

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

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| T No. 2399 of 1990 | IN THE MATTER OF an application by the Tasmanian Public Service Association to vary nominated public sector awards |
| T No. 2511 of 1990 | IN THE MATTER OF an application by the Federated Engine Drivers' and Firemen's Association of Australasia, Tasmanian Branch to vary the Boiler Attendants Award |
| T No. 2473 of 1990 | IN THE MATTER OF an application by the Tasmanian Public Service Association to vary the Prison Officers Award |
| T No. 2587 of 1990 | IN THE MATTER OF an application by the Tasmanian Prison Officers' Association to vary the Prison Officers Award |
| T No. 2504 of 1990 | IN THE MATTER OF an application by the Association of Professional Engineers,. Australia, Tasmanian Branch to vary the North West Regional Water Authority Employees Award |
| T No. 2506 of 1990 | IN THE MATTER OF an application by the Association of Professional Engineers, Australia, Tasmanian Branch to vary the Professional Engineers Award |
| T No. 2508 of 1990 | IN THE MATTER OF an application by the Hospital Employees Federation of Australia, Tasmania Branch to vary nominated public sector awards |

T No. 2516 of 1990

IN THE MATTER OF an application by
the Police Association of Tasmania
to vary the Police Award

T No. 2586 of 1990

IN THE MATTER OF an application
by the Ambulance Employees'
Association of Tasmania to vary
the Tasmanian Ambulance Service
Award

T No. 2594 of 1990

IN THE MATTER OF an application by
the United Firefighters Union,
Tasmanian Branch to vary the Fire
Brigades Award

T No. 2605 of 1990

IN THE MATTER OF an application by
the Federated Miscellaneous
Workers Union of Australia,
Tasmanian Branch to vary the
Miscellaneous Workers (Public
Sector) Award

re structural efficiency
principle

FULL BENCH

PRESIDENT
COMMISSIONER GOZZI
COMMISSIONER WATLING

Hobart 4 February 1991
Continued from 22/11/1990

TRANSCRIPT OF PROCEEDINGS

unedited

PRESIDENT: I think we should take a new set of appearances, thank you.

MR G. VINES: If the Commission pleases, GREG VINES, together with **MR ROD HUNT** and **KERRY L. GREY** for the Tasmanian Public Service Association.

PRESIDENT: Thank you, Mr Vines.

MR K. O'BRIEN: If the Commission pleases, I appear on behalf of the Tasmanian Trades and Labor Council and on behalf of the Federated Miscellaneous Workers Union.

PRESIDENT: Thank you, Mr O'Brien.

MR R. WARWICK: If the Commission pleases, RICHARD WARWICK, for the Hospital Employees Federation of Australia, Tasmania Branch. I have with me **MR DAVID McLANE**.

PRESIDENT: Thank you.

MR D. PYRKE: If the Commission pleases, DARRYL PYRKE, appearing on behalf of the Association of Professional Engineers of Australia.

PRESIDENT: Thank you, Mr Pyrke.

MR M. HILL: If the Commission pleases, I seek leave to appear on behalf of the Amalgamated Metal Workers' Union.

PRESIDENT: Thank you, Mr Hill. Any others? Mr Devine?

MR N. DEVINE: If the Commission pleases, NICK DEVINE, for the United Firefighters Union.

PRESIDENT: Thank you.

MR C. HUGHES: If the Commission pleases, CRAIG HUGHES, for the Tasmanian Prison Officers' Association.

PRESIDENT: Thank you, Mr Hughes.

MR P.L. NIELSEN: Mr President, if the Commission pleases, NIELSEN P.L., for the Ambulance Employees' Association.

PRESIDENT: Thank you.

MR M. KADZIOLKA: Mr President, MARK KADZIOLKA, appearing for the Police Association of Tasmania.

PRESIDENT: Thanks, Mr Kadziolka. Your turn, Mr Hanlon.

MR D.P. HANLON: HANLON, D.P. with J. MCKENZIE for the Minister administering the State Service.

PRESIDENT: Thank you, Mr Hanlon.

MR HANLON: I wonder, Mr President, if I could raise a threshold matter. My understanding that the proceedings this morning were to be a report-back in regard to three items. From the 'Mercury' this morning, at page 3, the Tasmanian Public Service Association seem to have indicated that they intended to withdraw from the process at today's Commission.

The Government's understanding it has an agreement with the Tasmanian Trades and Labor Council which was part of proceedings known as W.2, and that there isn't an agreement as to how we would proceed this morning, as the PNG hasn't met in the month of January and, therefore, the Government's position as to what we have to report and how really depends on what form the proceedings are taking, and if there is going to be any application that goes to the process in which today's hearing will go other than as expected by the Government, simply reporting back.

PRESIDENT: Mr Vines, do you want to respond to that?

MR VINES: I'd just respond, sir, by referring the Commission to page 19 of its decision of 6 August 1990. The second paragraph says:

The Bench will also reconvene in February 1991, or earlier at the request of any of the parties, at which time the parties will be expected to present the Commission with a report on the issues of appeals and protections and the deliberation of the groups examining the six award streams.

If the Commission pleases.

PRESIDENT: Yes, thank you. In a sense, Mr Hanlon, this hearing does have the nature of a report-back process but we were expecting to get some finality on the three items which we were dealing with on the last occasion: sick leave, span of hours and special leave. And then I thought we would be moving into the broader issues of the restructuring of awards and so on.

MR HANLON: I don't have any difficulty with that, Mr President, but if the process is one of seeking to change the process and, very clearly, the passage read out by Mr Vines says 'by way of application'. I don't have any difficulty if they wish to make the application.

MR VINES: But it doesn't say that, Des. Read it. It says it will reconvene to hear it.

PRESIDENT: Well, we have to have applications, I suspect, in front of us, don't we, Mr Vines?

MR VINES: You have application, sir, from us.

PRESIDENT: In respect of what, W.2 or V.4?

MR VINES: W.2 and V.1 and V.2 in relation to our four streams and salaries attached thereto.

PRESIDENT: Well, I still - the Bench is still waiting to reach some finality on three issues which we were dealing with on the last occasion. Have they been progressed at all?

MR VINES: There hasn't been a single discussion on any of the three, sir.

MR HANLON: Well, I think Mr Vines should proceed with how he intends to proceed and then we will respond, Mr President.

PRESIDENT: Well, you leave us in some - at some disadvantage, Mr Vines. We were - and Mr Hanlon, because we were hoping to progress to matters which we had started to deal with in the previous meetings - previous hearings.

MR VINES: That is exactly what we're seeking to do as well, Mr President. What it was our intention to do was to give you a report-back on those three issues and also the other issues that the decision of 6 August asks us to report back on and at the end of that give you an indication as to why we now want to seek to withdraw from any further negotiations with the government and indeed to refer the whole matter to the Commission for determination.

PRESIDENT: Fine. Well, that really takes the nature of a report-back, doesn't it?

MR VINES: It does, sir, yes.

PRESIDENT: Which I think is your position too, Mr Hanlon.

MR HANLON: Well, not exactly. I don't have any difficulty with the first two parts of the application. Our position is this: that we had an agreement, which was W.2, brought to the Commission, of which the Commission expressed some views about. We have proceeded to have that as part of the PNG process. There are some 22 subgroups and that our agreement was - is with the Trades and Labor Council. Each of those subgroups is a creature of the peak negotiating group. The peak negotiating group did not meet in January at the request of the unions. We then are faced with organising what we believe is a report-back to this meeting in the view that that's what every other participant is doing.

The notice in the paper this morning specifies the purpose of the application. The notice of the application to the persons named will receive a copy. Mr Vines in effect on behalf of the TPSA has an application that's before you to withdraw from that process. Now ...

PRESIDENT: He hasn't formally put that yet.

MR HANLON: Well, it seemed pretty formal to me ...

PRESIDENT: He's given ...

MR HANLON: ... Mr President.

PRESIDENT: He's given us a ...

COMMISSIONER WATLING: A hint.

PRESIDENT: ... a hint that he may do so but there's a fair way to go, I think.

MR HANLON: Well, I think we're entitled for every affiliate to say where they stand in relation to the matter. It's not a minor matter that an organisation who's part of an organisation, the Trades and Labor Council, who is representing each of those affiliates, for them - one of them to come along and say, and there are a number of occasions when individual unions have indicated they're either part or not part of the process, well there comes a time when we're entitled to know, as the government, that parties are in or out.

If they want to withdraw then we need to be in a position to say how we're going to respond. The position ...

PRESIDENT: Well, Mr Hanlon, do you want to proceed with the further report-back on the other three matters or the first three matters I mentioned?

MR HANLON: Well, it seems - well, I don't have any difficulty with that. The difficulty we have is that if we say progress is being made, the TPSA submission, one assumes, is going to say 'No progress is made, therefore we want out'.

Now, if the application is to be out then we're entitled to know that so that our position at the end of it doesn't matter whether progress was made if they want out. Our submission ...

PRESIDENT: Well, perhaps we'll hear from everybody in due course then, Mr Hanlon, thanks.

COMMISSIONER GOZZI: Can I just indicate that my perception of where we are is that we handed down a decision and we said

that we would conduct some monitoring hearings to bring that decision - in other words, reflects to Exhibit W.2 to fruition - through these monitoring conferences, and that we would assist as best as we could in resolving those issues.

Now, broadly speaking, those issues relate to award structures, career streams, the special leave, sick leave and span of hours and also of course the special cases impinge on it to some extent. Now, the parties have been unwilling in respect of special cases to inform the Bench exactly where they're heading and what's happening there.

Now, I would have expected that at a monitoring conference like this today would have resulted in the parties informing us where they are in respect of all of those issues and then seeking some guidance if necessary from the Bench in respect of areas where there is a disagreement.

MR HANLON: I don't have any difficulty with that as an overview, but there were three subgroup meetings last Wednesday, Thursday and Friday. Friday was the clerical group which a document which had been updated at the request of the TPSA which covers their structure, a description, the explanation of each of the levels, of which the TPSA then asked for 3 weeks in which to consider it to put it before their council. Now, the difficulty that I have is knowing what's said to me on Wednesday, Thursday and Friday and what's being said in this morning's 'Mercury' and from the other end of the bar table at this point, so that ...

PRESIDENT: We try not to read the press to get our instructions, Mr Hanlon.

MR HANLON: Well, one needs to read it if one wants to keep abreast, Mr President, because one would expect a phone call to say 'Look, we want to withdraw', or one assumes the TTLIC would have been told.

I just think that we either are processing; we may argue about the actual rate of progress. What is very difficult to believe is that the process today, at the end of it there'll be a submission that they want out. I think if that's what they want they should be up-front and say it.

PRESIDENT: Well, no doubt we'll hear from Mr Vines. Mr O'Brien.

MR O'BRIEN: If the Commission pleases, the Trades and Labor Council has acted as a body convening the unions to negotiate through what's become known as Peak Negotiating Group on various matters, and a number of subgroups and working parties have been delegated with responsibilities from that group including over the three issues that the Commission is expecting some response upon to date.

Now, in addition, the Peak Negotiating Group has been coordinating or attempting to coordinate negotiations on various award and career streams in this area and it was our understanding that there would be some result on progress, or perhaps lack of it, in relation to some of those issues at today's hearing and that there would be some decision taken as to the future as to how these matters would be processed.

Now, that's our understanding of the purpose of today's hearing - nothing more, nothing less - and if we're going to go to reports then obviously various people will need to report on the progress of those various matters as those responsibilities have been delegated, and then the question that Mr Hanlon talks about no doubt arises as to where we go from here.

If a party has decided upon a certain course of action then it may be that for courtesy's sake that ought to have been recorded to - to others, but that's an issue which in my mind doesn't arise until we hear the reports, and I think that's the way we ought to go.

PRESIDENT: Yes, I agree with that, Mr O'Brien. Thank you. Mr Vines?

MR VINES: Thank you, Mr President. Sir, I make it clear as it should have been from my announcement, I'm here representing the TPSA and no other body and of course as the Commission would recognise the PSA is a party to these proceedings in its own right and not for a minute do we pretend to speak for any other organisations.

Sir, from our point of view, the areas that we want to report on today relate to all of those matters that are referred to under the monitoring process section of your decision of 6 August. That refers to such matters as sick leave, special leave, span of hours, the appeals process and the deliberations of the various award stream working parties.

The last 6 months, or since 6 August, sir, in our opinion, has been 6 months of virtually complete frustration. We've been back to the Industrial Commission on, I think, two occasions. On each we gave some indication that we thought progress was just around the corner, and indeed through proceedings since that time we had often held out the dim hope that progress was just around the corner.

Unfortunately now 6 months down the track we have to report to the Commission that in fact very little progress has been made on overall award restructuring and the side issues to it and in some instances no progress whatsoever has been made.

