

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 3069 of 1991

IN THE MATTER OF an application by
the Tasmanian Confederation of
Industries to vary all private
sector awards and agreements re
insertion of a new clause,
Flexibility of Labour, and to
review the Wage Fixation
Principles in the light of the
National Wage Case decision of the
Australian Commission of 16 April
1991

FULL BENCH

PRESIDENT
DEPUTY PRESIDENT
COMMISSIONER WATLING

Hobart, 24 June 1991
continued from 29/5/91

TRANSCRIPT OF PROCEEDINGS

unedited

PRESIDENT: Are there any changes to appearances?

MR G. VINES: If the commission pleases, GREG VINES, seeking intervention for the Tasmanian Public Service Association.

PRESIDENT: Yes. Thank you, Mr Vines. Are there any objections to that application for intervention?

MR ABEY: We welcome Mr Vines' intervention.

PRESIDENT: Yes. Thank you. Ms Shelley?

MS P. SHELLEY: If the commission pleases, appearing for the Federated Miscellaneous Workers' Union, in Mr O'Brien's stead, SHELLEY P.

PRESIDENT: Yes, thank you very much.

MR S.P. KNOTT: If the commission pleases, KNOTT S.P., appearing on behalf of the Australian Mines and Metals Association. Mr Abey represented us on our behalf in the first hearing.

PRESIDENT: Yes. Thanks, Mr Knott. Well, Mr Willingham?

MR WILLINGHAM: Mr President, can I apologise for the absence of Mr Hanlon in this morning's hearing.

PRESIDENT: Thank you. Mr Bacon?

MR BACON: Mr President, and members of the bench, you'll recall on the last time we were before you in this matter that the State Government proposed that discussions take place between the parties in an attempt to see what level of agreement could be reached in relation to the application.

I can report to you that discussions have been proceeding ever since that date; there's been numerous meetings held. We are not in a position to report to you that those discussions are finalised.

Certainly there are some matters which have been agreed between the parties, but there are still matters which are outstanding, and speaking for the Trades and Labor Council, I should say that in a meeting of all affiliates held last week - on Thursday of last week - that there was a detailed report given on the stage reached in negotiations up to that point.

The view expressed by unions at the meeting was that they wished negotiations to continue in relation to a number of matters, and that position has been relayed to the other two parties and, in fact, a further meeting is to be held this evening between the parties.

In view of the fact that, as I said, negotiations or discussions have been going on and are now to continue, we would ask that this matter be adjourned again so that those discussions can take place.

As to the length of the adjournment, we would request it would certainly need to be at least 1 week, and we think probably a fortnight would be appropriate. If the commission pleases.

PRESIDENT: Yes. Thank you, Mr Bacon. Mr Abey?

MR ABEY: Thank you, Mr President and members of the bench. I confirm what Mr Bacon has said that negotiations have been continuing over the last 3 weeks or so and it is fair to say, from our point of view, those discussions have been productive, if not conclusive at this stage. Similarly to Mr Bacon, there has been a meeting of employers on Thursday of last week which has endorsed the continuation of those negotiations and, as such, we can say that we are prepared to consent to an adjournment as sought by Mr Bacon, provided we can get a similar undertaking in respect of an absence of industrial action.

On the last occasion Mr Bacon, in response to our request, gave an undertaking that the TTLC would do everything in its power to avoid industrial action pending the negotiations which were then foreshadowed. That undertaking was no doubt genuinely put and in large measure has been met, but having said that, in the interim period there have been Accord Mark VI claims pursued or logged by a number of unions, and I'll just mention, perhaps, some of them: from the Metals and Engineering Union, the National Union of Workers, the AMIEU, the FIA, the ASE, the AWU, the Transport Workers' Union and the Timber Workers' Union, all to our knowledge have served Accord Mark VI claims, either globally or in specific areas.

Since that time - sorry, in that intervening period we've also had a 24 hour stoppage by the Metal Workers' Union. There has been a stoppage of work involving the National Union of Workers with Purity and Campbells. That matter has been before the commission and I understand has been resolved. There has been threatened industrial action on the part of the Meat Workers Union and, indeed, there is limited industrial action taking part by that union in the north of the state this morning.

Those aspects are, I accept, the exception rather than the rule, but they are nonetheless disturbing and whilst we are anxious to progress the negotiations as quickly as possible - and I think that's important - we would be seeking a similar undertaking from Mr Bacon that the TTLC will do everything in its power to avoid any additional industrial action basis.

PRESIDENT: Yes. Thank you, Mr Abey. Perhaps before we hear from Mr Bacon on the matter you put, Mr Abey, there might be other parties who wish to comment on the application for adjournment. Yes, Mr Knott?

MR KNOTT: Just very briefly. AMMA have no problems with the application for adjournment. I'd just briefly like to mention to the commission that, as I have done on a number of other occasions, that the majority of our members are covered by enterprise awards which fall under the jurisdiction of the Australian Industrial Relations Commission.

