

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No 3788 of 1992

IN THE MATTER OF an application by the
National Union of Workers, Tasmanian
Branch to vary the Wholesale Trades Award

re classification structure, definitions, and
wage rates

COMMISSIONER WATLING

HOBART, 19 October 1994
continued from 18/12/92

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances, please.

MRS H. DOWD: If the commission pleases, I appear on behalf of the Australian Municipal, Administrative, Clerical and Services Union, **H.J. DOWD**.

COMMISSIONER WATLING: Good. Thank you.

5 **MR B.J. HANSCH:** If the commission please, **HANSCH, B.J.**, appearing for the Transport Workers' Union of Australia.

COMMISSIONER WATLING: Good.

MR P.E. TARGETT: Thank you, commissioner. **TARGETT, P.E.** I appear on behalf of the Tasmanian Chamber of Commerce and Industry.

10 COMMISSIONER WATLING: Good. Well, maybe if I could receive a report-back first up from the last hearing as to where we are. Who is going to give that?

MR TARGETT: I'm happy to kick the ball first, commissioner.

COMMISSIONER WATLING: Right.

15 MR TARGETT: Following the matter being last before you, as was undertaken in those proceedings, a meeting took place between, myself representing the employers and the TWU, the ASU and NUW. That took place on 30 September in my offices in Launceston. That meeting canvassed a range of issues and I guess the issues predominantly revolved around positions of the unions in relation to the variations sought to the award and I think it is fair to say, without trying to put words in
20 anybody else's mouth, at the conclusion of those discussions it was evident that the three unions involved had virtually different positions as to what the outcome of the award should be.

The positions, as I understood them to be, was that the NUW was seeking to put in place a fully integrated classification and definition structure where all people
25 employed within the industry would be contained within the one definition structure, as opposed to having separate definitions for clerks, separate definitions for transport workers et cetera. So there would be, to try and clarify it, a definition of, for example, a wholesale industry employee and within a definition at one level, for example, there would be an employee who could do a full range of duties which may include stores work, clerical work, driving work et cetera. So that would be the integration of the
30 definitions total.

My understanding of the TWU position was that the TWU, based on discussions that took place 2 or 3 years ago, was still maintaining that they wanted the transport classifications removed from the Wholesale Trades Award and would rely on the
35 Transport Workers General Award in this state for those people who weren't covered by federal award. The position put by the TWU was that they believed they had an agreement in-principle to do so, based on previous discussions, and also that they had a live application before this commission to remove those classifications from this particular award.

40 COMMISSIONER WATLING: Now, I did check that. I think they withdrew that, in relation to the wholesale trades.

MR TARGETT: I did put that position to the TWU at the meeting and we were unable to resolve the accuracy of either my statement or the TWU's statement was at that time.

COMMISSIONER WATLING: Definitely withdrawn. The wholesale trades was definitely withdrawn from that aspect.

MR TARGETT: Well, I would certainly leave any further comments on that to Mr Hansch, to give his report.

5 COMMISSIONER WATLING: I think it was raised at the last hearing and I went out of my way to check, not only the file but to check with the deputy president because he had the file under his jurisdiction. I'm sorry, the president.

10 MR TARGETT: Thank you, commissioner. In relation to the ASU position that they put to me at the time, they were seeking to have the classifications and relativities from the Clerical and Administrative Officers Private Sector Award imported into the Wholesale Trades Award and maintain that structure and the integrity of those relativities.

15 It was evident from the discussions that were taking place that there was little room to resolve the differences between the unions over the positions that they had put forward. I advised the unions that following that particular meeting, I would be meeting with the employers to put the views forward of the unions and seek instructions from the employers, which I have done and I will report on that in a moment. At the conclusion of the meeting on 30 September it was self-evident, I guess, that we would come back to the commission today to report the circumstances that everybody found themselves in and that we would be required to seek from the commission the setting of dates for arbitration over the classification structures and definitions so we could sort the matter out instead of letting the matter go on ad nauseam when it was quite evident that negotiations were going to be unable to settle the matter.

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25 Subsequent to that meeting, I did meet with the employer members of the TCCI to seek the views of the employers, as to what they believed was appropriate for the Wholesale Trades Award. That meeting took place on 10 September and as a result of that meeting the position of the employers is, subject to any other events that may take place between now and the conclusion of the proceedings either via arbitration or further negotiations, the preferred position is that the transport classifications stay in the award and the employers are happy to have put into the Wholesale Trades Award the transport classifications reflecting, for example, and this isn't necessarily a final position, but to indicate their general position, the classifications that exist in the Transport Workers' General Award. We're not seeking to re-argue relativities or anything for transport workers.

