the analytical approach to the assessment of the impact of wage increases, the Labor Council claims that the TCCI has presented evidence that goes to the characteristics and trends in the Tasmanian economy which are in part significantly different in level or direction to the national economy. However, it has failed to establish that different theoretical, analytical or empirical bases exist

to draw different conclusions to the AIRC in relation to the impact of a modest wage increase on employment levels.

5 In fact, the TCCI's summary of economic forecasts includes predictions of increases in average weekly earnings of between 1.4 and 3.75 per cent in 1999-2000 and employment increases of 1.1 per cent to 1.7 per cent.

10 In terms of the effect of a safety net adjustment on the level of employment, it is pertinent to reinforce the fact that the effect of any safety net adjustment awarded by the Tasmanian Industrial Commission on the Tasmanian economy as a whole must be commensurate with the extent and incidence of private sector awards of the commission being considerably less than 35 per cent of wage earners and probably closer to 20 or 25 per cent.

15 As indicated in my submission earlier, the federal commission concluded on page 22 at paragraph 49:

- no significant adverse employment effect is evident from recent safety net increases.

20 The AIRC also concluded from the voluminous material presented in the recent Living Wage Case and in the two previous cases - this is at paragraph 56:

25 *The material brought to our attention reveals a vigorous academic debate and a variety of empirical research outcomes. It does not establish an empirical basis for affording greater importance to concerns about employment effects than to other considerations to which we must have regard in determining the claim before us.*

30 The TCCI have asserted that the flow-on of the safety net adjustment will cost jobs, that is, that jobs will be lost as a direct result of flowing on the safety net adjustment. I have already indicated in my submission that when low paid workers receive a modest wage increase, this money is spent not on importing foreign cars but in the local economy, largely on basic necessities and consumer durables and thus it is more likely that a modest safety net adjustment would shore up local employment.

35 However, the TCCI and the delinquent Peter Reith constantly argue that modest wage increases cause unemployment and lower wages reduce unemployment, although the Tasmanian experience does not substantiate this argument. It is simply not enough to assert this and expect that it will be accepted as gospel or as a valid statement.

The commission made it quite clear in 1986 that assertions of gloom and doom have to be fully substantiated. The full bench said in matter T432 and T435 of 1986 at page 16:

Statements of this nature are easily made -

5 *It is our view that if such statements are made they should be supported by evidence so that the Commission is able to come to an informed view and reach a decision having regard to all factors as they apply in this State.*

10 The point of quoting this to you is to emphasise that the commission should only take note of the oft repeated statement that increases will cost jobs if specific evidence shows that this will actually happen.

15 Mr Deputy President, members of the bench, the TCCI has not met this test. They have presented evidence that shows that the Tasmanian economy is under performing compared to the national average, but that is not contested. We repeat, the federal commission has considered the national economy and sectoral and regional differences within that national economy and has struck a rate appropriate for the whole economy.

20 The TCCI submitted that *the level of increase without any attention to productivity is not able to be sustained in the longer term and can only lead to unsustainable increases in labour costs with consequent adverse impact in employment and/or insolvencies.* And that's from page 42 of transcript.

25 I find it rather contradictory for the TCCI to argue that here, in opposing the TTLC's application, and yet not provide this evidence when federal awards which have application to Tasmanian employers are sought to be varied. I indicated at tab E of the TTLC exhibit book, the federal awards which have been or are in the process of being varied and which, to my knowledge, have not been opposed by the TCCI.

30 I direct you to two awards that have been considered that have considerable application to Tasmanian workplaces, the Repair Services and Retail Award and the National Building Construction Industry Award. The Repair Services and Retail Award which I understand applies to 40 per cent of service stations and 60 per cent of employees has been varied and the wage increase paid without opposition by the TCCI.