We're here today in our own right because of the fact that the Tasmanian Accord could be subsequently ratified by both the state commission and the federal commission. It would have a significant impact on the mining and mineral processing industry, and whilst we are generally supportive of the tripartite negotiations continuing on the Tas. Accord process, our members do so on a 'without prejudice' basis.

Our members reserve the right to argue before the relevant state or federal tribunal, or a joint sitting of both, if that is appropriate, that whether or not the Tas. Accord, if there is one, should be applicable to the particular enterprise.

Whilst there is such support for the Tas. Accord concept and the negotiations continue, we wouldn't want the bench to be under any illusions that there is support for any Tas. Accord outcome applying to all federal mining awards because, clearly, there is not at this stage, and that may not well be the case.

PRESIDENT: Are you taking part in the discussions?

MR KNOTT: Yes, we are.

PRESIDENT: And this has been conveyed to all the parties?

MR KNOTT: Yes. The other issue that we wanted to raise was AMMA believe there should be a continuation of the interaction of wages policy and productivity and efficiency that has occurred over the past 4 years, and we believe this must form an integral part of any new Wage Fixation Principles, and some of our members are having difficulty reconciling with the \$12 across-the-board increase as proposed in the Tasmanian Accord.

Now, if the \$12 increase is granted it could be seen as a return to CPI-related wage movements. On the other hand, if such an increase is part of the total package, it may well assist in a formulation that delivers stability and assist in improving the Tasmanian economy in an orderly fashion.

Now I felt compelled to raise those issues. I think, in short, our members have no difficulty with the Tas. Accord negotiations continuing on a 'without prejudice' basis, and each company will assess their position, particularly in respect of the federal awards, and will make their submissions as appropriate on the final outcome. If the commission pleases.

PRESIDENT: Yes. Thank you, Mr Knott. Any other submissions in relation to the generality of the application for the adjournment? No? Mr Bacon?

MR BACON: Well, Mr President, in relation to Mr Abey's request, certainly I would repeat what we said to you last time that we would do everything in our powers to allow the negotiations to continue without industrial action taking place. I think it probably could be recognised from the words Mr Abey used that there are factors outside the control, not only of the TTLC but of unions in Tasmania, when he referred to some claims being made globally. I'm not sure if he meant the entire world or whether the globe was restricted to Australia, including Tasmania, but certainly there have been claims served by national offices of unions which, from our point of view, they're quite entitled to do, but which we have very little say in or over. We don't pretend that those claims haven't been made, in fact, I'm sure the unions would be quite open about the fact that they have.

But Mr Abey said the industrial action that has taken place has been the exception rather than the rule, and the TTLC has done exactly what it said on the last occasion that it would do.

In relation to Mr Knott's comments: I think it should be said that there are also a number of unions who have some concerns about the proposed Tas. Accord. We were not intending to put any difficulties we had with particular matters that have been raised from the discussions to you today, believing that what we were doing was continuing to negotiate a package which could be put to unions for endorsement or otherwise, and until that package was finalised, we didn't really think that it was appropriate to be reporting to you on specifically any matters included or excluded and what our views were about them.

Certainly, we've taken the attitude in discussions to date that they are 'without prejudice', that we are trying to reach a position which can be agreed to by the unions from our point of view, and we're prepared to continue to do that. Whether at the end of the day the package that results is acceptable to everyone or not remains to be seen, but we think that it would be better if the discussions and the details of the discussions were kept amongst those people taking part, and those that they report to, for endorsement or otherwise,

rather than raising it publicly, either here or by giving copies of documents to Michael Lester or any other reporter in the state so that they can be published on the front page of newspapers.

PRESIDENT: I was going to ask you whether we just simply disregard the -

MR BACON: Well, certainly, from -

PRESIDENT: - all the publicity that seems to have developed.

MR BACON: - my point of view, Mr President, you can disregard it totally. I mean, I'm - there was a TV program the other day about what happened to a prime minister, from leaks, continual leaks, and we don't think it is very helpful because it seems that rarely is the full story put in a leak; it is only that part that is selected, no doubt from the point of view of those doing the leaking, and we think that it is easier to report, particularly from a union's point of view, where we have a responsibility to report to the membership of unions about these matters because, quite clearly, they are the ones who benefit or otherwise from what's being discussed, and it would be far better if it was done in a way where they can be - or where the full story can be reported to them - rather than what a reporter or the 'Mercury' decides is most newsworthy.

Certainly in relation to Mr Abey's comments we are prepared to continue with the position that we put to you last time. If the Commission pleases.

PRESIDENT: Yes, thank you, Mr Bacon. We'll endeavour to treat all press statements without prejudice.

The question appears to be when can we resume to hear the results of the further period of negotiations, so we'll go off the record for a moment.

OFF THE RECORD

PRESIDENT: Thank you for that brief discussion. Then we will make available the days of Monday 8 July, Friday 12 July, and the afternoon of Monday 15 July at 2.15, in which case we will now adjourn until 8 July.

HEARING ADJOURNED