On that basis, Mr President, on the - at the meeting of the peak negotiating group held on 18 December, we advised the government of our complete frustration and lacking confidence in the way this whole process was being handled; that it wasn't only us as a union that was feeling that, but indeed we were getting many or much contact from individual government departments telling us that they too were getting frustrated with the whole process and wanted to start talking individually with us.

We advised the peak negotiating group of our concern on 18 December and indicated that we no longer had any interest in participating in that body because it was doing nothing to achieve the outcomes that were anticipated to be achieved through our 3% agreement. We indicated that we would continue to meet with the working parties in a hope that we could get some progress out of them, but that we would be notifying the Commission of our desire for them to become involved early in the New Year.

Now, as it has transpired, we continued to go with the working parties and decided not to make a separate application to the Commission, but we would wait until 4 February to see if any progress was, in fact, made. That has not been the case. Our withdrawal from the peak negotiating group stands and our lack of confidence in any real progress being made in the working parties also stands.

In relation to the various working parties that have been established, sir, if I can firstly go through those matters relating to conditions of employment, if you like, or for the want of a better word, 'the offsets'. In relation to span of hours: there has been no progress whatsoever since the last time we met with the Commission. In relation to special leave: there has been no progress since we last reported to the Commission, although that matter is close to finality. In relation to sick leave: similarly, there has been no progress. We understood, last time we reported to you, that the government was about to introduce their trial program, that they were about to provide us with a profile of the alleged abuse of sick leave within the State Service. None of that, to my knowledge, has happened as yet.

In relation to the other question that is referred to in the - page 19 of 6 August decision, the question of appeals: again - or the appeal mechanisms - again, from my understanding there has been no discussions on that, and indeed, from my understanding (and I'll use that word because it is only my understanding) the government has quite significantly changed its position to what it was at the time we reached that agreement. In other forums that I have been involved with government, on such things as the Industrial Relations Act, it is quite evident that the attitude or the agreement that was reached back in August last year is no

longer at the forefront of the government's mind in relation to appeals. So as far as appeals go, or the appeal mechanisms, I haven't got a clue what is happening there and there has been no progress in that matter.

In relation to the award streams: we have found that some of the meetings that we have had with the various working parties, individual meetings have been constructive. Others have been quite frustrating and others have been just a complete joke where we have got to meetings with the government representatives from individual agencies, not having received any prior advice whatsoever at what their brief was, what they were meant to be doing on those working parties or anything else.

To say it was confusion in some instances would be an understatement. There was one particularly successful working party meeting in the operational services stream where, because only PSA representatives turned up for the first one, it was cancelled. When it was reconvened, again, only PSA representatives turned up. However, they decided to continue with that meeting and unanimously endorse the PSA position. I mean, that is a clear demonstration of the interest we are getting. There were eight government representatives on that party. It was either three or four sent apologies. The remainder just failed to turn up, and this was at the reconvened meeting.

In relation to the Clerical Officers Award - sorry, in relation to the clerical and administrative scale: we were given a response, if you like, from the government on 19 December. That response given that, of course, all of these negotiations have been 'without prejudice' as well as without progress. I won't go into too much detail on what their response was, but it was unacceptable to the PSA. We have had further meetings with government representatives and from our point of view it appears that there is to be no further progress to be made there in terms of what the government is prepared to offer. To ensure that we were on the right track, we have convened meetings of representatives of our members from the clerical and administrative streams and they have outright rejected the proposal put by the government in that area.

In relation to the professional working groups: similarly, we have had a response from the government which arrived about a fortnight ago on 16 January. These responses are, of course, in relation to our claim given to the government back in July 1989. The response on that occasion was a very long way away from what we were proposing in our four stream. In some areas, again, individual departments were suggesting that we negotiate separately in relation to different occupational groups because some departments had concerns with the position that was being put up by government.

(Malfunction of tape)

PRESIDENT: Thanks, Mr Vines.

MR VINES: Thank you, sir. In relation to their responses on classification standards: in our view and in the view of our representatives of our professional branches, again, they were completely inadequate and did nothing whatsoever to describe even on a generic basis the work that is done by professional officers within the State Service, and also the structure that was proposed by the government was such that it was completely unacceptable and, in our view, probably going back a few steps than what is currently the situation. The professional group met as recently as last week and one of the government's key speakers on that group indicated that even in his opinion it was unlikely that there would be a need for further meetings of the professional group because we were too far apart.

In relation to the technical group: the classifications were all right there because what the government had on this occasion - I'm not sure if it was a mistake or not, but they had used our claim for professional officers and wherever the work 'professional' appeared they changed it to 'technical'. So they did an enormous amount of work on that one and, of course, the standards written for professional officers were inappropriate for technical officers and the structures and matters related to it were also rejected by representatives of our technical branches.

On each of those three streams, sir, we called in meetings of our branches and representatives of the professional and other occupations, where we don't have branches, and there was no question at all to any of those that the position that had been put by government in some instances was an insult. In relation to the professional officers, it was three-quarters of one page was their response describing eight levels of professional officers.

In relation to operational services: the main area that we are involved in there is the general officers subgroup. There has been no response in relation to the general officers subgroup. We have no idea what the government's view is on that. In relation to the other subgroups of operational services, we are not the major players and we don't wish to assume that role.

In relation to the conditions of service: I have indicated on those individual matters and just generally report that there

have been no meetings of that group since the last report-back.

The training working group: there was a position paper circulated back, I think it was about October last year, circulated for feedback. There has been no feedback received in relation to that ...

PRESIDENT: Which group was that one?

MR VINES: Training working group.

PRESIDENT: Training.

MR VINES: Looking at training. So, Mr President, they are the main groups that we are involved in. From the PSA's point of view, there has been completely insufficient progress made in any of those areas. My organisation has devoted enormous resources to award restructuring over the last 12 months and from my point of view, those resources have been wasted and I am not prepared to waste a single cent of my members' money in going along to these nonsense meetings any more: that are achieving nothing; that are being attended by different people from government all the time; that are being attended by people from departments who are not briefed; that are being - wasting people's time getting a group of people in a room to talk about nothing but nonsense.

It is going to be our submission, sir, that this whole matter be taken over by the Industrial Commission. We have attempted on many occasions to get this process up and running. We have expressed our concern on many occasions to the government at the lack of progress that is being made. We have repeatedly quelled demands from our members to start taking some strong industrial action over this question because we, as we have been saying over the last 18 months, are fair dinkum about this award restructuring. We want it in. We want to start making improvements to our awards and we want to give our members some more enjoyment, more satisfaction in their works and proper career paths and, indeed, make work in the State Service more flexible for both employees and managers. We have been frustrated the whole way through and, as I indicated, we are not in a position that we are going to sit down and continue along in this vein.

Similarly, Mr President, in relation to special cases, we have had hearings or inspections convened which government has not turned up for and have later apologised to us for it because they have indicated that, in fact, they were well aware of it. We have had attempts by government to change the process of special cases, as was decided at page 20 of the decision of 6 August, where it was spelt out very clearly what was going to happen in special cases, that they would be run

and that they would be run as separate awards, yet we have had that thwarted on several occasions.

In many instances, and most recently last week in one of our special cases - we're not sure which is the central government area these days - but one of the ones we tried to get arrangements made for hearings, said that they weren't interested, that everything had to be in writing and the greatest load of formality nonsense that I have ever seen. We went to the department concerned; they were jumping over themselves to get those inspections convened. Departments are getting sick of the government's attitude and we are getting sick of the government's attitude, Mr President.

Sir, in conclusion, the words - the two that words I've been using the whole way through this is that there has been no progress. We have had enough. We aren't going to involve ourselves in this so-called negotiation any more. It is our request, sir, that the Commission take this matter on now and determine the award restructuring. The process that we would like to see happen there is that either each of our four streams be given to individual commissioners or, alternatively, to the Full Bench; that we present argument to the Commission on our streams, including the classifications, the salaries, the translation process and all of those matters relating to conditions of service and that the Commission make a decision.

We are a union, Mr President, that wherever possible will negotiate an outcome on issues. We prefer negotiation to arbitration; we prefer negotiation to industrial action; but this time negotiations have well and truly failed and we have had enough.

So with respect, Mr President, I request that - that you - or I ask that you do determine that the Commission will now take this matter over in view of the fact that negotiations have failed and that hearings be convened at an early as possible time so that we can start to put proper argument to you as to our four stream proposals. If the Commission pleases.

PRESIDENT: Yes, thank you, Mr Vines. What do you have to say about the other unresolved matters which are all part of the ...

MR VINES: Bring them to the Commission, sir.

PRESIDENT: Have each of those matters arbitrated? Span of hours, special leave, sick leave?

MR VINES: That's correct, Mr President. Sir, it will be our intention with all of these conditions of employment (many of them are non-award) it will be our intention to put them all

into awards, all of those matters that come within the jurisdiction of this Commission.

As far as award matters go, we will be seeking to have those included and I think that falls into each of the cases. The only one that I would see the Commission would have any difficulty with is the question of appeals or appeal procedures, because clearly that is a legislative matter but the government appears to be - well, I won't say the government is confused - I'm confused - as to what the government is up to there now and I think that one can just take its - some natural course along the way. But for all of those ones that fall within the jurisdiction of this Commission, we would be seeking the Commission to arbitrate.

COMMISSIONER GOZZI: Mr Vines, in respect to those conditions of employment, last time we met on 22 November we were told in respect of the sick leave no credit scheme, that a trial was being proposed for between the period 1 March to 1 April in the government's day labour area. Now, we are pre those dates. Has anything happened in respect of that trial?

MR VINES: It was more than in the day labour area, sir. It was also, from memory, in the whole of the Department of Community Services and a couple of other departments. I was asked by a senior person from that - from one of those departments the other day if I knew what was happening with it, so I would assume that no, it's not being introduced from 1 March. If it is, we have no idea at all on what basis.

COMMISSIONER GOZZI: Also, in respect of special leave and bereavement leave, Exhibit O.2 at the last proceedings was a draft administrative instruction. That's not progressed any further either?

MR VINES: The PSA had some concerns with that which were referred to the peak negotiating group. The peak negotiating group noted those concerns, Mr Commissioner. It has proceeded no further.

COMMISSIONER GOZZI: Thank you.

PRESIDENT: Mr O'Brien?

MR O'BRIEN: If the Commission pleases, the - I take Mr Vines's submission to be just a process in relation to awards to which his organisation has an interest, because from the Trades and Labor Council's point of view there's been no decision taken to support the course of action that Mr Vines outlines.

The Trades and Labor Council being the only representative body is not in a position to initiate that course of action and if that were to be the common view of the unions it would

no doubt come from a meeting called of the unions to make such a decision. And so I make the assumption in commencing a report that that's the basis of the submission before the Commission to date.

In relation to ...

PRESIDENT: I think that covers most of the awards that we've got in front of us.

MR O'BRIEN: It does cover a great many of the awards but not all of them, and there are other processes and other matters which cut across a number of awards including special leave, sick leave, etc. that affect more than just the TPSA awards and we would have to give consideration to whether at this stage we wish to have those matters referred for arbitration and, again, would have to be the subject of a decision taken by affiliates of the TTLC at an appropriate time.

In relation to other aspects of the report, the TTLC would concur that whilst there have been numerous meetings of the Peak Negotiating Group and of other working groups there has to date been limited progress in discussions.

The operational services area is one area which - in which there has been some progress in that a structure form has been agreed, however at this stage the relativity issues based around the tradesman's rate has been the subject of failed negotiations to date. The parties have not been able to agree and appear to be a long way apart on that issue and as the - that the TTLC coordinated claim in relation to structures is based around a certain relativity that does have a reflection back on the agreement which has been reached.

However, it's fair to say that there have been a limited number of meetings in that area, that is the overall operational services group.

Mr Vines, I believe, when he refers to that group is referring only to a subgroup of the operational services working group which relates to general officers and so there have been meetings of the operational services group but which other organisations have been represented has been some progress there.

The TTLC does not propose to enhance any of the reports about any of the other working groups, but other organisations who have been party to those may wish to do so. Our simple position would be that - and certainly the position of wearing my other hat, my organisation would be that we have not at this stage taken the view that our matters ought simply be referred to the Commission for arbitration at this stage and would be seeking to give consideration to that matter, preferably in a meeting of public sector unions called by the

Trades and Labor Council with that issue in mind, together with any others that arise out of today's hearing.

PRESIDENT: Yes, thanks, Mr O'Brien. Mr Warwick.

MR WARWICK: If the Commission please, I guess from the point of view of the Hospital Employees' Federation we're in a little different position from, in particular, the TPSA in that I suppose because we have a somewhat more heterogeneous group of employees and we're negotiating on one committee. Essentially we have made a little more progress although I don't want to put that too highly at this stage.

PRESIDENT: Which committee is that?