35 Whilst there may be no effect of the variation of the Building Construction Industry Award on larger companies, given enterprise agreements, there would be an effect on smaller organisations. Given that the housing industry has been one of the worst performing sectors of the Tasmanian economy, and this goes to the TCCI exhibit,

State Budget Papers at page 47, and given the amended federal Economic Incapacity principle which recognises that the impact of an increase in labour costs on employment at the enterprise level is a significant factor to be taken into account if any respondent or group of respondents could have demonstrated an incapacity to pay the increase, I would have expected application be made to reduce, postpone or phase in the increases awarded by the AIRC. This was not sought.

Such apparent inconsistency by the TCCI can only lead to the conclusion that their opposition to the TTLC application is not based on evidence of adverse impact in employment and/or insolvencies. In this jurisdiction if certain enterprises or groups of enterprises believe they do not have the capacity to pay an increase, then the Economic Incapacity principle is open to them but we place the TCCI and all employers on notice. We will expect stringent testing of any such claims of incapacity to be undertaken. That will mean that the books will have to be opened and tabled here at the commission in public for all to see, including the union and workers in general.

We will examine every aspect of such books with a fine tooth comb. We will look at executive salaries, salary sacrifice arrangements and other executive benefits, shareholder dividends and the like. We will leave no line entry unturned in examining these claims.

We will apply the same level of stringent analysis to such claims as we know this commission will apply to statements, that the flow-on of the safety net adjustment will cost jobs.

Mr Deputy President and members of the bench, the TCCI has not shown that flowing on the safety net adjustment will cost jobs and therefore the assertion should be disregarded as nothing more than another cry of wolf by employers.

In conclusion, I wish to emphasise the following points that I made in my submission. The submissions put to the AIRC focused on the effect of an increase in safety net awards on the economy generally, emphasised the continuing high levels of unemployment, urged that significant weight be given to the employment effects of a safety net adjustment and drew attention to particular sectoral performances.

The retail motor industry which represented the positions of, amongst others, the Tasmanian Automobile Chamber of Commerce whose members are respondent to the Repair Services and Retail Award - that was the award I mentioned which had been varied without opposition - provided survey evidence from its members in both Victoria and Tasmania and submitted on page 18, paragraph 33:

- that a high proportion of small businesses in the sector paid only award rates and would be subject to safety net adjustments.

It's quite clear that the AIRC did in fact consider the circumstances that exist in Tasmania as they did consider the circumstances that exist in other sectors and other regions.

5 Extensive submissions were put to the commission as to the effect of changes in real wages on the level of economic activity and employment. Much of this material was put in previous Living Wage Cases and as I've said, the AIRC found that no significant adverse employment effect is evident from recent safety net increases.

10 The Joint Governments made the point that Mr Abey mentioned, that the aggregate data masked differential impacts on the proposed safety net adjustments and the effect of safety net increases on employment and activity is likely to be greater in regions that are struggling.

15 The AIRC indicated that in arriving at a decision regarding the quantum of the safety net adjustment it would again balance a range of considerations including the differential impact across sectors and firms, and I've already mentioned the Tasmanian Government's submission in terms of what explains economic decline and it was not in fact movements in wages.

20 As indeed this commission will take into account the needs of the low paid in determining this matter, the AIRC in accordance with its legislative requirement received submissions addressing the needs of the low paid.

25 The ACTU submitted that low paid workers continue to find it hard to make ends meet, that they have unmet basic needs and that safety net adjustments are welcomed and worthwhile. The governments of New South Wales, Queensland, Tasmania, and indeed the ACTU, argued that a sizeable gap has opened up between award rates and average earnings and enterprise agreement rates.

30 It was argued that workers who only have access to award safety net adjustments will play a lesser role in society if their wages are allowed to lag behind other workers. The AIRC accepted that low paid workers are struggling and it is clearly in the public interest to ensure that Tasmanian workers dependent on award wages without the capacity to gain a fair outcome from enterprise bargaining are not allowed to fall further and further behind.

40 One further claim made by the TCCI that I cannot leave unchallenged, is the inference that employers who pay award rates do not secure improvements in productivity. The TCCI asserts, and again this is on page 5 of transcript, that they have no in-principle objection to wage increases as such but where they are not underpinned by improvements in production performance of the enterprise, they constitute a net additional cost burden for business. The inference being, that where there is no enterprise bargaining, there is no productivity improvement.

