



# *Tasmanian Industrial Commission*

## Industrial Relations Act 1984

T No. 8413 of 1999

**IN THE MATTER OF** an application by the Tasmanian Trades and Labour 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, 7 April 2000  
Continued from 5 July 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 9.32am**

DEPUTY PRESIDENT: I'll take appearances, please.

5 **MR I. PATERSON:** If the commission pleases. IAN PATERSON appearing for the Tasmanian Trades and Labor Council. I believe you have authority, thanks to Ms Fitzgerald, on that.

DEPUTY PRESIDENT: We do indeed, Mr Paterson. We received that this morning and that is signed personally by Ms Fitzgerald.

MR PATERSON: And I also appear for my own union, Australian Municipal, Administrative, Clerical and Services Union.

10 DEPUTY PRESIDENT: Thank you, Mr Paterson.

**MR P. TULLGREN:** If the commission pleases. My name is TULLGREN and I appear for the Australian Liquor, Hospitality and Miscellaneous Workers Union.

DEPUTY PRESIDENT: Thank you, Mr Tullgren.

15 **MR P. BAKER:** Sirs, I appear on behalf of the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, P. BAKER.

DEPUTY PRESIDENT: Thank you, Mr Baker.

20 **MR C. BROWN:** If the commission pleases. C. BROWN appearing for the Health Services Union of Australia, Tasmania No. 1 Branch.

DEPUTY PRESIDENT: Thank you, Mr Brown.

**MR P. NOONAN:** If the commission pleases. I appear on behalf of the Shop, Distributive and Allied Employees Association, Tasmanian Branch, NOONAN P.

25 DEPUTY PRESIDENT: Thank you, Mr Noonan.

**MR R. MILLER:** If the commission pleases. MILLER R.J. appearing on behalf of the CPSU (SPSFT).

DEPUTY PRESIDENT: Thank you, Mr Miller.

30 **MR M. WATSON:** May it please the commission. MARK WATSON and I appear on behalf of the Tasmanian Chamber of Commerce and Industry and with me is **TERRY EDWARDS**.

35 DEPUTY PRESIDENT: Thank you, Mr Watson. There are some preliminary matters. In the first instance, I should indicate that Commissioner Imlach, for reasons of commitments in May, proposes to ask the president to relieve him of duties associated with this bench.

5 In our safety net decision of 1999 we recorded a confirmation of our earlier ruling of a decision in effect to review the Wage Fixing Principles at a date to commence no later than 1 October 1999. The current proceedings today constitute the commencement of that process which regrettably is somewhat later than the date we originally foreshadowed.

As advertised, today's proceedings concern only procedural aspects of that matter and in order to give the parties some focus in that regard we make the following statement:

10 For the purposes of the review process we propose to invite the parties to let us have written submissions on the following issues.

First, whether and on what grounds we should abolish the Wage Fixing Principles in their entirety.

15 Second, whether and on what grounds we should amend the Wage Fixing Principles by abolishing some principles and/or retain others with or without amendment.

The written submissions which we propose to invite from the parties and, we will indicate, should be in our hands, in triplicate, with copies to the other parties, by the close of business Friday, 5 May 2000.

20 We would propose to reconvene these proceedings on a date to be fixed early in May, 9 May to be precise, for the purposes of hearing the parties in relation to such explanatory comments as they might wish to make regarding their own written submissions and the submissions of the other parties. At the conclusion of that process we would expect  
25 to reserve our decision.

We offer that statement for the guidance of the parties in these proceedings today. Perhaps, Mr Paterson, we might hear from you first?

30 MR PATERSON: If the commission pleases. I have, if you like, limited instructions from the TTLC on this matter which are not widely at odds with the proposed time frame that you have outlined but for the record I will read out and read into the record the proposal of the TTLC that being that, firstly all the parties to file and serve with the commission and the other parties who appear here copies of their draft  
35 State Wage Principles by 12 noon on 20 April. That I believe is the Thursday before Easter.

Secondly, the parties to file and serve with the commission and all other parties who appear an outline of their case in support of the proposed State Wage Principles as well as an outline of their  
40 submissions opposing any proposed changes by any other party by 12 May. The commission to list the matter for finalisation of argument no later than 18/19 May and during the above timetable parties are

requested to meet and determine if agreement can be reached on any or all State Wage Principles. And the parties to advise the acting registrar by 16 May of the degree of agreement reached and the wording of any agreed State Wage Principles.