MR WARWICK: The health working party. It's - in respect of that particular group we've made some progress on the question of levels, in respect of trainees the base grade entry point and the levels above that entry point up to the trades level and we've made some progress on skills required at each level, and we're negotiating on the extent of multiskilling that would be required at each level.

So the extent that we've made progress and of course must be predicated on the comment that there can be no final agreement on those levels until we have a final agreement on an overall package.

And what I'd like to do is look at, in our view, the reasons we don't have a final package at this stage. We have some difficulty with the training component of the package because that's - the question of training is in the purview of another committee and there's, in our view, a fair bit of to-ing and fro-ing that's got to be done there and that is something of a problem.

Although not the most important one, the second problem is the question of progression through the levels and at the last health working party meeting it was indicated to us that the question of progression must be resolved by the Peak Negotiating Group and we were told that that was the view of the Department of Premier and Cabinet.

So there's a difficulty there in that the PNG is not meeting and that question obviously can't be resolved until such time as the PNG does meet, but the essential and important problem we have in reaching a package on restructuring is the question of relativities and actual rates of pay.

From our point of view we've been going around in circles somewhat. We've been talking about this for a couple of years

- the whole concept of award restructuring and we've reached a point where there is little - well, there's no point in further negotiations really unless those negotiations are centred on wage rates.

At the last peak negotiating group meeting we were given a list of costings in respect of award restructuring generally. The government indicated that restructuring in special cases would be very expensive in budgetary terms. The government did not say, however, that it could not afford to make the necessary award changes.

From our point of view, the way forward is for this Full Bench to give a direction to the government to negotiate the wage claims - all of the wage claims - that have been served on the government by the unions generally.

COMMISSIONER GOZZI: Well, Mr Warwick, I am sorry to interrupt you, it is not my understanding that there are wage claims served on anybody. These discussions emanate from the second instalment structural efficiency increase, and increases would only result - if they do result - as a consequence of broadbanding of classifications and translations. In other words, translations to new career structures. Are you saying that there are specific wage claims before the government?

MR WARWICK: Well, I think that there are certainly a set of wage rates that have been tabled in these proceedings, sir, by the Tasmanian Public Service Association, and they're on record.

COMMISSIONER GOZZI: What you really mean is that the career structures that have been proposed have got wage rates attached to them.

MR WARWICK: That's correct.

COMMISSIONER GOZZI: Yes. Okay.

MR WARWICK: And, indeed, while we have some agreement on levels ...

COMMISSIONER GOZZI: I am sorry, within the parameters of the existing award? So that the top end of the rate at the top end of the award is consistent, or as the top rate proposed in the career structure are ahead of the top rate in the current award?

MR WARWICK: I don't understand your question, sir.

COMMISSIONER GOZZI: Well, the top level classification in an award prescribes a wage rate.

MR WARWICK: With the highest level.

COMMISSIONER GOZZI: Yes, the highest level. The structures that you're proposing, do they go beyond the level of the existing highest level in the award?

MR WARWICK: I can't recall from memory the specifics of the PSA claim in that respect. I would imagine that they do.

The nub of the problem, Mr President and members of the Bench, is that while we have some agreement on what the award structure should look like, there is no point in us going to the membership to seek ratification of a structure of that sort unless there are actual dollar amounts that we can present to them as negotiated and agreeable.

The problem as we see it is that under the operation of the current principles the only avenue open to us to change relativities is through the structural efficiency principle.

Well, our view is the government should negotiate on the question of relativities within the meaning of that principle. The alternative is that we are left with a wage-fixing system which is static other than in respect of national wage movements.

In fact, we've had, in our view, a static wage-fixing system in the public sector since the Commission adopted the current principles.

We don't believe that it was the intention of the Commission when it adopted those principles that there would be no changes in relativities during the life of those principles, and yet as time has unfolded that appears to be the circumstance.

In respect of the question of special cases, if I could move on to some of the other aspects before the Bench, and the question of a special case is that there have been proceedings earlier this year in respect of the maintenance staff for a special case.

There will be mass meetings of maintenance staff members and attendants this week and, indeed, the outcome I guess of today's proceedings will be important in respect of what is put at those meetings.

In respect of the three specific issues pertaining to conditions of service which have been mentioned, we're not in a position to report any progress.

Other than the fact that there have been some negotiations at a local level on the 9-day fortnight, there has been no outcome there specifically, although there is still a problem, as we perceive it.

And, finally, in respect of the question of arbitration which was most recently addressed by Mr O'Brien, I have no instructions on that issue. Therefore, I do not seek arbitration at this stage, although our position could well change. If the Commission pleases.

PRESIDENT: Yes. Thanks, Mr Warwick.

PRESIDENT: Mr Pyrke?

MR PYRKE: Thank you, Mr President and members of the Bench.

In November and December of 1990, I had some useful and potentially productive discussions about classification structures with human resources people from agencies and also with one particular representative of the human resources division of the Department of Premier and Cabinet. These people know what is required to happen; they know how to do it. More importantly, they are motivated to do it because they have to get people - skilled people through the door to do the job and progress is being made. When I say 'progress' I mean to the extent that we at least had some idea on the number of levels that we wanted.

We hadn't really agreed to any sets of words to describe those levels. We hadn't discussed relativities or translation arrangements.

PRESIDENT: Sorry. Did you say you hadn't or ...?

MR PYRKE: No, we hadn't, sir, no.

PRESIDENT: Right.

MR PYRKE: We hadn't discussed the conditions of service offsets and we hadn't discussed in any depth other genuine structural efficiency arrangements, but at least we had some discussions which had led to some consensus on the number of levels that we needed. Unfortunately ...

PRESIDENT: Was that in conjunction with the Public Service Association?

MR PYRKE: Yes, sir, that was, in the professional working group. Unfortunately, the last two meetings have been characterised by what I perceive to be delaying tactics and

there are also indications from the government that they don't want to speak to us any more. So that leaves us in a bit of a quandary as to where we might go. There are some options, I guess, that we can pursue. Firstly, we could beg or whatever, the government to continue discussions with us - not very dignified. We could seek to put the matters up for arbitration, which is the PSA's course. My instructions would be to take some of ... or short of seeking arbitration, just to put our proposed structure before the Commission and ask that it be tested, and if that is the same thing that the PSA is saying, I guess we are on the same track. Otherwise, if you see testing as being something different, well, perhaps you might like to advise us.

COMMISSIONER WATLING: So you are seeking us to arbitrate?

MR PYRKE: Well, we would certainly seek your assistance in overseeing discussions, yes, it would be very useful.

COMMISSIONER WATLING: Well, there is a big difference. Which camp are you going to throw your hat in with? Are you in the arbitration camp or more discussions?

MR PYRKE: Well, I think - well, there's potential for useful discussions, but we're not interested in We are not interested in being delayed for another 10 years. As Mr Vines has said on behalf of the PSA, it costs lots of money to put people into the field to have discussions. I think if the Commission is prepared to oversee discussions and set some parameters for them, that could be useful. If that is not appropriate, well, I guess we are seeking arbitration. I guess ...

COMMISSIONER GOZZI: How would you see that process working, Mr Pyrke?

MR PYRKE: Sir, I would see that we come to you in a hearing for the professional engineers only, in relation to our application. We would perhaps give you a more detailed report about what has been said and indicate to you what we see needs to be discussed and seek your guidance perhaps in conference. I don't think it is appropriate to do that here today, but at a later date.

COMMISSIONER GOZZI: Thank you.

PRESIDENT: Yes. Thank you. Mr Hill?

MR HILL: Yes, Mr President. Our area of interest in these proceedings is somewhat limited. We apparently are part of the operational services section and our award coverage is limited to virtually one award to this jurisdiction in the metals sections with the electricians and the Society of Engineers. I am advised, Mr President, that we have reached

agreement on the span of hours and we are confident that we can continue to make progress and ultimately achieve a satisfactory result. The metal workers would certainly not be seeking any arbitration at this point in time. That is not to say that we wouldn't be seeking the assistance of the Commission if we run into some difficulties. Thank you, Mr President.

PRESIDENT: Yes. Thanks, Mr Hill. Mr Devine?

MR DEVINE: If the Commission pleases. I'll come forward, sir, so that all and sundry can hear me.

PRESIDENT: Yes, please.

COMMISSIONER GOZZI: much of a problem.

PRESIDENT: Yes. What category are we in?

MR DEVINE: Which ...?

PRESIDENT: It's all right.

MR DEVINE: I missed that.

COMMISSIONER GOZZI: Complacent.

MR DEVINE: As you will notice, sir, I don't carry any documentation with me this morning, and the reason for that is that my report will not be lengthy and the reason it shall not be lengthy quite simply is because we have achieved very little. I represent the ...

PRESIDENT: That wasn't what you reported to us on the last occasion, I thought, Mr Devine.

MR DEVINE: Well, I intended to raise that with you, sir. Some - or on two previous occasions before this Commission I raised specific award variations concerning the Fire Brigades Award and the second 3% and they were award variations which were agreed by the union and the immediate employer, meaning the State Fire Commission. And on the first occasion there were objections raised by government representatives as to why they should be put forward and we would need to make formal application to this Commission. We did that. And the following time we came before this Commission with the official application. It was then indicated by Mr Willingham that neither the PNG or in fact Office of OIR had had an opportunity to fully peruse the proposed changes to the award or in fact speak to those within the Fire Commission.

I appear before you again, sir, and say that I have no communication from anybody to indicate whether or not those

award variations might be acceptable and, in fact, I would suggest that the Fire Commission themselves have had no such indication. We feel that the progress on the 3% or any award variation is negligible and in line with Commissioner Gozzi's earlier comment, they also impinge in special cases and we feel also that our special case progress is negligible to the extent of being nonexistent.

Our immediate employer, the State Fire Commission, have great difficulty in negotiating any areas to do with the special case, and the budgetary concerns seems to be the one that bobs up all the time. It has been my experience, even going back to the working parties with which we are involved, that being the custodial and emergency services working party - meaning no disrespect to those that convene it or run it - but if I was to go to any other show, sir, I would need to pay an entry on the door. It is just simply a waste of time, and I mean no disrespect to those that are on the party because it is my belief that they have got very little room to manoeuvre themselves.

The peak negotiating group has done, through that off-shoot group or whatever other term that we might be able to find for them (I heard 22 were mentioned today), it's no wonder to me that we're not getting anywhere. If there are 22 that operate as efficiently as the one I am involved in, well, we are in great shape.

PRESIDENT: Mr Devine, on the last occasion that we were here - I think it was 22 November - Mr Willingham said that it was his understanding that you were going to raise the matters at the custodial working group, which was - and providing there were no problems, that matter was then going on to the Peak Negotiating Group. Prior to that he said that there didn't appear to be any difficulty with the content of your proposals. So what happened?

MR DEVINE: Well, I have carried my part of it through, sir. It was raised and circulated at the working group level and it was indicated to me that it would go on to the PNG. I received word that there were some difficulties with it, but I don't really know what they were.

PRESIDENT: So it did get through to the Peak Group?

MR DEVINE: Yes, it has been forwarded through the correct channels.

I don't need to take up a great deal more of your time, except to say that I'll be seeking leave of the Commission to go back to the Trades and Labor Council.

Whilst I can appreciate and, in fact, endorse Mr Vines's comments with regard to progress made and the future actions

that may be taken, I seek leave of the Commission to go back to the Trades and Labor Council in line with Mr O'Brien's comments to seek a course of action for all that are involved, bearing in mind that the working party that I'm involved with specifically only deals with my award on my behalf, but there are others involved. So it is difficult for me to - well, I cannot speak on their behalf.

And I'd also say to you, sir, that I'll need to go back to my membership because the members of the United Firefighters Union, unlike some other unions which are a party to this Commission, are not always as subtle as some, and I - my ...

PRESIDENT: That hasn't been my experience, Mr Devine.

MR DEVINE: And one of the biggest difficulties that I face, and I flag with the Commission, is that there are a good deal among my membership that refer to our special case as 'the apple case', and I think that sums is up very well.

So, as I say, I'll go back to the TTLC and will place my position with them in the strongest possible terms and will go back to the membership of the UFU and seek their direction.

PRESIDENT: Yes. Thank you very much. Mr Nielsen?

MR NIELSEN: Mr President, on behalf of the Ambulance Employees' Association and following on with Mr Devine, in reference to the custodial emergency services group, a section that was part of the W.2 document, and the previous reports which I don't wish to repeat, Mr President, but it is my understanding - and being party to that agreement which was convened by the Trades and Labor Council and party has been our convener - the last understanding I had was that we had come to an impasse in regards to progress being made, and there were some thoughts for consideration of a recommendation being made to the PNG group that we desire to report that back to the Full Bench or, alternatively, to seek a section 29.