The TCCI appear to argue that productivity increases only take place when enterprise bargaining occurs. If this is the case, the TCCI is seriously out of touch with the aspirations and motivations of Tasmanian workers and indeed, many Tasmanian employers.

5 Workers try to improve their productivity for more reasons than a simple wage increase. It may shock the TCCI to learn that Tasmanian workers take a great deal of pride in their work. They want to improve the quality of the work, they want to do things better and they often make valuable suggestions as to how the work processes can be
10 achieved and improved.

Tasmanian productivity levels probably have more to do with the capacity of management to change their processes and systems and motivate their employees. Management capacity is more important than monetary inducements. Tasmanian workers continue to work
15 hard despite their low wages in a relative national context. The TTLC totally rejects the assertion that granting the safety net increase, rather than starving workers of an increase by this method and forcing employees into the jungle of enterprise bargaining, will sap employee motivation to improve their work enthusiasm and productivity. In
20 short, this is nonsense.

The reason we are here is, as Mr Willingham has indicated, that the nature of many enterprises and both the views of employers and employees is that many workers in fact do not have the capacity to bargain, that they rely solely on a reasonable wage increase awarded
25 by this commission through the safety net adjustment.

The TTLC submits that the Tasmanian Industrial Commission can rely confidently on the analysis conducted by the AIRC. The TCCI has not been able to demonstrate a negative causal relationship between moderate wage increases and unemployment and whilst it has
30 described the Tasmanian economy, it has not been able to identify the special and extraordinary circumstances which would cause the Tasmanian Industrial Commission to depart from the decision of the AIRC.

The TTLC thus submits that the Tasmanian Industrial Commission should grant a flow-on of the AIRC safety net adjustment as from 14
35 July 1999.

If it please the bench, there are other matters that I have to deal with in terms of arguments regarding a common operative date of 14 July and a matter that Mr Brown raised in terms of Principle 16 - Award
40 Review Process and in particular, principle 16.3. I'm happy to deal with those now if you so direct.

DEPUTY PRESIDENT JOHNSON: I think you should.

MS FITZGERALD: You'd like me to?

DEPUTY PRESIDENT JOHNSON: Yes.

MS FITZGERALD: Thank you. The TCCI has submitted that the purity of the position being advocated the TTLC on the need to flow-on the Safety Net Review - Wages decision does not extend the adoption of the 12 month minimum gap between increases to awards arising from the 1998 decision and increases to awards arising from the 1999 decision.

The TCCI further submits that a pure application of such approach would require an operative date of not before 14 October 1999. The commission will not be surprised to find that I find this submission perplexing. The TCCI has either developed selective amnesia or is acting without integrity.

I refer the commission to T7702 of 1998 and the transcript of the proceedings of this matter, at page 13, paragraph 10, I am accurately reported as having said, and I quote:

Both ourselves and the employers are [quite] clear that for the purposes of any future arbitrated safety net adjustment, the operative date would be 14 July.

At page 17, paragraph 10, of this transcript, Mr Edwards states:

We therefore would indicate formally on the record that we do offer our consent to the agreement . . . We will indicate formally that . . . the agreement reached does not create a precedent.

The TCCI did not contradict the TTLC regarding the operative date for future safety net adjustments and this matter was certainly discussed and agreed between the parties. As I said, the TCCI is either experiencing selective amnesia or acting without integrity.

In the federal jurisdiction we have a decision regarding the issue of the operative date of variations. The decision relates to the Hospitality Industry, Accommodation, Hotels, Resorts and Gaming Award 1998. In this matter the LHMU submitted that as a result of a failed 1998 incapacity argument, employer respondents to the Hospitality Award gained a six week delay in the application of the relevant safety net adjustment from 15 May to 23 June. The LHMU contested that compliance with the requirements of paragraph 8(b) of the 1999 Statement of Principles, that is:

That at least twelve months have elapsed since the rates in the award were increased in accordance with the Safety Net Review - Wages April 1998 decision.

would perpetuate the disadvantage to low paid workers which resulted from the six week delay in accessing the 1998 arbitrated safety net adjustment.