5 Clearly, the time frame you propose is within that and subject to the submission of other parties here today I would indicate that the TTLC would agree with that time frame of submissions to the parties by 5 May and hearing on 9 May to the extent that the parties are able to circulate to each other earlier than 5 May if the objective is to explore  
10 the extent of agreement then I think that is something the parties here should consider making a commitment to and it being held to.

In putting up that proposal and identifying the consistency and the desirability or the consistency of that proposal with the commission's proposal and the desirability of a tight time frame there is a couple of  
15 things I would like to indicate. Firstly, that to the extent that any major issues do emerge that require substantive new principles we would be saying that it maybe in the interests of these proceedings to have any matter such as that held over to a later time with leave reserved. I am not foreshadowing any particular major new principle  
20 in saying that. The commitment to a tight time frame and the parties being held to it I think is important on a number of accounts, primarily that this matter is dealt with as expeditiously as possible and doesn't run the risk of delaying or impeding subsequent applications for a State Wage Case. If the commission pleases.

25 DEPUTY PRESIDENT: Thank you, Mr Paterson. I was going to ask you, while you were on your feet and I was too slow, do you wish to say anything on behalf of the ASU?

MR PATERSON: I have nothing separate on behalf of the Australian Services Union. We are a party to the TTLC discussions on this  
30 proposal so I have nothing further to add in that respect.

DEPUTY PRESIDENT: Thank you, Mr Paterson. Mr Tullgren?

MR TULLGREN: Thank you, Mr Deputy President. Our position is that we support the submission of my learned friend, Mr Paterson. The only issue that I would raise which is perhaps a matter of  
35 clarification or process in relation to the statement of the full bench and that is that presupposing that it is not proposed by any party to these proceedings to abolish the State Wage Principles, however one never really knows, but on the basis that that is not to be a proposition, I would submit to you that it would be appropriate for the  
40 bench to pass some comment or to amend the proposed directions so as to ensure that if parties are proposing amendments or restructuring of the existing principles that their written submissions include the details of those and that submissions be based around that.

I think it is implicit from the proposed direction of the full bench that that occur. However to ensure that any hearing on 9 May is fruitful in the sense that all of the matters between the parties can be fully ventilated, in my respectful submission it would be appropriate to  
5 simply make it clear to the parties that they should be filing the details of those amended principles and that on the date, 9 May, a hearing can be held around any of those particular issues.

Clearly, if the zero option is to be adopted by one of the parties - by that I mean that there should be no State Wage Principles and that  
10 they propose to stand or fall purely on the zero option - well that matter could clearly be addressed by all of the other parties in their response if such a submission was put. But short of that, we think that the timetable proposed by the full bench is appropriate.

We would say that these matters are not complex in the sense that the principles have been around in this form for some period of time. They  
15 have been discussed and that if parties are proposing either the zero option or to make some change then that will not require a lengthy period of time and would not, with the greatest respect, necessarily require enormous written submissions to justify those. It clearly  
20 would be the case that on 9 May the bench would seek clarification of any of those issues and questions which could assist the bench in determining what position it was to take in relation to any or all of the disputed matters, with respect.

DEPUTY PRESIDENT: Thank you, Mr Tullgren. Mr Baker?

25 MR BAKER: I have nothing to add this morning, if the commission pleases.

DEPUTY PRESIDENT: Thank you, Mr Baker. Mr Brown?

MR BROWN: Thank you, Mr Deputy President, and members of the bench. I have nothing further to add. We support the time frame that  
30 has been proposed, thank you.

DEPUTY PRESIDENT: Thank you, Mr Brown. Mr Noonan?

MR NOONAN: Mr Deputy President, we support the submission as outlined by the TTLIC.

DEPUTY PRESIDENT: Thank you, Mr Noonan. Mr Miller?

35 MR MILLER: Thank you, Mr Deputy President. I have nothing further to add to the comments of my colleague, sir, thank you.

DEPUTY PRESIDENT: No bon mot today, Mr Miller?

MR MILLER: If you so wish, but I don't really think it would be appropriate today, sir.

DEPUTY PRESIDENT: Thank you, Mr Miller. Mr Watson?

MR WATSON: Thank you, Mr Deputy President. I guess we can advise the bench that our position has not changed from the proceedings in the State Wage Case of last year and that is that we believe the review of the wage fixation principles should be done in conjunction with the State Wage Case.