That was the last position, as I understand it, between the custodial emergency group meetings, the fire unions, the police union, the TPSA and ourselves along with prison officers.

Having said that, Mr President, in regards to the ambulance industry itself, and that is the Tasmanian Ambulance Service and our union, there has been a procession of discussions. There has been quite voluminous documents made in trying to restructure the award, and I would say there is a healthy attitude at this point of time, that there is an expectation that progress would be made in regards to the Tasmanian Ambulance Service Award in the restructuring of it to make it more flexible, and ultimately to follow on what the directions as given down by the Full Bench.

As to what the ultimate of that position is is another matter in regards to the finalisation of some issues that we may or may not desire to come before the Commission, or come before a particular commissioner, and seek finality of those issues.

Having said that, Mr President, there has been difficulties, quite frankly, in trying to report to the membership the overall position of the public sector.

We have the position of what's been discussed here today, those main issues of sick leave, appeals, span of hours. We have the other issue of the different groups such as the custodial emergency group discussions taking place, and then also within our own agency we have discussions taking place between the employer and the union group and, quite frankly, that becomes very difficult and very confused.

Our position would be to support the comments of Mr O'Brien from the Trades and Labor Council that has been done previously and which our association, our union, has worked through when there is to be, as I understand it, there is to be a convened meeting of the Tasmanian Trades and Labor Council unions. Those meetings before have been pretty full and frank and expressive as to where we - and we would then intend to take a direction as to how that meeting would take place, Mr President.

PRESIDENT: Thank you, Mr Nielsen. Mr Hughes?

MR HUGHES: Mr President and members of the Bench, in regards to the custodial emergency working group that my organisation is a party to, its main problem is that everything has to go back to the PNG, and the biggest problem there is that it doesn't seem to get rectified there and we are left with the same problem.

The Prison Officers' Association has correspondence going back to 1987 on award restructuring. It's been a long drawn-out process, and everything appears to be in a muddle.

We have had meetings with management who don't appear to have the authority to speak for the government; we have had meetings which different people from various parts of the government come to and we get nowhere; we have had several meetings that we ourselves have just shown up to, and this all becomes very frustrating.

It has been a long process, and it is a process that we don't appear to be going anywhere.

It all looked well and good before Christmas, and maybe it was just a bit of goodwill for the December period, but it seems

to have fallen down, because we have got to the stage where our members are saying 'What is happening?'

We want to be involved in this process, but we are not getting anywhere.

We have scheduled a further meeting on award restructuring with management in a fortnight at which they had hoped that they would give us what their actual position in the bargaining process is, and what they can say and what they can't say, and what they can offer and what they can't.

Now that, to us, is a good step forward and I believe that we should continue with the negotiating process and not come to the Commission as yet, but leave that for the future, and I would endorse what my colleague Mr Nielsen said in regard to the meeting of the TTLC. I think that we will get a definite direction from that meeting. If the Commission pleases.

PRESIDENT: Yes. Thanks, Mr Hughes. Mr Kadziolka?

MR KADZIOLKA: Thank you, Mr President. Mr President and members of the Bench, the association is still discussing matters with the department. We are only making slow progress. There has been no agreement on specifics. The department seems to be avoiding this.

No-one seems interested in discussing wage rates or relativities. The employer's side of the working group have not responded to the union's proposal on relativities or offered any alternatives.

This is the case, even though I believe the working group agreed to a process whereby this question would be canvassed by 23 November 1990.

Also, following this agreement on process, the government indicated to the working group that a job redesign would have to occur before award restructuring, that they relied on what I believe to be a loose interpretation of Exhibit W.2 for this.

This concept, I believe, is a nonsense and seeks to do job redesign within a vacuum.

It's my belief that this is just a delaying tactic. The government, at the last Peak Negotiating Group, as I understand, indicated that they would respond by mid-January to this question of job redesign before award restructuring. It's been indicated to me that they have not responded to this question as yet and I believe this is a fundamental question and obviously it should be resolved.

Also, it's been indicated to me that the meeting to discuss this matter was delayed at the request of the government. I'm getting that - I got that information second-hand, but that's my understanding.

PRESIDENT: That's the mid-January ...

MR KADZIOLKA: The mid-January meeting, yes. That's basically where the association, custodial emergency service working group, stands at the moment. We've been frustrated, I believe, in trying to get the awards restructured in relation to where we're going from now. I'm going to have to seek guidance from my executive and also find out what the TTLC is doing on a general basis before I make any statement on that, Mr President.

PRESIDENT: So you're happy with - you can only be happy at this stage with things proceedings as they are. You don't know which way you want to go as a result of either arbitration or continued negotiations under some TTLC umbrella, perhaps.

MR KADZIOLKA: I can't indicate today, that's correct.

PRESIDENT: No.

MR KADZIOLKA: Thank you, Mr President.

PRESIDENT: Thank you. Mr Hanlon?

MR HANLON: All I can say, Mr President, is that there seems to be a substantial misunderstanding of what some of the obligations are, that unions have under the peak negotiating process. The peak negotiation process isn't every union doing its own thing when it wishes it. The peak negotiating process was established whereby it would be a clearing house for matters that were in dispute, it would resolve matters that couldn't be determined by individual working groups and would coordinate award restructuring in the public sector.

Each of the individual subgroups is a creature of the Peak Negotiating Group. People are not on that because their organisation has some right to be on it, they're on it because the Trades and Labor Council said to us, 'This organisation will be on this subcommittee'. And of course a critical factor then is, what do they in turn tell those they represent? It isn't enough for the subgroup to make a recommendation to the peak negotiating group. Then that matter is raised at the peak negotiating group. We expect a response from the government's side, that there is agreement with whatever the proposal is.

And the three matters that we're talking about, sick leave, that required agreement by affiliates that they were prepared:

1) that we would engage in that trial - it didn't matter which agency was to be picked, the subgroup would determine which was the appropriate agency in consultation with members representing the TTLC on that subgroup.

Now we, as yet, have had no response from the unions: 1) as to whether - I'm talking about unions collectively - that we're going to run a no-credit trial; the second is that there's an agreement by all unions that there's to be a survey on absences - not absenteeism - which would be run by the Australian Bureau of Statistics. We have had approval for the funding of that. And then 2 March was the deadline by which we intended to both have the trial and the survey, in terms of getting the process under way.

Now, we have not had one answer from any organisation. And, of course, not every union is represented on the working conditions, not every union is represented on the PNG, but every union may, depending on the agency, could have members involved.

So it isn't enough that there can be approval by the committee to then have that forwarded to the PNG and the PNG say, 'Well, we're in agreement'. And the standard position by representation at the PNG is, 'We need to consult our affiliates'. And the government has no objection to that at all.

The situation is that we are waiting to be told that we can proceed.

PRESIDENT: How do you make contact with all these unions that are likely to be affected to get their response as to whether or not they are happy with such and such a proposal?

MR HANLON: Well, we don't - that is, the government doesn't communicate with individual unions.

PRESIDENT: Well, I'm sorry, then how does the PNG notify all the unions likely to be involved?

MR HANLON: Well, the PNG is made up of union representation and government representation.

PRESIDENT: Yes.

MR HANLON: If, and there's a number of matters we'll come to, for instance when the training policy was put up to the PNG the government sought comments from organisations. We've not received one.

PRESIDENT: You say the government sought it on that occasion.

MR HANLON: Yes, but bear in mind, Mr President, that what happens is the committee forwards the document and the convener of that committee reports to the PNG and says this is the agreed position of that committee, and the PNG - then it lies on the table, and we have a formal agenda and I'll provide you copies with the outline of that and we now require response ...

PRESIDENT: To what?

MR HANLON: ... because the government's view, quite differently from unions - the representatives on the committee are carrying through the government's policy so that if there's agreement at the subcommittee level we don't veto what has been agreed at that point because our internal consultation method feel that's not necessary.

PRESIDENT: I'm just - you keep on - you've said a couple of times that there's been no response from the unions ...

MR HANLON: Yes.

PRESIDENT: ... now in what form does a request or question go to the unions? Who does that?

MR HANLON: The Tasmanian Trades and Labor Council.

PRESIDENT: Right.

MR HANLON: It's not something which we then seek to say to each of the affiliates, 'Look, we want you to agree with this separately'.

PRESIDENT: And the TTLC hasn't been able to come back at PNG level and tell you what the response to the unions is?

MR HANLON: Well, I don't know - I mean, it's not for me to say how their internal procedure should report.

PRESIDENT: No.

MR HANLON: There are a number of unions who've written to us on other papers and expressed a point of view. Now, whether that view is the TTLC view on about other matters, I can't say. All we can say is this matter is dealt with. It goes to them and it's in written form. It's a paper capable of being circulated then it rests with them.

Now, if their decision making process requires 6 weeks or 8 weeks, we don't know there's a problem until we hear from the unions in this forum.

COMMISSIONER GOZZI: Well, I'm a bit confused just how it's supposed to work in simple terms, Mr Hanlon. You've got a

peak negotiating group made up of union representation and government representation.

MR HANLON: Mr President - Mr - Commissioner Gozzi, if I could circulate a copy of the membership of the committees and then we discussed that in a way which everybody has the same ...

COMMISSIONER WATLING: It would be true to say then, Mr Hanlon, that the representatives on the peak negotiating group are representatives of the TTLIC.

MR HANLON: Quite correct.

COMMISSIONER WATLING: And who they report to, I take it, is their business. Prima facie they would report back to the TTLIC as they're the TTLIC representatives.

MR HANLON: I say yes to that because it's very clear on certain matters that we get a TTLIC position put to us and we accept it as such. It's not for us to ask who was at the meeting or how it was made.

PRESIDENT: Do you want this marked as an - sorry.

COMMISSIONER WATLING: So what you're saying to us then, when things are put up to the peak negotiating group meeting and the representatives of the TTLIC say they want time to consider this, you're saying that you haven't heard back from their considerations.

MR HANLON: That's correct. The meetings have a formal agenda and the meeting opens with who is present, apologies, the minutes of the meeting are confirmed, any alterations, then there is business arising from the meeting and then there are reports from each of these working parties. Now - and the conveners of the working parties vary between both government nominees and union nominees, so that - and they were meeting every 2 weeks and they met more frequent than that at the request of either party. Now ...

COMMISSIONER GOZZI: All right, well, just so - to clarify it, taking sick leave is a specific example, that would have been discussed at the peak negotiating group ...

MR HANLON: That is correct.

COMMISSIONER GOZZI: ... and the decision of the peak negotiating group to embark upon the trial would have been relayed, I assume, to the working group conditions of service.

MR HANLON: Yes.

COMMISSIONER GOZZI: What happens after that? I mean, how does it get back - how does the communication process flow?

MR HANLON: Well, I mean, I can't talk to you about the answers we don't receive, but I'll give you an example of the ones we do receive.

The PNG, on December - in actual fact, this matter first got raised, on the issues I'm going to talk about, on 19 November and an issue of union coverage was raised. And Mr Evans said that the government would prepare a paper on union coverage in the public sector.

On 14 December - on 4 December that matter was circulated as item 5 - Other Business. And then, on the meeting of 18 December, under item 5 - Other Business, Mr Evans asked for comments on the paper circulated on 4 December 1990, union coverage in Tasmania. And we were advised that it was unable to attend to it yet and it should be resolved in terms of the ACTU policy - the policy - the paper will be examined and no assurances will be given. And they were advised by Mr Evans that the government will want to pursue the matter.

Now, that has been there since 4 December. We can quite clearly say, 'Well, all right, there's a delay', but that's, from our point of view, that's a delay where they can consider a matter.

I've noted that nobody today has complained that they: 1) they received the paper or it was not frequent enough, or whatever. But we, as yet, have had no advice, other than from one affiliate who wrote to us and told us that it was unions affairs and they would deal with it in their way and it was best left to them.

Now, I mean, I don't know whether that is the process that - that's the process that's been agreed. We don't have - there's no difficulty in any subgroup saying to us that it wants a certain matter dealt with.

And there was a very interesting issue occurred on Friday at the clerical meeting.

COMMISSIONER GOZZI: Mr Hanlon, look, I'm sorry to interrupt.

MR HANLON: Yes.

COMMISSIONER GOZZI: It's my first day back from a small period of leave and I might be a bit slower than usual, but honestly I can't understand how the process works. And it would be helpful, I think, to understand that clearly, so that if we are going to give some direction and consider the issues, that we understand how that process of input and output really works.

Now, the peak negotiation, PNG, comes up with an idea that, for instance, on sick leave, right? It's discussed. Now, how does that get back to the affiliates so that that can be discussed and the affiliates respond to the PNG?

MR HANLON: Well, I think, with respect, Mr Commissioner, that those questions should have been directed to the TTLC and the TPSA. All I can say to you is ...

COMMISSIONER GOZZI: Right.