5 The federal commission concluded, and this is decision print P9138H0008 of 21 May 1999, that:

10 *In our view the delay in the variation of the Hospitality Award occasioned by the hearing and determination of last year's incapacity case should not be automatically perpetuated by the operation of the so-called 12 month rule in principle 8(b). We have reached this conclusion not simply because of the AHA's claim was unsuccessful but rather that its lack of merit was such that as a matter of fairness the 12 month rule should be waived in this case.*

15 This matter has similarities with the TTLC's position. We had a consent application last year, a consent application which recognised our aspirations of securing as large as possible increase by the earliest possible date for low paid workers and the employers imperative of softening the impact of the national increase, and that's page 17, paragraph 5 of transcript.

20 For the TCCI to argue that a twelve month minimum gap should result in an operative date of no earlier than 14 October is despicable. For the commission to accept their argument is to penalise low paid workers.

25 We argue that the increases of \$12 and \$10 be paid from the first pay period on or after 14 July 1999. We argue that this is consistent with the adoption of the twelve month minimum gap between increases arising from the 1998 decision and increases arising from the 1999 decision and we urge the commission to rule accordingly.

30 In terms of it being an operative date rather than on application, it has been the practice of the commission to have a common operative date across all awards. It allows for the orderly conduct of industrial relations and it is the best use of resources both of the industrial parties and of the commission and there is no valid reason why this should not happen in this case.

35 The other matter that I seek to address, the only one that I think is outstanding, is the matter of Principle 16 - Award Review Process and Mr Brown's indication that at principle 16.3, which says:

40 *At the time of an application for any future arbitrated safety net adjustment (however described) the Commission must take account of the extent to which the parties to the Award have actively pursued the Award review process.*

I think the commission will know, quite clearly, that the unions have in fact done the work, that we have positively cooperated and as I said, the commission has knowledge of this work done and that this 16.3 ought not stand in the way of the increases flowing, as I've indicated,
5 from 14 July 1999.

That concludes my conclusion.

DEPUTY PRESIDENT JOHNSON: Thank you, Ms Fitzgerald. Mr Abey?

MR ABEY: Mr Deputy President, members of the bench, I will be
10 brief in response. There's only four or five or perhaps half a dozen points I really want to make.

Mr Willingham, in his eloquent manner, took us back to the heady days of the mid 1980s and specifically 1985 and he referred to a quotation from myself at the time about the industrial realities prevailing at the time and consistent with those industrial realities, it
15 would not be realistic for the TCCI to oppose a wage increase which would then flow to, I think, 50-odd per cent of the workforce.

I wish to make a number of points. Firstly, since 1985 time has moved on and moved on significantly. In 1985 the term 'enterprise bargaining' had not even entered the industrial vocabulary. It was still trying to get rid of 'me too-ism'. For us to deny that wage increase in those circumstances would have denied that increase effectively for all time for that group of workers because they had no other avenue. That is not on foot with what we have before us today. We are saying that we
20 are opposed to an across-the-board increase. We are not saying that this group of workers cannot access a wage increase, even a larger wage increase, through an alternative means, namely, enterprise bargaining.

The other matter I wish to raise is that - and I'm surprised Mr Willingham went down this track, I really am. He spoke about the economic circumstances in 1985 and the fact that we had consented to a wage increase. The circumstances that are before us today relate to the differential, the stark differential between the performance of the Tasmanian economy and the national economy, the latter being the
30 circumstances of which the federal commission based their decision on.