There was some criticism levelled last year about possible motives of delay in our application and we would certainly advise parties and believe that we have done in good time, that we believe that the principles should be reviewed in conjunction with this year's State Wage Case and we put on notice to the parties that that is our position at this point in time to allow plenty of time in the lead up to those proceedings.

We have provided the draft principles to the TTLC some time ago and in fact have not received a response to that. We would I suppose reluctantly agree to the proposal of the bench for written submissions, I guess purely from the point of view of the logistics of providing written submissions, but nevertheless we will comply with that direction.

I guess it is probably implicit in our application that we do not believe that the zero option, which was spoken about by Mr Tullgren, is an option and therefore we just put that on the record at this point in time.

Finally, Mr Deputy President, we would I suppose raise the issue which was raised in the State Wage Case decision of last year at page 4, at the bottom of the page, the second dot point, relating to the review of the wage fixation principles in light of the Government's proposed industrial relations reforms and seek some guidance or some comment from the bench about that particular matter in light of the proceedings that have occurred since the State Wage Case and the select committee's report that has come out as late as this week. If it pleases.

DEPUTY PRESIDENT: Mr Watson, I think perhaps I might be able to follow up on the last point you make without any conference with my colleagues. As I recollect, the basis of our inclusion of that ground as a ground for refusing your organisation's application at that time was that at the particular time there was no actual Bill that set out the content of the proposed changes to the Act and speaking from memory my recollection is that we, on the bench at any rate, and I think the parties too, were addressing what was then called, I think, a white paper.

Now of course we were operating in an area of unknown on that occasion and that, as I recall, was the grounds why we put that reasoning in the decision. Now there is clearly and obviously a Bill

now with a defined content and it seems to me that if you rely on that ground then you should inform us what content there is in that Bill that might impinge upon a review of the Wage Fixing Principles.

5 MR WATSON: I guess the comment, Mr Deputy President, was based on the bench's comments about that particular situation and we just really seek a comment which you have given us which we will take on board.

10 DEPUTY PRESIDENT: Now going back to the original point you make, and on this occasion I speak for myself because I may need to confer with my colleagues, but I would have thought that the full bench has already taken a decision to review the Wage Fixing Principles at a time separate from the consideration of any safety net adjustment.

15 If I understand your submission today, apart from describing your position as being unchanged, and perhaps I am wrong about this, but I seem to infer perhaps a latent application that this review should be further delayed until such time as there is a future safety net adjustment hearing.

20 Now you didn't say that and I don't know if that's what your intention was or not but perhaps I could have your clarification.

25 MR WATSON: I think, Mr Deputy President, our position is that we don't believe that the review of the Wage Fixing Principles is something that should be done in isolation to the State Wage Case and I think that was the position that was put last year and it still remains our position.

DEPUTY PRESIDENT: Then do you dispute that we took a decision that was against you on that point?

MR WATSON: Well, if we go to that particular issue on page 4 of the decision, I think where it says there at the bottom of the page:

30 *As to when such a review should take place, however, we rejected the TCCI's application on the grounds that:*

- *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; and*
- 35 • *It would be unwise to proceed to a full review of the Wage Fixing Principles a mere few weeks before, as a matter of wide public knowledge, the government proposes to amend the Industrial Relations Act 1984 in possibly a substantial and significant manner.*

I guess as far as we are concerned the second point - I don't know how further down the track we are with that issue - but as far as the first issue is concerned it may be that that is an issue that we need to address in our written submissions to the bench regarding the timing and when the principles should be reviewed in our view in conjunction with the State Wage Case.

DEPUTY PRESIDENT: Well, I would have thought that. If you intend to make a fresh application then that is an application of a procedural kind and one that should be made today.

MR WATSON: I guess, if that's the case, Mr Deputy President, we can make that application but I don't know that I'm sufficiently prepared to read an application into transcript or whatever you may require. It may be that we will need to make a fresh application through the normal process.

DEPUTY PRESIDENT: I don't think it requires a formal application lodged with the president, if that's what you're talking about. I rather assumed that what you were foreshadowing was a procedural application that this review should not proceed at this time but at some later time when we have a further and subsequent application for a safety net review that might be called for the year 2000.