MR HANLON: ... we received a claim from the TTLC for the second 3%. Now, I don't know how they got that claim together.

COMMISSIONER GOZZI: Right.

MR HANLON: We sat down and agreed with the way the money was paid and we agreed with W.2.

COMMISSIONER GOZZI: Right.

MR HANLON: Now, in some way the union movement said, 'Yes, we'll take the money and we'll be governed by W.2'. Now, how they did it ...

COMMISSIONER GOZZI: Right.

MR HANLON: ... that's a TTLC matter.

COMMISSIONER GOZZI: So somewhere along the line though, the question of trialing sick leave a no-credit scheme came along. Now, who devised that trial?

MR HANLON: At the subgroup.

COMMISSIONER GOZZI: At which subgroup?

MR HANLON: At the working group conditions of service ...

COMMISSIONER GOZZI: Right.

MR HANLON: ... which is the second group there.

COMMISSIONER GOZZI: Right.

MR HANLON: And they have met on a number of occasions. And as part of their agenda, dealing with the matters that were referred to them ...

COMMISSIONER GOZZI: They suggested a trial?

MR HANLON: Yes. They met first on 21 September, and decided on how they would process the matters that were before them.

COMMISSIONER GOZZI: Right.

MR HANLON: And then they continued to meet then in regard to bereavement and special leave. On 30 November the administrative instruction dealing with bereavement leave and special leave, which require a regulation change for special leave ...

COMMISSIONER GOZZI: Yes.

MR HANLON: ... that matter, in terms of the current conditions, in terms of standardising the way in which they would operate is having effect only in the public service proper by regulation at this point in time. That administrative instruction is prepared taking into account of the submissions of union representation and agencies in regard to the matter.

COMMISSIONER GOZZI: Right. And which we ...

MR HANLON: Now, that ...

COMMISSIONER GOZZI: Which we received as an exhibit in earlier proceedings.

MR HANLON: Yes. And that was then dealt with at the PNG.

COMMISSIONER GOZZI: Right.

MR HANLON: Where a number of concerns that were raised at the committee which went to, not about the clarity of the existing instruction in terms of making certain how it covered, but went to additional matters. In other words, extending bereavement leave in a way which would not currently apply to certain groups.

Those comments were noted; they were discussed at the PNG, but there was no agreement by the government that bereavement leave in the way it - in which it was applied should be extended, so the administrative instruction then went to the Department of Premier and is processed the ordinary way the government business goes before it goes before Cabinet and then the Executive Council.

All I'm in a position to say is it is in that process for an administrative instruction to take care of that item.

COMMISSIONER GOZZI: All right. I think I'm with you. So let's just pick it up again: it went from the working group conditions of service to the PNG who formed a view about it, but what happened after that? It went through to the

processes that you've explained. Now, how does it get - how does it - where does it travel to after that?

MR HANLON: From whose point of view?

COMMISSIONER GOZZI: The PNG's point of view.

MR HANLON: The PNG's dealt with the matter. The recommendation of the committee came up and the matter was accepted.

COMMISSIONER GOZZI: Right. And a draft was prepared?

MR HANLON: Oh, the draft was before the PNG.

COMMISSIONER GOZZI: Right.

MR HANLON: It then goes into the decision making of the Department of Premier ...

COMMISSIONER GOZZI: Right.

MR HANLON: ... for the purposes of being on the Cabinet and Executive Council, because the matter is then settled. If I take you ...

COMMISSIONER GOZZI: Sure.

MR HANLON: ... to the minutes ...

COMMISSIONER GOZZI: Okay. I accept that. I accept that. What happens after that?

MR HANLON: Well, it will issue somewhere about as an administrative instruction and that will serve as - it is circulated to every government department as part of the administrative instructions.

COMMISSIONER GOZZI: So on the question of sick leave then, presumably that should be fixed.

MR HANLON: No, sick leave is not quite the same as an administrative instruction. Sick leave also discussed at the conditions of service meeting and on the - at that meeting on 20 November of the conditions of service the group agreed in principle to survey absences across the State Service and as reported to the PNG on 4 December '90 agreed to a trial of a no-credit sick leave subject to certain conditions and under existing sick leave guidelines.

But we were advised - like that unions had to be advised that we were doing it and needed to tell us that it was okay. Now, it wasn't something because the members of the committee don't embrace, and bearing in mind, agencies were talked about

at the subgroup level on the working party but no decision was made because the working party was not there in their own right. So if we wanted to pick the Mersey Hospital, even though the HEF were on it, their appointee on there is not there representing the HEF. So, in other words, what the unions with members there would think about it - now first of all we were looking for an acceptance in principle, we're going to conduct a survey, we then didn't want to engage ABS, go to the trouble of finalising the questions, expense, then to discover that unions told their members not to comply with it.

Now, what we were seeking to do was that involved then in having some consultation.

COMMISSIONER GOZZI: Yes, I understand that's what you're looking for.

MR HANLON: Because there were - there were unions present, had some fears about what was intended and what use the information would be put ...

COMMISSIONER GOZZI: Yes, I mean all I'm trying to ascertain is how that communication process is intended to work.

Now, I'm clear that it comes in respect of, say, the survey of absences. That it comes from the working group conditions of service, it's dealt with by the PNG, it goes through the administrative government process. Where does it go to after that to get that feedback? I mean, how do you communicate your agreement back to the working group or the TTLC or wherever?

MR HANLON: Well, there is no difficulty at the working group because the working group is handling the issue and it's referred to the PNG.

COMMISSIONER GOZZI: Yes.

MR HANLON: It's reported to the PNG as an item on the business and we do not take every word of the PNG of every minute, but what is recorded ...

COMMISSIONER GOZZI: Right.

MR HANLON: ... is a general impression, and it is not unusual - I've never been at any negotiations where those representing the union reserve their position and want to consult their colleagues.

COMMISSIONER GOZZI: Yes, so ...

MR HANLON: What you're saying to me is, how do we know that they consult their colleagues and when do we know we get an answer? Well, we know when they tell us.

PRESIDENT: I think that's it in a nutshell.

MR HANLON: Now, if there's a difficulty about their processes, I really think the question should be directed to them rather than to us.

COMMISSIONER GOZZI: But I suppose - I - that's the end result, sure, but surely the PNG has to communicate its endorsement of an idea or a suggestion or otherwise to somebody.

MR HANLON: There are 76 copies of the PNG minutes go out. Now, I don't know what happens when they land on individual people's desks ...

COMMISSIONER GOZZI: Right.

MR HANLON: ... but if anybody says they don't know and they don't get the minutes then I'm not going to know that until they raise their hand, and nobody to date has said to me that 'I don't know what's happening at the PNG', and if a union said it to me I'd soon say 'Get in touch with your representatives - here they are'.

It's not for me to tell them what the decisions are. And that's why the conveners of these subgroups vary between government and union nominees.

COMMISSIONER GOZZI: So ...

MR HANLON: So the same question, if it was to me about what minutes do we receive from any convener of a subgroup of which the union is the convener, I could say to you, no.

COMMISSIONER GOZZI: So, Mr Hanlon, in respect of the three issues that we're talking about under conditions of employment, are you saying that the allegation of no progress is not one that should be levelled at the government in this matter, it should be levelled at other unions that are affiliates of the TTLC?

MR HANLON: Well, no.

COMMISSIONER GOZZI: What are you saying?

MR HANLON: Well, it's not for me to query how quick they are. But if they stand up here today and say there's been no progress ...

COMMISSIONER GOZZI: Well, that's what they've done.

MR HANLON: ... then those who can say it, I can say to them, 'Well, how do we know that there's no progress?', because these matters - these matters are in their court. A union has to say, 'We can agree', and there's not - the working party is not made up of those unions in their own right.

COMMISSIONER GOZZI: Yes.

MR HANLON: And very clearly the HEF would say - and I just use them as an example - they're not there speaking on behalf of the HEF. They are there speaking as a nominated person. I don't doubt of some influence in terms of the section that the working party is dealing with.

COMMISSIONER GOZZI: Right.

MR HANLON: And it's not for us to buy into that.

COMMISSIONER GOZZI: But, nevertheless, the process ensures that the appropriate documentation and appropriate information goes out to individual unions.

MR HANLON: Well, I say yes, because there's 75 copies of the minutes go out.

COMMISSIONER GOZZI: Right.

MR HANLON: Now ...

COMMISSIONER GOZZI: And it's in respect to that information that you say you've had no reply or no response?

MR HANLON: Well, we're waiting for answers, yes.

COMMISSIONER GOZZI: When did that information on proposals go out?

MR HANLON: Oh well, the PNG meeting that dealt with it on the last occasion, which was ...

MR VINES: 2 November, they noted progress.

COMMISSIONER GOZZI: It must have been subsequent to 22 November.

MR HANLON: It was on 4 December, and the minutes of the conditions of service meeting was circulated as a draft and discussed. And it was going to talk about unions, concern was raised about span of hours in terms of the 9-hour day.

Now, the minutes of the subgroup would have set out exactly what had been agreed - and they're agreed between the parties.

So, in other words, when it goes to the PNG it's an agreed document.

COMMISSIONER GOZZI: Right. So on 4 December minutes went out to individual unions ...

MR HANLON: Yes.

COMMISSIONER GOZZI: ... indicating agreement in which areas?

MR HANLON: Well, they would have gone out saying - well, they dealt with the draft paper ...

COMMISSIONER GOZZI: Right.

MR HANLON: ... that went to the PNG.

COMMISSIONER GOZZI: Well, so this is after we had the monitoring conference on the 22nd.

MR HANLON: Yes.

COMMISSIONER GOZZI: So what was agreed in respect of conditions of employment on 4 December?

MR HANLON: Well, no different matters than what were before, because if you look at the date we were here and then the date we were - most probably met between, and when the PNG next meet, you may find that you're dealing with the same event.

I mean, I can naturally check the dates but I've got to go to three documents to do that, and I just wonder what hinges on it.

COMMISSIONER GOZZI: All right.

PRESIDENT: Yes. Just going back a shade, you were telling us about sick leave.

MR HANLON: Yes.

PRESIDENT: This is what provoked the discussion. And you are saying there had been no response from the unions. And then you've gone on to tell us about the survey that was being proposed ...

MR HANLON: Yes.

PRESIDENT: ... with ABS and you really didn't know whether or not that ought to proceed now because you hadn't got any indication from the unions as to whether or not they were agreed on the matter.

MR HANLON: Well, the purpose of it was to do two things: to run a trial and then to ascertain what an absence was in the public sector.

PRESIDENT: Yes. I understand that. But now it's the jolly communication network ...

MR HANLON: Yes.

PRESIDENT: ... that seems to be breaking down.

MR HANLON: I accept that, Mr President, but if we go to the 18 December meeting, bearing in mind we met on the 4th and the paper was dealt with then, we met again on a special case matter, when one looks at 18 December - we met on the 11th, to deal with a special matter. We do not control the agenda. If an organisation doesn't want to deal with something, it asks us not to deal with it. And it was at the unions' request - and I strongly disagree with Mr Vines's interpretation about what they told us on 18 December at the PNG.

MR VINES: It's in the minutes, Des.

MR HANLON: It may be in the minutes.

MR VINES: Mr President, can I just intervene at this stage, because this is a perfect example of what happens at peak negotiating committee group meetings.

What the facts are in relation to sick leave, the last time sick leave was referred to the peak negotiating group was on the - and I have the minutes here, was on 2 November 1990 under a dot point conditions of service. Progress was reported in relation to special leave, sick leave and span of hours. The question of sick leave has not, I repeat, has not been reported to and endorsed by the peak negotiating group.

So I am as confused as you are, sir, as to what the progress is. But rather than us wasting time flicking through folders to see what happened where and when, I think it's important that we get a few facts into the reporting of this. Similarly, the issue on union coverage.

The facts about that union coverage was that Mr O'Brien, representing the Trades and Labor Council, at the last peak negotiating group made it very clear to government that the unions would not respond to that paper because they believed it was something to be determined within union circles. It had nothing to do with the peak negotiating group.

.... Mr Hanlon to suggest that they're waiting on a response. It was made very clear by Mr O'Brien at that last meeting. If the Commission pleases.

MR HANLON: I didn't - I think to be very clear, I did not say that at all. I said, and I was reading from the minutes, that what Mr O'Brien and I have no - what he said, that Mr Evans then said that they would be pursuing that matter and it was a matter which the government was not prepared to let go.

Now, that's the situation for the minutes and I was reading from them. And the situation about the TPISA's position was that, and I'm reading from page 3 of ...

MR VINES: You left out a line when you read the minutes - when you read the minutes though, Des.

MR HANLON: Page 3 - I think, Mr Vines, you'll have your opportunity and I can be heard in silence.

PRESIDENT: Yes, that's a fair request too, Mr Hanlon.