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35 In relation to clerical employees, and when I refer to clerical employees I'm talking to what is generally considered to be a pure clerk, as opposed to, for example, a storeman who does clerical work as an ancillary part of their duties but for the clerical people, the employers have no objections to import him into the Wholesale Trades Award the classifications and relativities from the Clerical and Administrative Officers Private Sector Award and retaining the integrity of the relativities and the structures that are in that award.

40 COMMISSIONER WATLING: Is that in a similar vein to that which we've done in the metals.

45 MR TARGETT: Yes, along those lines, commissioner.

COMMISSIONER WATLING: Right.

MR TARGETT: In relation to the commercial travellers, it is believed appropriate by the employers that commercial travellers would require some attention and retention

in the Wholesale Trades Award and probably subject to further consideration of course, but probably by the nature of the commercial travellers, would require some sort of specific definitions. It isn't believed that they can appropriately be fully integrated into any other structure, but certainly to retain them in the Wholesale Trades Award.

COMMISSIONER WATLING: They fall into a similar category as the clerical people.

MR TARGETT: Along those lines, yes.

COMMISSIONER WATLING: Have their structure a partially integrated structure.

MR TARGETT: I guess, integrated from the wages and -

COMMISSIONER WATLING: Relativities point of view.

MR TARGETT: Relativities point of view, but certainly we believe they would require quite specific definitions and we haven't at this stage looked at what relativities they should be appropriately set at and I believe it is possible, with some further discussion between ourselves and the National Union of Workers, to probably come to, I think, a fairly close or even agreed position in relation to that because there have been discussions with the National Union of Workers in other areas over commercial travellers and certainly those discussions tended to suggest to me that weren't all that far apart anyway.

In relation to all other people employed within the Wholesale Trades, it is believed appropriate that they can be integrated into the one set of definitions and the appropriate relativities and once again, because of what has already taken place in the Wholesale Trades Award where the storemen and packer type positions have already had, to a degree, a restructuring process put in place - without getting into the quality of otherwise doing one section and not others, but that already having been put in place and relativities set, we don't seek to attempt to disturb those relativities.

We are happy to look at retaining that which has been put in place in relation to those people. I believe, from my perspective, commissioner, that gives a summary and report back of what has taken place today and what I understand the position of the respective parties to be and also relaying to the commission what has eventuated from discussions with the employers. I do believe that it was the position of all the parties as the only way to sort the outcome of this matter out and bring it to finality would be to have arbitration over the classification structures because of the differential between the positions of the parties.

COMMISSIONER WATLING: Right. Now, when do you see that happening? Today?

MR TARGETT: No, I don't see that happening today, commissioner. It was the position of the parties that we, in conjunction with the commission, set appropriate dates for arbitration to take place but those dates be set today so that we can actually programme that arbitration and bring the matter to a conclusion.

COMMISSIONER WATLING: Right. What's the union movement's view. Mrs Dowd?

MRS DOWD: Mr Commissioner, the report that Mr Targett has given in relation to the meeting on 30 September is a very accurate report. As far as the ASU is concerned, we had negotiations and discussions with the TCCI over a period of time. I indicated to Mr Targett at the meeting in September that we actually had correspondence from Mike Sertori - it was on a 'without prejudice' basis of course but it actually indicated that the TCCI and the employers agreed we import the clerical structure into the Wholesale Trades Award. I also have correspondence from Mr

5 Targett, dated 15 July 1994, which again indicates that the clerical structure would be imported into the Wholesale Trades Award. Our position was that it would be imported in a similar vein to what transpired in the Metal and Engineering Award. That position was actually put to Mr Targett again on 30 September, and as he has indicated he has reported that to the employers and I am happy to heard that they are actually in agreeance to that structure being incorporated in the Wholesale Trades Award. If the Commission pleases.

COMMISSIONER WATLING: Right. Mr Hansch.

10 MR HANSCH: Yes, commissioner. I wasn't at the meeting in Launceston to which Mr Targett has referred. We were represented by Mr Wilkes at that meeting and there was some discussions between Mr Wilkes and myself. I can only say that the position as put by Mr Targett is in fact the TWU's position, as he has reported. We have - on the basis of what we believed have been agreements since 1990 with all parties to the award as to what would happen with the transport classifications and our position at
15 this point in time has not changed at all.

20 In relation to the live application, which Mr Targett has referred to, that being a matter in relation to an application by the Transport Workers' Union to withdraw classifications from nominated awards. That in fact goes back some 2 years ago. I have endeavoured to get some transcript to have a look to see exactly what was the position in relation to that. When I last spoke to the commission, which was in 1992, it wasn't available at that point in time. I am not certain as to what the position was. I was of the understanding because the day before the application was due to be heard, the National Union of Workers in fact objected to our application, which I believe was contrary to the agreement reached prior to that.