MR WATSON: I guess that is a procedural matter but I suppose our position is that, yes, it should proceed in conjunction with that. That's correct, but there's nothing stopping the issue being dealt with at this point in time in terms of, I suppose, the negotiation phase. I suppose, what we don't want to happen, in our view, is that we get to a State Wage Case this year and this issue may still be up in the air in terms of our position of doing it in conjunction with and then the State Wage Case proceeds in isolation to the review of the principles. Whether or not that will happen, I don't know, but that's our position.

DEPUTY PRESIDENT: I think the intention of we three minds in relation to the statement we read out earlier, was to ensure a procedurally fair but expeditious approach to conducting and completing the review in a time frame that will allow the completion of that process prior to any future safety net adjustment case.

MR WATSON: I don't know whether that position - I think our position is pretty clear, that we've put to the bench. As far as doing it in isolation, that's obviously at odds with the submission that we've put to you. I guess, again, that's an issue that we'll have to address the bench on as to, as I said before, being done in isolation to any safety net adjustment or any State Wage Case that may occur this year.

COMMISSIONER WATLING: Mr Watson, I'm of the view that that decision's already been taken. We're now in a position where we're reviewing the Wage Fixing Principles. I think if you're going to make an

application to say that they shouldn't be reviewed at this time or you wish to put argument about whether they'd be reviewed at this time because I see this as the first step and the first day of embarking on that program.

- 5 If you're saying that we shouldn't proceed along that path or on that program, I think it's incumbent upon you today to put your submission to say why we should not continue to proceed.

MR WATSON: As far as our submission goes, I think we've put our submission to the bench as to our preferred position. In terms of any  
10 further submissions about that particular matter, then obviously, we'll be required to address the bench on that.

COMMISSIONER WATLING: It'll be too late once we start because we're going to embark on the program and once we leave here, we're expecting submissions along the lines we have already outlined. If you  
15 want to put a submission that says, we don't wish to proceed any further at this time, I suppose you do it at your own peril but I think everyone else will be addressing whether or not we have Wage Fixing Principles and what form.

If you're going to run an argument in your written submission that  
20 says, well, we don't want to put anything at this time because we think it should be done when the next State Wage Case is done, well, I suppose, so be it. I'm firmly of the view that I'm sitting here commencing a review of the Wage Fixing Principles, at this time.

MR WATSON: I think the purpose of today's hearing, as far as we  
25 were concerned - obviously the bench made its position clear at the start of proceedings, it may not have been exactly as we expected it to be, however, I think at this point in time we'd simply just have to reserve our position on that matter.

DEPUTY PRESIDENT: I don't know that it's desirable that we should  
30 accede to a statement like that, Mr Watson, because all of the other parties to this proceeding are entitled to know where they're going and entitled to know where your organisation is going.

I repeat, as I've said to you already, that if it is the instructions that  
35 you have from your organisation that a review of the Wage Fixing Principles should not occur separately from an expected safety net adjustment wage case later this year, then I think you have to make that application now and we'll hear what the other parties have to say and we'll take a decision in relation to it, otherwise I think, as  
40 Commissioner Watling points out to you and so do I, the decision to proceed to review the Wage Fixing Principles has in fact already been taken.

Mr Edwards?

MR EDWARDS: Perhaps if I might try and clarify the position, deputy president, and that is, simply, that we have outlined our preferred position in light of the request by the bench for these proceedings to commence today on procedural input and there's the procedural issues in going forward with the review of the Wage Fixing Principles.

Our strongly preferred position is that that's been advocated by my colleague, Mr Watson, and that is that the review of the Wage Fixing Principles be given a context and that that context ought to be an application to consider a State Wage Case-type increase. We understand, very clearly, from, firstly, the direction of the bench at commencement of proceedings and subsequent comments from the bench, both from yourself and Commissioner Watling, that the bench is substantially against us on that point.

We understand that the bench have considered this issue in the context of the July 1999 State Wage Case decision. We understand the context in which the bench made those decisions in July 1999. They're clearly encapsulated at page 4. We've asked the question of the bench whether those reasons remain relevant today and whether or not the bench might therefore be prepared to reconsider its position. We clearly understand from the direction of the comments from the bench that that's unlikely to be the case and that we will undoubtedly, at the end of these proceedings, have a direction from the bench of the type described by the bench at the commencement of the proceedings.

That however, I don't think, deputy president, denies us the opportunity to place before the bench our strongly preferred position which we have done. We do so after very careful consideration of the application that we have made to vary the principles and indeed, we are entirely consistent with the views that we advocated in July 1999 and we haven't resiled from those submissions.