In 1985 the issue was not the standing of the economy as a whole and whether or not the wage increase could be sustained. That wasn't the argument at all, or not the relevant argument. I take the commission to Budget Paper No. 1 and specifically on page 27, beginning at the
40 Overview about six lines down it says, and I quote:

The data that are available over the 1980s show that, on balance, the performance of the Tasmanian economy closely tracked that

of the Australian economy with the major exception of population growth -

5 Now, this is what the government's own paper said, back in the '80s the Tasmanian economy closely tracked the national economy and that is a fact and that was the circumstances in which we did not oppose that particular wage increase, coupled with the fact that there were no other avenues. Enterprise bargaining hadn't been invented.

10 On the issue of the question I put, concerning how this wage claim would be funded if indeed it was granted, Mr Willingham's response was along the lines, the same way as it always has. In other words, he admits what we are saying is correct. He has not attempted to put any other 'magic pudding' I think he used the term, about how it will be funded. He is simply saying, employers have managed to scramble a wage ..[inaudible].. through in the past, they will do it again.

15 On the weight of the evidence and the weight of our own survey which shows that for 17 quarters in a row employers in this state, on balance, have reduced prices and for 16 out of those 17 quarters profitability is reduced, then there is no alternative in our submission, that the only way that this claim can be funded, whether it's under a
20 federal or state award, is to reduce costs or squeeze margins further or a combination of both. There is no other alternative and Mr Willingham, by his response, concedes that.

Ms Fitzgerald did not even attempt to answer the question.

25 MR WILLINGHAM: Mr Deputy President, members of the bench, I really do hate to disturb Mr Abey's flow but he completely misrepresents the answer I gave, or perhaps he didn't hear me. My answer to his question was, not that employers, in the sense of his rhetorical question, could do as they've done in the past. The answer to my question was quite specifically the employers, presumably under
30 the advice of the TCCI, have found the answer in 75 per cent of instances in relation to this particular increase. So they've already found the answers, they don't need to pose the question again. That was my response. I did not make any reference to what had occurred in the past, except in the context of this particular case, although I
35 accept -

DEPUTY PRESIDENT JOHNSON: My note confirms that, Mr Abey.

40 MR ABEY: Yes, I accept that. I'm talking about the recent past, in the last couple of months - that's what his response is saying. He is saying that employers have managed to deal with this in some manner in the last couple of months since the federal decision. Now, he doesn't come out and say how they've done it because he knows how they've done it. They've had to squeeze margins or they've had to reduce costs or a combination of both.

DEPUTY PRESIDENT JOHNSON: I think Mr Willingham said that he didn't know the methodology at all. That wasn't his word, but he said he didn't know how they'd done it, to use the old crime story.

5 MR ABEY: Well, if Mr Willingham doesn't know how they've done it and Ms Fitzgerald has not even attempted to answer the question -

MS FITZGERALD: Excuse me, can I interrupt please, because I think I have indicated that. I actually indicated that a modest wage increase for low paid workers in this state in fact will be spent in this state.

10 Now, I can't demonstrate with economic argument, the validity of that claim but it seems quite reasonable. We know the spending patterns of low paid workers. If they receive a modest wage increase, they will spend that in the local economy and my assertion is that that in fact will shore up employment, not result in a subsequent decrease in employment. I think it's a valid assertion, as Mr Abey's is just an
15 assertion, that a modest wage increase will in fact add to unemployment.

DEPUTY PRESIDENT JOHNSON: Well, I hear what you're saying, Ms Fitzgerald, and I think in fairness to Mr Abey, that's a fairly oblique
20 answer to a direct question that he put and I don't see that his remarks do you a mischief. They're something we'll have to weigh in the fullness of time. Thank you, Mr Abey?

MR ABEY: Thank you, Mr Deputy President. I won't labour the point. I simply say that this can occur in a range of ways and I instance, for
25 example, my own organisation. Last week we had a resignation in the administrative staff. That staff member will not be replaced, certainly in the foreseeable future. The work is still there. We have to find a different way of getting that work done, simply because labour costs in our case represent something like 70 per cent of our total operating costs and that's what you have to look very closely at.