25 At that point in time, I do recall before the president, that the TWU was not going to proceed at that point in time in relation to 2 or 3 awards. From memory, I think it was the Chemists Award, the Produce Award and the Wholesale Trades Award. I only take that from my notes -

30 COMMISSIONER WATLING: My note here on the official file is that the TWU sought to unequivocally withdraw three awards, the Chemists, the Produce and Wholesale Trades. The parties agreed that the application be amended to reflect that request. So, they are not part of that application before the commission at all. The application was amended.

35 MR HANSCH: Well, if that's the case, commissioner, I must accept what you're saying.

COMMISSIONER WATLING: There was some discussion I would have to say. It looks like from the file here that the TWU put the proposition that they allow vehicles up to 4.5 tonnes in the Wholesale Trades Award.

40 MR HANSCH: That would be correct, and I think that would have been discussed at the meeting, which Mr Targett has referred to because I did suggest that at that point of time. There had been discussions between the National Union of Workers and the TWU in relation to that and we did put that position back some 2 years ago and I believe, whilst I wasn't at the meeting in Launceston, that would have been the position that came from the TWU.

45 COMMISSIONER WATLING: Yes. I would have to say in relation to the application, there is no live application from your organisation before the commission in respect of Chemists, Produce and Wholesale Trades.

MR HANSCH: I know there was discussions in relation to those. I wasn't sure at that point in time as to what actually -

5 COMMISSIONER WATLING: I have actually checked it also, Mr Hansch, with the president just to make sure that I got the story right and he has come back to me saying that he allowed the application to be amended to withdraw those three awards. I have to say to you from where I sit now, there is no live application before the commission in respect of those three awards. So, that might save you some research.

10 MR HANSCH: Well, I'm sure it will. If you've already done that, commissioner. I would only find the same thing, I would imagine. Somewhere it would be on transcript, along the lines.

COMMISSIONER WATLING: I wanted to satisfy myself because last time we were here the question was raised, what happened, and you weren't here on the last occasion - what was the status of the TWU application, so I went away and did my homework.

15 So, Mr Targett has accurately reported your position.

MR HANSCH: I was not aware - Mr Targett did in fact refer to a meeting he had with the employers in relation to the transport classifications. Perhaps there may be room for further discussions with the employer. I don't know how that fits with the National Union of Workers, bearing in mind it is their application.

20 COMMISSIONER WATLING: Well, we've got one here from the Clerks as well.

MR HANSCH: I understand that.

COMMISSIONER WATLING: So, the real exercise is to look at the National Union of Workers application as well as the one from the Clerks.

MR HANSCH: Yes.

25 COMMISSIONER WATLING: So, whatever happens the structures in the award look like they are up for grabs.

MR HANSCH: Yes.

30 COMMISSIONER WATLING: And we've got two applications seeking structures. The question will be whether or not you can get some agreement - I don't really want to reinvent the wheel. We have got the Mixed Industries Award with the relativities and that award has been established, then we might be able to look at slotting them in, if you're going to slot them in but not reinvestigate the relativities.

MR HANSCH: Yes.

35 COMMISSIONER WATLING: The same with the Clerks. We don't want to have to reinvestigate the relativities if they've already been determined. We could save ourselves a whole lot of work.

MR HANSCH: Yes.

COMMISSIONER WATLING: Right. Well, anything else that you want to put forward.

MR HANSCH: Nothing else at all, commissioner.

40 COMMISSIONER WATLING: Right. There are no other views.

MR STRICKLAND: If I may. I apologise to the commission for being late and tender an appearance, **STRICKLAND, D.**, appearing for the National Union of Workers. I was tied up in another matter and running late this morning and I apologise for that.

5 The National Union of Workers position in relation to its application is - and I didn't have the opportunity to hear Mr Targett's full report but relying on the other parties, I take it as being very accurate from the meeting in Launceston and the NUW's position is as it's been since 1990, an integrated structure to be inserted into this award covering all descriptions of the industry and given the differences between the parties, we believe that the time has come for an arbitration to be held, so we would seek some
10 dates to be set today to finalise this matter as it is well over due for completion. If the commission pleases.

COMMISSIONER WATLING: Thanks, Mr Strickland. Right. Well, we might go off the record for a moment and just have a look.

OFF THE RECORD

15 COMMISSIONER WATLING: Well, I thank the parties for their report back and during the off-record discussions I would indicate to the parties that the commission would require the parties to exchange their views on the structure that should be placed in the Wholesale Trades Award, structure plus definitions, and there may be two or three proposals, I don't know, but certainly the employer to exchange with the
20 unions the structure they're wanting and the unions, whether collectively or individually, are to give the employer representative here a copy of the structure and there must be discussions between now and the next hearing on the various structures.

25 With that in mind, I am going to adjourn these proceedings and we will reconvene on Thursday 24 November and I will also list 25 November to hear submissions on the structure of the Wholesale Trades Award. This matter is now adjourned.

HEARING ADJOURNED