Having said all of that, if the bench chooses to issue a direction to us to comply with a program to review the principles in isolation of the State Wage Case, obviously, we will participate. What our input to that process will be, we'll reserve our position on and determine in the context of an internal consideration within the TCCI of a position to be advocated to the bench in respect to the Wage Fixing Principles that might apply to the future.

One of the reasons we have considered that it ought not proceed in isolation is that, at this stage any decision of the federal commission on the National Wage Case is unknown. The principles of the federal commission are being reviewed in conjunction with that case and if there were to be root and branch changes to the Wage Fixing Principles at a national level, history would dictate that this commission would pay substantial regard to that decision whilst not ..[inaudible].. follow it, in looking at a State Wage Case to apply within the state of Tasmania.

We believe, that given the proximity of that decision, it would be appropriate for this commission to deal with this application consistently with dealing with any application that might come to flow the outcome of that national decision into Tasmanian state awards.

5 As I said, we understand clearly the bench was probably against us on that point, but we still nevertheless think the record ought to show what our preferred position is. I think we've now advocated that fairly clearly and we'll leave the matter in the hands of the bench. If it please the commission.

10 DEPUTY PRESIDENT: Mr Edwards, thank you for those comments. To some extent, they are helpful. I think I should say, nevertheless, that whilst your organisation's position is abundantly clear and I think it's well understood by all of us here and all who are at this hearing today, you should not form an apprehension on your part that we  
15 would not hear and properly determine an application from your organisation to adjourn these proceedings until such time as there is a decision of the federal commission in relation to the Safety Net Review that is currently in progress.

I would see that as a perfectly proper application for your organisation  
20 to make and if you choose to make it, as I said, we will hear and determine the matter.

MR EDWARDS: We do so make that application, deputy president, in the context of the remarks I've already made and for the reasons that I've already advanced. I don't wish to speak further to that application.  
25 I think we've made very clear why we prefer that option and we'll now leave it to the other parties and the bench to consider their ..[inaudible]..

DEPUTY PRESIDENT: Thank you, Mr Edwards. Mr Paterson?

MR PATERSON: I seek clarification. Is that then an application now  
30 to adjourn these proceedings on the basis of the federal proceedings and to not proceed today? Am I correct in understanding that's the -

DEPUTY PRESIDENT: I think that's nearly right. I'm bound to use my own words but I don't think I misrepresent Mr Edwards. I think the application's a combination of his words and mine. I think you  
35 could assume it goes something like this: that these proceedings should be adjourned until such time as the federal commission publishes its decision and reasons for decision in relation to the Safety Net Review proceedings now currently under way in that tribunal.

MR EDWARDS: I just confirm, deputy president, that is entirely the  
40 position we advocate and that is the application ..[inaudible].. these proceedings previously adjourned in July 1999 be further adjourned until the time that you've described. That is correct.

DEPUTY PRESIDENT: Thank you, Mr Edwards. Mr Paterson?

MR PATERSON: If the commission pleases, I'd like to seek a 15-minute adjournment in these proceedings so that I can consult with people on our response to that.

5 DEPUTY PRESIDENT: Yes. I take it there's no objection to that? In those circumstances, we'll adjourn these proceedings.

**SHORT ADJOURNMENT 10.05am**

**HEARING RESUMED 10.20am**

DEPUTY PRESIDENT: Mr Paterson?

10 MR PATERSON: If the commission pleases, our submission on this matter, both the - my submission from the Australian Municipal, Administrative, Clerical and Services Union and on behalf of the TTLIC, is that there has been no cogent reason put, in our view, for an  
15 adjournment of the proceedings and we endorse the time frame as outlined by the bench. Given that these matters arose out of last year's Wage Case decision, the decision has in fact, as you quite rightly state, been made. These proceedings should have happened earlier, which is all the more reason that they should now happen and happen to a tight time frame and we endorse that and look forward to being able to  
20 put the submissions on the foundation principles that should carry all the parties and the commission forward into the next few State Wage Cases, not just the one which might be around the corner. If the commission pleases.

DEPUTY PRESIDENT: Thank you, Mr Paterson. Mr Tullgren?

25 MR TULLGREN: Yes. Gentlemen, we oppose the suggested adjournment. We do so for the following reasons and we adopt implicitly the reasons advanced by my learned friend, Mr Paterson.