MR HANLON: And at page 3, Mr Vines said:

His union would seek to get the Industrial Commission involved. That working groups should reconvene when something could be presented. That the October timetable should be met and offer as alternative to want it. He said that the TIC would be notified of their concern that they're not getting anywhere and they will go to them in the New Year.

He then went on to talk about some other matters and Mr Vines said at page 4:

He would advise the Tasmanian Industrial Commission early in the New Year of the position and if the government responds by early January the Commission will not have any problems.

Mr Colgrave said:

By 17 January that the government will have definitions, not structures, for technical.

Mr Evans commented:

Management should have a structure based on Attachment B of the technical working group minutes by the 17th.

Now, there was certainly nothing said at that point or at the end of the meeting that said that we are withdrawing from the PNG process.

At page 6 is the last two points. The union requested that a date not be set for the PNG until they considered sufficient

progress had been made in the relevant working groups. It was agreed that arrangements for the next meeting should not be made today.

Now, I can certainly say if the TPSA had been as clear on that day then there is no point in working groups continuing to proceed because who will they report to?

And the second point about the working groups and a number of suggestions have been made that working groups that met last week said there was no point in continuing to proceed, they were my comments and they were made in relation to special cases.

If we are discussing a structure that has a graduate entry point, and we're talking about professionals, not the particular union members covered by any particular union, but professionals, then if you were going to determine the entry point you would determine that for a professional.

If an organisation is then dissatisfied with that, it would then mount a case on it. But if the professional engineers say to us 'We would prefer to negotiate', and we've got applications by the TPSA saying 'We want to arbitrate' and they both have special case matters, we are not in a position to make a choice between that. They're two alternatives which either organisation can exercise and the government's position is that in special case matters should await the finalisation of structures and any information that they have to tell us which we will hear on the first day of hearing, they may just as well tell us at the working group.

There is no point in us walking into a vacuum, going on inspections doing a whole range of matters if we're sitting down meeting fortnightly talking about structures, terminology, and the way in which those things will be fitted together, and it was in relation to special cases because we do not accept the explanation about the surveyors case that went. My understanding is we received advice on a Friday, the case would be on Monday. That is no time for an agency, because the agency doesn't know what's going to be looked at. We received notification shortly after that said 'We want to go and look at this location, etc., etc.'. It didn't specify which classifications. It wasn't whether or not the day was suitable. It wasn't whether we could put the appropriate officer there. It was: it's on and you'll like it.

Now, we have said to a range of unions that they're quite free to proceed with their special case. But the end result is we will not continue to sit in working groups dealing with the same subject matter.

There is either disagreement leading to a third person required to make a decision or the parties have still the

capacity to negotiate and they are not to - mutually comparable concepts.

COMMISSIONER GOZZI: I suppose, Mr Hanlon, on that point it would be perhaps more appropriate to hear why this Bench should change the tenure, the intent, very clear direction it gave in its decision which said that special cases would be dealt with on a case-by-case basis.

In other words, at that time the Full Bench said that each special case would proceed to get the existing award properly structured within the existing framework and subsequently the translation would take place into a new structure.

Now, it's quite correct to say, and I said it myself, that in conference proceedings and special cases, the preferred view that I put forward in respect to special cases I'm handling is that it would make a great deal of sense indeed to deal with the structures first and then have the translations going across into the new structure from the existing award.

But the facts of the matter are that in respect of the decision of the Full Bench it's quite clear what was intended, it's quite clear what is said there, and if there is to be some fundamental change to that then the parties need to address that.

I mean, I for one don't want to go through a whole lot of special cases if it can be avoided. But, on the other hand, if progress on structures and getting on with the job that we're dealing with today is going to be so monumental, then I can understand union applicants saying, 'Well look, we want to proceed with our special cases'. And I for one, that have been issued by the President six special cases, will deal with those matters.

I don't see that it is a single commissioner's function to hold an applicant at arm's length pending the finalisation of these type of discussions.

MR HANLON: But we haven't asked the Commission to do that, Mr Commissioner.

COMMISSIONER GOZZI: Pardon?

MR HANLON: We haven't asked the Commission to hold them at arm's length. We have said ...

COMMISSIONER GOZZI: Well, that's what I'm saying.

MR HANLON: We have said ...

COMMISSIONER GOZZI: I know you haven't.

MR HANLON: ... they have two choices, but they may not. You see, it needs to be borne in mind that we have a claim in two groups put to us by the Trades and Labor Council as to establishing key relativity points, and they want them answered. I'm not talking about after the levels. One of them involves the figure of \$450 as the base trade rate, and we had to have a special meeting to discuss that, because everybody's relativity is based on that figure.

Now, we sat down with the professional engineers and they say, 'We want the national benchmark'. But they'd like the national benchmark erected on the best tradesman's rates. And we've heard a bit today about relativities.

The concept of structural efficiency was not to mount cases based on the relativity of this group or that group, it was to establish a particular relativity - they may have been arrived at and are comparable. But what we have is an application which when examined in the detail reveals to be a pay increase of somewhere of 5% of the 100% figure, going through to 30% at the top of the scale.

Now, we have said we are not going to agree about a 100% figures, we want to talk about the structures. We want to see exactly what's involved, bearing in mind that we've got technical applications, professional applications and trade groups all being pursued at once.

Yet everybody else says, 'You won't agree on a relativity'. And we say, 'Well, just hold on, we can talk about the levels and job descriptions etc.' but the real crunch for that is at the translation point, because what do you deal with a paid rates award? What do you include in the tradesperson's rate? Do you include a range of industry allowances? Now, those matters are under discussions at the PNG.

COMMISSIONER GOZZI: Yes. It seems to me ...

MR HANLON: If you ...

COMMISSIONER GOZZI: I'm sorry to interrupt. It seems to me that there's a real confusion by the parties in respect of what we intended at the outset of this exercise. The intention clearly was to work value under the auspices of the structural efficiency principle, assess work value in terms of the existing awards and work value those awards - no more, no less.

The next part of the exercise was to look at structural efficiencies within the award, including structures, and then look at the question of relativities.

It seems to me that the whole lot has been put in the one melting pot and you're trying to really come to grips with a

whole lot of issues which may not be able to be properly dealt with in that way.

I mean, the Full Bench's thinking in respect of having the special cases set aside separately was to simply work value those particular awards, get them out of the way, get the appropriate salary levels under the existing award in place and deal with the question of translation, structural efficiencies later.

To me it was a simple process. However, I can concede, as one member of the Bench, that if the parties were close together on structures, then it would make a great deal of sense if it was going to be a quick process, a relatively quick process, get those structures in place, talk about relativities and that exercise and what the structure is going to be, have your job descriptions up to date so that they reflect exactly what people are doing, and then do a translation. That would save a lot of time and effort. But that's not what's happening. The whole thing seems to be going around in some sort of nebulous, unholy mess that really is very hard to grab hold of.

MR HANLON: Well, I don't mind you having the opinion, but I just say to you, Mr Commissioner ...

COMMISSIONER GOZZI: Well, I hope it carries a bit more weight than just an opinion.

MR HANLON: Well, let me just ...

COMMISSIONER GOZZI: I just feel that ...

MR HANLON: Let me just say, there's not ...

COMMISSIONER GOZZI: I just feel that the whole thing needs to be sorted out in that context, going right back to the start of where we were in dealing with structural efficiencies in awards.

MR HANLON: Well, I wouldn't mind if an examination of the page 10 agenda of the National Wage Case went on, in terms of what subject matter is being raised by anybody about the matter. We're not just talking about the work-value element, we're talking reducing 110 awards down to a manageable group. We're talking about putting in place conditions of service which are standard. And we're talking about 30,000 public servants, of which the TPSA covers a significant group, but is a minority organisation.

COMMISSIONER GOZZI: Yes, I realise and recognise all of that but the whole point of what I'm saying to you is that the

first step, if you like, of that exercise, of rationalising awards, putting structures into place, was to get the special cases out of the way first.

Now, as - and I repeat, if the parties can say to us 'Look, we'll put those on the backburner for the time being because we want to progress on structures and relativities and get those up and running' as I've said, and at the same time do your job descriptions and job designs so that you have something to translate, so you can appropriately translate people from the existing classifications into the new classification structure, then there would probably be no need to do the special cases.

But if that's not the case, then surely you've got to recognise that within the structural efficiency principle one element is work value and they've gone through - these special cases, they've gone through the Anomalies Conference, and they have been found to be an arguable case on work-value grounds.

Now, that's where we are in respect of the special cases unless the parties say to us they want to do something different, and from what I hear anyway it seems to me unlikely that the parties are going to say something different.

MR HANLON: Well - but it's their choice. You see, it's no good directing that question to the government. There is - nothing has impeded any union since it lodged - the application was approved from proceeding.

There was no point in them doing it because they couldn't - and from their point of view because there was no money available till January 1991.

They got their 3% and their 3% was for what - so they would participate in a proposition about reforming the public sector along certain lines - not so they could run their special cases. They could run their special cases but a very critical thing would occur. When you look at page 16 and you look at the awards that are in 16 and page 17, and say what would happen if the special cases at the bottom of 17 moved and the ones elsewhere didn't and we just set in place a structure.

Now, can the people in page 16 and page 17 get an increase that where there's no special case being run or lodged? The answer is they can't. Now, we're trying to put in place a structure that will be effective, I would have thought. Most organisations taking one look at the list would say, 'Well, whatever the basis of the first application we put in, it's a little uneven in its covering of professional and technical people.

Now, it's not for me to tell them how to do it - the choice is theirs. But if someone comes along here and says that the

peak negotiating group process and the subgroups are not working and the first thing I want to know is, what has been their contribution in a detailed written form, because I'm happy to take the Commission through the training paper, the union coverage paper and what it is is going on, because the meetings - and I'm interested in people in saying they're a waste of time - a meeting is only as good as the people who participate in it and a number of people, and people who come to meetings and say 'We will not talk about anything until we get an answer about 'X'.' That isn't a working group, it isn't negotiations, it isn't consultation - it's stand and deliver.

Now, I heard the report of the custodian group and very clearly that group, as it applies to two of them, when they meet as the custodial group is a very significant wage claim.

I don't have any difficulty with the union wanting to pursue a national benchmark at some point in the future, or a special case, but you can't colour a structural efficiency process with a pay increase. A pay increase is a pay increase and the argument as I understand is me-too-ism.

COMMISSIONER GOZZI: Well, the wage fixing principles quite clearly comprehended in the short term there may be a cost to the employer. I mean, it's quite clear, and there's no doubt that the structural efficiency is going to be a cost to the employer in the short term and the payback is supposed to be the efficiencies that you get from the structure. I mean that's - there is no secret about that.

MR HANLON: That may be true.

COMMISSIONER GOZZI: Well, it's not 'may be it is true' - I mean, it's a fact.

MR HANLON: On an enterprise basis, the enterprise the government is conducting is the State Service and for us to put in place individual structures and to gain a benefit from reduction in 110 awards which is very clearly on the agenda, and the number of respondents, then the questions have to be addressed.

Now, the forums that are set up were set up in good faith. The people who have participated have been there in good faith. There's only one place to afford them it's at a meeting of the PNG.

Now, Mr Vines says he doesn't wish to be there and he told us clearly in December. We didn't believe that to be so. We just put forward that the PNG was suspended for whatever reason, because the working groups then kept meeting. I mean, we met on 1 February.

COMMISSIONER WATLING: One would think Mr Vines was going to resign from the peak negotiating group; that he's informed the body that nominated him. He's there representing the TTLC, isn't he?

MR HANLON: I didn't want to venture into that - how they conduct their proceedings. But, very clearly, I didn't intend to table a document. There's a number of things which both parties are discussing, which are the property of those. But this is an award restructuring handbook, clerical, which was tabled at a couple of clerical meetings ago, updated as late as the 3rd, and it contains a description, a history of all the meetings, the structure, the job descriptions, and we were asked for 3 weeks for them to consider it.

Now, at some point in time, why would we continue to be doing this if they're not participating in the PNG, not - going to run their special cases, of which clerical are one, but they don't tell us what it is they're after. And in actual fact, on Friday's meeting, they asked that two - they wanted two matters raised with the PNG.

Now, if an officer of the TPSA sits at a meeting and says, 'Look, I want to - a couple of issues we think ought to be addressed', and we say, 'Well, take it to the PNG'. Where else would they expect it to go?

Now that's why I say ...

PRESIDENT: Perhaps that person thought that the PNG was meeting without the person from the PSA.

MR HANLON: Well, I won't speculate on that either.

So that the situation is one that we are not necessarily happy with the focus that it - the process it's got, but there is no alternative other than to modifying it - doing that in consultation with the TTLC. Now - but it's their choice not to meet in January.

Now clearly, in November, there were a number of issues being debated which were critical, and one of which was the paid rates awards, and six payments, the establishment of relativities.