30 Now, I won't say that this particular decision was the straw that broke the camel's back in this particular case, but it is a contributing factor, the knowledge that this could occur and the impact across the totality of my organisation. That's just one example. It doesn't necessarily mean that employers will go out with wholesale sackings but there will
35 be some of that, regrettably. More often than not, employees who resign won't be replaced, they will be replaced with part-time employees. It all has a negative employment impact.

The Tasmanian economy is in a serious position. I think that's
40 conceded by everyone and I won't labour the point. At tab D of the TTLC application, Ms Fitzgerald referred to again, and this is of course the state government's argument, it says, and I quote:

It is these economic facts listed above that means the Commission's decision in relation to the Living Wage Case will be more difficult for Tasmania than any other State.

5 Now, if it doesn't have any impact on employment or, in Ms
Fitzgerald's words, even has a positive impact, why would it be more
difficult for Tasmania than any other state. They have conceded that it
is more difficult than the other states. So we're only arguing about the
degree of that difficulty. Beyond argument that there is a causal
relationship, and that's referred to in the full bench's decision when
10 they talk about the elasticity of demand for labour averaging at about
.67 and they found that whilst, because of the robustness of the
national economy and the modest nature of the wage decision, in their
terms, the likely outcome nationally would not be significant. But they
did make the point, rightly, that that was very much dependent on the
15 relative state of the economic circumstances at the time and I won't
labour the point about how different that is in Tasmania. There is a
direct relationship between the cost of labour and the impact on total
employment levels.

20 If this claim is granted, it will not be the end of the world as we know
it. It will not destroy Tasmania overnight. In twelve months time there
will still be a Tasmanian economy and there'll still be another Budget
Paper No. 1. We suspect that if the claim is granted, it will be
marginally worse in terms of overall economic performance than is
currently the case.

25 This is a decision which we concede is probably at the margin in terms
of the economic impact. It will impact adversely on specific sectors and
specific businesses but across-the-board it will have a negative impact
but not one that will tip us over the edge that we're down at the South
Pole, but it will have a negative impact. And I simply reiterate, in
30 circumstances where we've had a long period of wage earnings in
excess of inflation, we now have inflation running at less than 1 per
cent, is it so critical in terms of equity that this group of workers has
to have a wage increase. That's a decision the bench will have to
wrestle with.

35 Finally, Ms Fitzgerald, has argued or suggested that we're even acting
without integrity in terms of our position on the operative date. I
couldn't quickly find the submission of my colleague, Mr Edwards, in
transcript but he does use the term, I think, from a purist point of
view, such and such should apply. That is not our position. We are not
40 arguing that the operative date should be 12 months after October last
year. Indeed, we're arguing that it should be further delayed than that.
We're suggesting 1 January.

We concede, up front, that in no way are we saying that the decision of
last year was a precedent or that it would in any way impinge upon
45 the ability of the applicant in this case, to argue for an operative of 14

July. We simply say that in the economic circumstances, we are arguing for a much later operative date, if the commission is minded to grant an increase.

Finally, on principle 16, at 16.3 it specifically says:

5 *At the time of an application for any future arbitrated safety net adjustment (however described) the Commission must take account of the extent to which the parties to the Award [the Award not the family of awards - the Award] have actively pursued the Award review process.*

10 Now, Ms Fitzgerald has not sought to amend her application. If she had have, in the light of circumstances that have occurred today, we would have objected and we say that under this principle it is not open for the applicant to succeed on an across-the-board operative date. The only alternative is award-by-award. If the commission pleases.

15 DEPUTY PRESIDENT JOHNSON: Thank you, Mr Abey. We express our appreciation at the assistance that the parties have given us in the conduct of this case which, like many cases, has had its moments. Unless we've arrived at the end, with cooperation of the bar table and the bench, we intend to reserve our decision and we do so. The parties
20 will be informed in due course of the outcome of our deliberations.

That concludes, for the time being, the hearing of matters T8413 and T8483 of 1999. We accordingly adjourn the proceedings *sine die*.

HEARING ADJOURNED SINE DIE 5.00pm