We say, firstly, that this is an attempt to resurrect procedural defeat last year, one where the full bench, on my reading of the transcript in  
30 those proceedings, had before it extensive argument as to why it should not proceed and why it should proceed. The full bench has decided this matter. Simply inviting, as my friend Mr Watson does to ask the full bench whether they'd like to comment on the two dot points at the bottom of page 4 of their decision, is not an application.  
35 It's not for the full bench, with respect, to comment on its decision.

If a party takes issue with that decision or now believes that circumstances have changed, it's incumbent upon them, I think as Commissioner Watling observed, that they put such an argument.

40 Secondly, Mr Edwards advances the proposition, that one should delay consideration because of the review of the National Wage Principles.

Two things need to be said. Firstly, every time there is a wage hearing in the federal jurisdiction, in a technical sense and to some degree in a practical sense, the wage principles are reviewed and simply saying that they are under review is not a sufficient basis for adjournment.

5 Secondly, he advances what I think is - if there is a more sustainable argument, then the second one that there may well be, to use his 17th Century English term, root and branch changes. Well, this commission should not entertain procedural applications based on being required to deduce what will occur in the future. If there are, as  
10 a result of the next National Wage Case decision by the federal commission, significant changes, well, those matters could be reviewed when the commission next considers the National Wage Case and its impact in Tasmania.

15 Simply to advance a proposition which says, that because there might be significant changes we should do nothing until that comes out, is, in our respectful submission, untenable.

Clearly, the full bench has decided this matter should proceed. There is nothing that would move the commission to accept that there should be an adjournment and, clearly, if the bench decides to proceed  
20 then it's up to my learned friends at the other end of the table, what sort of, if any, submission they make to the review of the wage principles, excepting of course that if they choose to make no submission or to make yet another procedural application, they might find they get a set of state wage principles they've had involvement in  
25 but the caveat emptor would truly apply in relation to them.

So we say, there's nothing that's changed. There's nothing that's been put to you. We say that the adjournment is nothing but a procedural manoeuvring. It is, in my respectful submission, unworthy of an  
30 organisation to attempt to foist upon the commission and waste its time with what is such a half-baked application and the commission should reject it out of hand.

DEPUTY PRESIDENT: Mr Tullgren, I think I should indicate that - you might have misrepresented Mr Watson. I think, in fairness to him, he asked for clarification of what was in our minds in relation to the  
35 second dot point. I don't think he put it any higher than that.

MR TULLGREN: I apologise. It was not my intention to misrepresent my friend and if I've done that, I withdraw any misrepresentation or implication.

DEPUTY PRESIDENT: Thank you, Mr Tullgren. Mr Baker?

40 MR BAKER: I am content with the submissions that have been put forward by my colleagues and I will leave it there.

DEPUTY PRESIDENT: Thank you, Mr Baker. Mr Brown?

MR BROWN: Thank you, Mr Deputy President. The HSUA also supports the submissions put forward. We don't believe that there should be an adjournment and that the matter should proceed.

DEPUTY PRESIDENT: Thank you, Mr Brown. Mr Noonan?

5 MR NOONAN: Mr Deputy President, we are opposed to any adjournment and we support the time frame as outlined by yourself earlier on in the proceedings.

DEPUTY PRESIDENT: Thank you, Mr Noonan. Mr Miller?

10 MR MILLER: Thank you, sir. The CPSU supports the various comments of my colleagues in this matter and I have nothing further to add, sir.

DEPUTY PRESIDENT: Thank you, Mr Miller. Mr Watson or Mr Edwards, as the case may be, a last word?

15 MR EDWARDS: It appears that Mr Watson has delegated up hill, deputy president. We'll be very brief in response. We don't believe that the response from the unions collectively who have spoken does anything to change the position that we advocated immediately prior to the adjournment. We believe that the review of the Wage Fixing Principles should take place with a context. I note that none of my  
20 friends at the end of the table have sought to comment on that submission.

That context, in our view, should be the context of a State Wage Case-type proceeding and that it involves a wage increase application almost invariably and we believe the appropriate time would be the very likely  
25 application to be made presumably by the TTLC fairly close following the decision of the federal commission.

As to the submissions particularly of Mr Tullgren about my 17th Century English reference to, a root and branch change, that could occur at a national level, it probably says more about my age than  
30 anything else.