And the paper that's been referred to was prepared by the government's side, that said, 'Look, this is the impact'. If we translated the two or three claims we've got from you - and we're assuming it applies to the whole structure - we broadly costed out what it meant, the ramifications of it, and even provided a graph that explained the percentages and how they

were translated and the contradictions that were in individual claims when looked at in a wider bases than the individual award.

Now, we've got 110 awards that we're monitoring, not even 65 where the TPSA are concerned, or one where the metal workers are concerned. And if the object is to have a single service, to have a service with equity, to have a reduction in awards, then there's a process of arriving at that.

COMMISSIONER GOZZI: Mr Hanlon, when you did your projections on cost, did you do that on the cost for one financial year or is it a phased - did you look at phasing?

MR HANLON: Well, we take the costing ...

COMMISSIONER GOZZI: What was the costing?

MR HANLON: Well, we were looking at an increase. And we're not talking about total increase across the service, just the claims as we could see them where they were. Something in the order of 100 million.

If the professional claim was translated to all professionals, that's all persons with a professional qualification, we're looking at a current figure of 2,000 currently designated against a professional. All persons with a graduate qualification, the figure would go out to 11,000 persons.

If they got an increase half the size of the professional engineers claim, we're looking at a figure between 40 and 50 million for the 11,000 people. Now, I don't think we need to go any more in that sense of detail. But that was the general flavour of the paper.

COMMISSIONER GOZZI: Just - you've just reminded me of it, are you aware that before another Full Bench are live claims in respect of points of entry for professionals?

MR HANLON: I am, Mr Commissioner.

COMMISSIONER GOZZI: I notice that you are talking about entry points for professionals; what's the intention in respect of those other applications before the other Full Bench?

MR HANLON: Well, we're not - you're asking - I am not actually appearing in that matter.

COMMISSIONER GOZZI: Well, you might think about it and come back to it later on.

MR HANLON: Well, it's not a matter that's not under consideration. The question is: how many places do we make a

decision? And it doesn't matter whether it's about the entry point for professionals, for technical. I mean, people have complained that the operational group hasn't moved.

COMMISSIONER GOZZI: I suppose the reason I raise this is because I would have thought that the Full Bench, in dealing with that matter, would have, in previous proceedings, given fairly clear indications of where it saw the entry points for professionals - for diplomats and graduates, particularly if you have regard for podiatrists and dieticians case.

MR HANLON: Well, I haven't heard any organisation yet say that they are satisfied with any rate of pay for any employee employed under the public sector so, proceeding from that point, you might say that everything is alive and well.

COMMISSIONER GOZZI: Well, bear in mind that physiotherapists - all the physiotherapists, dietitians, podiatrists, went through an exercise where entry points were discussed and I would have thought that what the Full Bench said there would have given the parties a fairly clear indication of where they ought to be looking on the question of entry points. The whole point I am making is that I don't see it as a fairly - it shouldn't be a big issue because to all intents and purposes the guidelines, I think, have been fairly well hinted at, if not made clearer than that.

MR HANLON: Mr Commissioner, all I can say is nobody else has referred me to it, so I wouldn't have thought it was a reference point for a number of others.

COMMISSIONER GOZZI: Well, you take it, it is a pretty good reference point.

MR HANLON: Well, it is not me that needs to be persuaded.

COMMISSIONER GOZZI: Well, for what it is worth, it is a fairly good reference point.

MR HANLON: So the government's position is that we, however inadequately as perceived by others, has processed its position and that the situation we are in, and I think it is very clear in that the submissions being put today, that our situation is one that we have a divided union movement. We have a request that - from some that the TTLC should consider the matter.

PRESIDENT: Not on some issues. They are not divided on all issues, Mr Hanlon ...

MR HANLON: Well, other than they all want more ...

PRESIDENT: ... and I think they were fairly unanimous that things are very slow and cumbersome.

MR HANLON: Okay. I mean, I'm quite happy to deal with the ones who think it is slow, right. Now, let's take the fire service. At the last hearing the issue was raised of proposed amendments to the award. I, not knowing what the form that they were or what their history was, immediately went back and had a look at the situation to discover their 3% amendments. We had a look at the proposed amendments and because the advice from the Bench was that an application should be made because the matter had to get before the Bench, that we had no difficulty with the proposed amendments and, as far as I was aware, the matter was now being processed. So, if Mr Devine has lodged the application since the last hearing, then I would have thought he would have asked for the matter to be brought on. I know of no reason that the peak negotiating process is any impediment to the 3% amendments.

COMMISSIONER GOZZI: So, just on that then, Exhibit D.1 tendered at the last hearing by Mr Devine going to five broad areas of hours, promotions, clothing issues - and there were three clauses on clothing issues - are agreed.

MR HANLON: Well - I mean, all I - I ascertained exactly what was the difficulty - why was this matter being proceeded with - I didn't look at the detail of the claim, that's not my area, but there is no impediment under the PNG, and as Mr Devine was asked to lodge an application, then there was no veto being exercised by the Department of Premier and Cabinet or the PNG process on that process.

PRESIDENT: That's one.

COMMISSIONER GOZZI: Only 109 to go.

MR HANLON: I didn't actually see 109. But certainly Mr Devine has made his position clear from very early in the piece.

PRESIDENT: I think he was probably seeking to make it a little clearer, Mr Hanlon.

MR DEVINE: If it please the Bench. Yes, sir, I take umbrage of that - if that's the right word. In fact, I won't clarify it any further, except to say that Mr Willingham indicated to me that until it was ratified by the PNG it would not go forward and it is my understanding that it had not been. Now, I can't do any more than that.

PRESIDENT: Are you talking now about special cases or ...

MR DEVINE: I'm talking about all of it, sir.

PRESIDENT: ... all the proposed 3% changes?

MR DEVINE: It was indicated to me also by Mr Willingham that any discussions taking place to do with the special case or anything else would need to go the PNG to be ratified before we could move them any further. Now, I can't even get it moved out of the Fire Commission because the Fire Commission is not in the position to discuss it. Now, I've sat here ...

PRESIDENT: You are aware that there is a distinction between a special case and your 3% award changes that you have tendered?

MR DEVINE: I certainly am. I certainly am, but the same applies on both issues and the direction that I received from OIR in the first instance was that the 3% needed to go the PNG for ratification or otherwise. Now, at ...

COMMISSIONER WATLING: Well, Mr Hanlon is telling us that it has gone there and there seems to be no obstruction.

MR DEVINE: Well, as I said earlier today, sir, that part of that proposal - the 3% at the PNG level - there was some queries raised with it and I was happy, when approached, to amend it. I did so, but I have not received official notification from OIR or PNG that it is to go forward.

PRESIDENT: How long ago would that have been?

MR DEVINE: Previous to Christmas, prior to Christmas.

COMMISSIONER WATLING: Right. Did you ask your representatives on the peak negotiating group what was the result?

MR DEVINE: I did, and there were - as I said, there were four main points of issue, two of which members of the PNG had difficulty with, and I withdrew them ...

COMMISSIONER WATLING: Right.

MR DEVINE: ... and it has not been indicated to me since.

COMMISSIONER WATLING: Right. What I am asking is, did you then seek an answer from your representatives on the peak negotiating group, which are all the union people? They are representing you on that group; they are representatives of the TTLC. What was the answer when you said that you were prepared to amend it?

MR DEVINE: It would go back to the PNG, I believe.

COMMISSIONER WATLING: Right. Now ...

MR DEVINE: And I am not entirely sure whether there has been a PNG meeting since.

COMMISSIONER WATLING: Oh, right.

MR DEVINE: But the point I make about the whole procedure is that that is over some 4 months now, and really it should be a quite simple process.

COMMISSIONER WATLING: Right. Are you trying to deal directly with the PNG or your representatives on the PNG?

MR DEVINE: Not recently.

COMMISSIONER WATLING: Right. Now, if you are not going to deal with your representatives on the PNG, how do you expect to get results if you don't keep on their hammer?

MR DEVINE: Well, we keep on their hammer, but they haven't met since early December - well, that's my understanding of it anyway.

COMMISSIONER WATLING: Right.

MR DEVINE: And it is difficult when you work at the working group level, and early in December the working group - which is representative of the PNG - we came to a total impasse at custodial and emergency services working group on the basis that the procedures to be carried forward to reach any sort of agreement weren't agreed to. In other words, we believed we were at - had agreement on the procedure and then it was proposed to us that that wasn't the case.

COMMISSIONER WATLING: So what you are saying then is that you are still of the belief that amendments that you gave to your representatives on the peak negotiating group have not been dealt with at this stage because there was no meeting.

MR DEVINE: That's my - except to say that initially it was dealt with; there were some queries and when I was spoken to about it, I agreed to amend them so they could go forward. But ...

COMMISSIONER WATLING: Right. And have you asked the peak negotiating group what happened to the amendments?

MR DEVINE: I haven't, no.

COMMISSIONER WATLING: Right. Do you think that might be an appropriate step in the first instance to ask them? They are there representing you.

MR DEVINE: That is the way I will do it.

COMMISSIONER WATLING: Right.

MR O'BRIEN: Can I intervene, Mr Hanlon?

MR HANLON: I think ...

MR O'BRIEN: I understand that there is a lengthy exchange going on but I think I ...

MR HANLON: No, I just need to be clear. If I am going to respond then I - and I'm going to respond on a specific issue - any organisation wishes to say them - they ought to identify what the issues are about because to say that there were four issues raised, I mean, I haven't got a clue what that might mean. So that it seems to me, in regard to the proposed amendments to the award, if the application was made since the last hearing, then it is in the control of Mr Devine to bring the matter on. I know of no reason. He says that he has spoken to Mr Willingham. I have no idea whether that is since my speaking to him and dealing with the matter, but I note it hasn't been listed, so that that aspect is within his control.

The question of other matters which go to the custodial group in the firefighters, well then, I'll deal with those. Mr O'Brien wishes to make a couple of points at this time.

PRESIDENT: Yes. Thanks.

MR O'BRIEN: If the Commission pleases. There is obviously a variety of views on matters such as what the PNG does, what has been there, what hasn't, what has been agreed and what hasn't.

The TTLC has been diligent in circulating the minutes of the meetings to all affiliates and if action was required arising from the minutes it has noted that in a covering letter.

I think that, without seeking to prejudice the government's right to respond on matters that have been put nor on the PSA's position as to arbitration of the matter, that it would serve a good purpose if the organisations affiliated with the TTLC in the public sector were to meet very quickly and to come to a position on some of the matters that have aired today and we can perhaps present a clearer picture to the Commission in the form of a report-back. It would seem to me that if we continue down this path we will end up with a confusing picture and the Commission being left to decide on a variety of courses. It may be, at the end of the day, that the picture isn't completely clear, but I believe it can be made clearer than it is now. At the end of the day, the Commission may be faced with a decision whether it wishes, at that stage, to proceed to arbitrate certain matters or not, but I think the reality of this matter is that we have just passed through Christmas and January; many organisations have had officers on leave. That was one of the reasons the TTLC

did not wish the PNG to be convened in January because we would not have been able to convene a proper group nor properly consult with affiliates about the issues which were on the table and the problems which we were facing at that level at that time.

.... in terms of a public sector union meeting before today. But I think that really is the course that we should undertake now and I think if we were allowed a short adjournment to do that, then we would be able to come back to the Commission today with a much clearer picture.

PRESIDENT: What sort of time period are you contemplating, Mr O'Brien?

MR O'BRIEN: Well, I would envisage a public sector unions' meeting this week, so possibly - subject to availability - reconvene next week or the week after, if that wasn't convenient.

PRESIDENT: Mr Hanlon?

MR HANLON: I don't have any objection to the adjournment being sought, but there are a couple of things that I would want to put before the Bench and to the TTLC about where we go, that we would want them to consider in that process.

PRESIDENT: Do you want to put that to the Bench?

MR HANLON: Oh, yes, I am quite happy to.

PRESIDENT: Yes. Proceed.

MR HANLON: The government is conscious that there were matters that the PNG is dealing with and the subgroups and the way in which those proceedings were going that were not necessarily fulfilling our intentions.

We did not believe that that was necessarily anybody's particular fault, if I can put it that way, but the process which meant that outside of the professional, the technical, and the clerical, which apply across the public sector as a whole, dealing with matters on an award basis also meant that where matters affected more than one organisation or affected a condition of service that there was an inability to get that matter onto the agenda.

There was also the difficulty that if an organisation didn't want to deal with the matter it would simply say 'We don't want to talk about it'.

Now, we do not believe that that was in the spirit of the process, and have had a look as part of our reporting to you

on this particular day have taken an opportunity in January to review the work of all the subgroups and the PNG, and also to look at the work that the government had in hand as well as part of the ongoing process.