MR TULLGREN: But I agree with the language.

35 MR EDWARDS: Deputy president, it is exactly the position that Mr Tullgren talks about that causes us the concern and that is, trying to ask the bench to deduce what may happen in the future and of course the very reason that the original TCCI application for these proceedings to happen in conjunction with the State Wage Case was defeated, as Mr Tullgren reminds us, because the bench did attempt, to some extent or other, to deduce what may happen in the future in respect of a review of the *Industrial Relations Act* and it's that point to  
40 which my friend, Mr Watson, has taken the bench and that Mr Tullgren refers to.

We say that we believe and fervently believe that this application should be heard in a context of a full State Wage Case-type proceeding. All of the submissions we made to the bench in July 1999, which were not successful at that stage, were that the matter should proceed in conjunction with the wage increase application which was consistent with virtually every other State Wage Case that has ever taken place in this commission. The only one that is at odds with that is the July 1999 case and we say we should revert to the pre-existing way of dealing with these things, where the wage increase and the setting was, the 'rules' to apply into the future should be dealt with jointly and at the same time.

On that basis, we persist with our request for this matter to be further adjourned, to be heard in conjunction with a year 2000 State Wage Case application. If it please the commission.

DEPUTY PRESIDENT: Thank you, Mr Edwards. We will adjourn and consider the submissions of the parties. We ask the parties not to stray too far from the precincts of the hearing.

**SHORT ADJOURNMENT 10.30am**

**HEARING RESUMED 10.56am**

DEPUTY PRESIDENT: During the course of the 1999 Safety Net Adjustment hearing, after hearing the parties' submissions, we decided to separate a review of the Wage Fixing Principles from considerations relating to the Safety Net Adjustment. In doing so, we rejected the employers' submission to the contrary.

The application now before us to the extent that it seeks to adjourn this review until the outcome is known of current federal proceedings concerning the Safety Net Adjustment case for 2000 is slightly different. However, it seems to us to come down to the same thing, that Safety Net Adjustments and review of Wage Fixing Principles should occur contemporaneously. We are reinforced in that view by the fact that in these proceedings the employers rely on the same grounds as those relied on in the 1999 proceedings. We do not believe it is open to us to revise our 1999 decision as to its substance, since it was a decision taken with the benefit of full and comprehensive submissions as distinct from the brief propositions, necessarily so, that were put to us today.

We are also of the view that the Industrial Relations Bill currently before the parliament affords no grounds for supporting an adjournment of this review because there is nothing in it, in our opinion, that impinges upon or affects the Wage Fixing Principles. In that context, concerning the 1999 proceedings, we remind the parties that the content of the Bill was not then known.

In the circumstances, we refuse the adjournment application in relation to this review.

5 We now issue the following directions which are somewhat slightly amended from those that we invited the parties to address at the commencement of these proceedings. We have amended them slightly to take account of some aspects that the parties brought to our attention.

The parties are to let us have written submissions on the following issues:

- 10 (a) whether and on what grounds we should abolish the Wage Fixing Principles in their entirety;
- (b) whether and on what grounds we should amend the Wage Fixing Principles by abolishing some principles and/or retain others with or without amendment.

15 Written submissions on the above matters, including full details of proposed amendments, must be in our hands, in triplicate, with copies to other parties, by the close of business on Friday, 5 May 2000.

We propose to reconvene these proceedings on 9 May 2000 for the purpose of hearing the parties in relation to such explanatory  
20 comments as they might wish to make regarding:

- (a) their own written submissions; and
- (b) the submissions of other parties.

At the conclusion of that process, we would expect to reserve our decision.

25 There is nothing in our directions that, in our opinion, should operate to prevent the parties from conferring and from negotiating outcomes in relation to any or all of the matters to be considered by this review. Indeed, we would encourage such an approach.

30 That concludes our directions in relation to the Wage Fixing Principles Review Process. If there is nothing further for these proceedings - Mr Watson?

MR WATSON: Just one request, Mr Deputy President. If it is possible, we would appreciate that statement that you have just read to be issued in writing, if that is possible.

35 DEPUTY PRESIDENT: I would have thought it's possible. I know of no administrative reason for it not being possible. We will do that as soon as possible, Mr Watson.

If there is nothing further for these proceedings we will adjourn them until 9 May as foreshadowed.

**HEARING ADJOURNED 11.05am**