The conclusion the government has reached is that the process needs to be amended to provide a sharper focus to meet the needs of agencies, encourage agency industrial reform, assist in the reduction of occupation-based awards, to give greater emphasis to the issue of union coverage.

In simple terms, the government now finds itself as a result of having reviewed its experience with the government/TTLC agreement- W.2 - is that the working party process, including the PNG, is not being pursued in good faith by some union representatives.

And we say not being pursued is simply by ignoring it, whether they believe it is important or not, then we're not in a position to respond. We assume people are responding to it and, as Commissioner Gozzi has pointed out very clearly this morning, that they may never be going to respond to us, but that isn't in our position at this point to alter the changes that we would see would happen to the PNG process.

It, as a group, will continue in its present form. The existing groups of the conditions of service, the clerical, professional, training, and professional groups would continue to function.

The conditions of service working party to be expanded to broaden its membership in keeping with the real scope of its work, and that would be expanded both from our point of view and additional representatives from the union movement.

That there be nine agency working parties established. We believe at least six of those ought to be single agencies, the remaining 12 would be divided into a series of working parties, and we have made some suggestions about that.

Each agency will establish a series of subgroups reflecting the internal divisions of the agency. DPAC will coordinate the activities of the agency, and it will service the PNG and its working parties. It will prepare the model conditions of service, and provide whatever assistance and advice the agencies require.

We also say that where matters are referred to the PNG both parties must agree to defer a matter. a decision by one party to have a date determined by which answers or responses must be given. We would - have made the suggestion this morning and we have not been in a position to make these proposals simply because the PNG is not meeting. We only thought that was for the month of January. That has

certainly been clarified this morning. But we would be suggesting that they meet within two weeks.

There was the need to know that if there is a response it has to be a response through the TTLC. It isn't in a position for organisation to endeavour - at subgroups - to persuade us to adopt a different course different than what the PNG process.

If we have postponed a discussion at the unions' request on paid rates awards we do not expect then to be issued with an ultimatum by a group to agree with the very question that is before the PNG.

And for that then to be accused of a delay, then the issue of that one illustrates the point. That if it needs to be resolved, and it takes 2 months or 3 months, that's the time it takes. If not, there is no point in resolving it, particularly if the unions are not in a position to finalise their position.

We respect the difficulties that exist about that matter, and we are not looking to speed the process up - provided there is a process.

The government is not opposed to groups proceeding at different rates, providing other items, agenda items, that exist across the service are continuing to proceed.

Irrespective of which industrial jurisdiction or subcommittee, if a union has an alternative view it should process that via the mechanisms that have been set up before it.

The government doesn't want to be in the situation of going to tribunals and arguing one thing, and at the same time we're seeking to pursue supposedly the common objective within the PNG process.

We would also make the point that withdrawing is not an option. We say that there are other matters on the agenda other than individual unions pursuing special cases, national benchmarks, or structures.

There are a whole range of matters which go to structural efficiency and having had the 3% they are locked into discussing.

If there is to be another process, then we will have a different position to put, but certainly do not wish to in any way suggest that we will be proceeding via 110 awards by occupation that we have in the past.

We will want the structural efficiency principle dealt with in a way which allows the objectives of W.2 to be achieved.

COMMISSIONER GOZZI: Just on that point, Mr Hanlon, in the first round of the structural efficiency case one of the agreed documents referred to the right of agencies to put up agencies specific material.

So, if agencies specific agenda material is not agreed, then I suppose at the end of the day the short way home would be to bring those matters forward.

I mean, what I am saying is there is probably no need for discussions and negotiations to bog down on issues that clearly the parties are not going to agree on, and the right to bring those issues forward - because you mentioned that there might be some view that only pay rates and structures are part of the discussion, and I wouldn't think that would be the case, but if that was the case then, clearly, people need to be reminded of the fact that agencies' specific agenda items can be and should be brought forward in this exercise, and if they can't be ...

MR HANLON: I wasn't suggesting the government wouldn't be bringing matters which could not be processed, and we do not necessarily - if an issue reaches the point that both parties agree, then we have no objection to that matter coming to the Commission.

COMMISSIONER GOZZI: But if they can't be agreed?

MR HANLON: Well, we're talking about - I understand that they may not be agreed. We wouldn't exercise the veto of an organisation coming to the Commission, but we say that if the issue goes to the Commission and it is specific, it can't be everything, it has to be an issue which the parties have processed, then it comes to the Commission. I don't have any difficulty with that at all.

It's whether or not we work our way through the agenda defining matters in agreement and leaving matters then for settlement. Whether they come a bit at a time, or a group at the end, the process should determine that.

The government is quite happy to continue reporting to the Full Bench at whatever period of time it may suggest. We certainly will utilise the Commission if the process breaks down.

In regard to special cases, our view about special cases is that they be detailed to us, and they be dealt with at the time of levels and descriptions.

Each of the applications do relate to the others. They are not separate and distinguishable matters. They may, under the existing regulations by occupation awards, but for us to have reform they will certainly be part of the total.

That still doesn't mean that an individual classification will not be processed as part of any failure to reach agreement.

But I find it extremely difficult to believe - to use the trade case - that if 15 unions with trades classifications have agreed with ours that some other organisation would then pursue that they want 'X' plus for a similar trades group, and that same argument will apply in technical, professional, unless there was some distinguishing characteristic.

So our view is there ought to be an orderly process for special cases.

If the organisations wish to proceed, well then, that's their choice, but we do not believe that the single case-by-case approach is the way to go, but that's their choice. We believe that it has ...

PRESIDENT: What if we referred the matter of special cases back to the parties to consider it, for example, the meeting that's going to be conducted under the auspices of the TTLC, and I don't know whether or not it will involve government representation at any stage, but what if there was a general consensus that something be done about special cases which is different to the conditions outlined in our decision of 6 August?

MR HANLON: Well, I suppose one could say we would hope that commonsense would prevail. My own view is that the current method of dealing with them singularly is not appropriate.

PRESIDENT: But if you - I mean, we're reasonable people. If the parties think that this isn't - that single case-by-case hearings may not be appropriate and came to us and said that to us, we would probably agree with that proposition and change the rules.

MR HANLON: As they're individual organisations, the only view I have is that we prefer them not to be processed at this time.

Now, I could say, well, we wouldn't want to be seen making the application so that we could be pilloried, but I think our view is clear that if they proceed in this way then there is a certain cost to it and the cost is very clear, and if they wish to discuss some alternative steps of times, etc., well, we're free to do that.

I'm conscious of the time. I know the adjournment has been sought. I have a written copy of what I've put to you.

PRESIDENT: Would you be circulating that to all the parties?

MR HANLON: There's a copy for - here. It's - and I tender that as an exhibit to the Bench, which broadly covers the points I've just made and on page 2 of the document it sets out an alternative process. It contains ...

PRESIDENT: Don't worry about the time, Mr Hanlon. Don't - you don't have to rush it.

MR HANLON: Page 1 of the exhibit ...

PRESIDENT: Page 1.

MR HANLON: ... I've broadly spoken to that, but that provides for the parties what I was saying.

PRESIDENT: Yes, I didn't - I didn't give that an identification. I'd better make that formal. The list of parties is H.1 and the report-back is H.2. Thank you.

MR HANLON: And it would have been our intention if the PNG had met in February to submit this proposal to them. We were going to speak to it at today's hearing.

Page 2 sets out exactly what the process is, why we - what the matters that PNG will deal with, the work of the - in paragraph 2 on page 2 is the working groups will continue in the current format. The conditions of service - and it sets out what it will do and we will prepare that model set of conditions for debate and discussion within the service. We will be seeking to achieve uniformity and as part of that process will identify the various problems.

We are already engaged in quite an extensive exercise of defining all the current conditions of service in all awards and the way in which they apply.

In 3, we set out in an appendix which is the last page in a diagrammatical form how that process is set up and clearly PNG at the top sets out the purposes of it, and then on the left-hand side the TTLC public sector with unions and then DPAC which is - currently coordinates the government and its agencies and its terms and across on the right the working groups. That sets out those working groups which exist across the service and are currently working.

In regard to construction and the reason for setting out construction, forestry, custodial, health, education, roads and transport is they tend to be made up of a combination of unions, a combination of awards, and requiring parties to be representative in a forum which enables those sorts of issues to be addressed.

If one looks at the next column headed up by DPAC, most of the groups in these two areas have very few unions in them, at

best four or five and some of those are minority organisations and issues which we would want to address on coverage.

And it does get a bit tense to have a number of operating units which are quite distinct and some are already settled. So it's just been extended. There is no absolute number as to why we've chosen that, other than they seem to be the critical groups with the more complicated issues to resolve.

So if I then could take you back to page 2, there will be the establishment of corporate committees who, as part of the existing corporate structure within the public sector, who will direct the work of agencies. The PNG in liaison with DPAC will coordinate state-wide strategy. And as part of that process, from a government point of view, determine the number of awards. State and federal regulation. The areas of demarcation that we wish to have raised and resolved.

Page 3, we set out the objectives that the government has set itself. And we see, in the short term, to have finalised the career structures for clerical, technical and the professional streams. And because specific groups are mentioned here that does not mean they're outside the time scale. We commented on specific ones, there are some groups with already agreed deadlines which we don't - are not trying to say that we walked away from.

Develop a set of model conditions of service for application across the State Service, which we see as being achievable by - in terms of, from a government point of view, as set by June. We want to consolidate existing awards on an agency basis into either federal or state industrial coverage. We want to pursue as a matter of priority the rationalisation of the number of unions in the State Services by occupation, work unit, division, agency across the service.

There are 34 unions with members in the State Service, and there are approximately four with 18,000. So that we see a scope for addressing that issue.

And what we will be looking for and what was addressed in the union coverage paper was a process for doing it, not for the settlement. But what we say is, the unions may be conferring but we need to know that by some process we will identify areas. But we would then want to know: 1) it's been considered; 2) what they're going to do about it; and if there's nothing to be done then we would exercise the right that they would exercise, should we wish to come to the appropriate tribunal to have it resolved.

The medium term objectives, the end of '91 we ...

COMMISSIONER GOZZI: Just before you - I'm sorry, just before you go on to medium term objectives. Do your short

term objectives include the translation of employees to the new structures that you hope to finalise by June 1991?

MR HANLON: Well, that could vary because we may not have agreement on some of those, and not every agency will be ready to necessarily translate at that point.

COMMISSIONER GOZZI: Well, you say finalise career structures and that may ...

MR HANLON: In terms of the detail etc. What the date of application and how, etc. will ... I mean, there are reorganisation factors in some agencies that go to training in others, and there are conditions that have to be fulfilled.

COMMISSIONER GOZZI: I suppose it's important, from my point of view, Mr Hanlon, because I think it's critical in the context of how the special cases should be treated.

If you're saying you are going to finalise career structures by June 1991, that's one thing. I suppose the other question is: when will the physical translation take place? Because - and the reason I ask that is because I would assume that before the physical translation can take place, job descriptions will have to be developed. And I must say that I see that taking quite some time, having regard to what's happened in the Commission previously.

MR HANLON: Well, depending on which agency you pick the job description, process is very well advanced. Whether there's agreement when they are tabled at the appropriate time depends really on the organisations.

But I was referring mainly, given that we're talking about 34 organisations, there are some changes in job functions which require two or three unions to cooperate. The new employee, or the employees doing the new work are required to be trained. Now, the training has to occur, the changes have to be in place, then you may get the translation point at that point. So there's a number of things that are tied up

COMMISSIONER GOZZI: So would it be realistic to say to you that that exercise of translation probably wouldn't take place till well in towards the latter part of 1991, if indeed in 1991?

MR HANLON: Oh, I think the position is that if matters are finalised and there is no impediment to it proceeding, I don't want to put a date either early or late, because if we - I say Christmas, people will then say we're delaying matters. There are 19 agencies of some ...

COMMISSIONER GOZZI: I guess I would like you to address that issue because I think it's going to be fundamental to the attitude in respect of special cases.

The simple scenario being that it might take 'X' number of weeks to conclude a special case and have a decision, which would operate from, say, date of decision. And that would give it an immediate, if you like, consideration of work value, operative from a date that's not too far down the track, in some cases, as opposed to this exercise which may be, when? And I think it would assist to be able to positively make some estimation on when that could happen.

MR HANLON: The Bench is basically suggesting that the parties ought to address their minds to special cases and how they should be handled.

I think if those ...

COMMISSIONER GOZZI: Yes, that's why I raised it.

MR HANLON: ... organisations who have special cases want to talk to us about it, we are prepared to. If we get to the point of talking about what time frames they are looking at, and by you asking me the question, I don't want to have a position, or obtain one, before they have declared a position that either they want it considered, and what proposals they have got. Otherwise we could end up having led you one way and settled on another.

PRESIDENT: You do say, of course, though, that at the end of your medium term objectives end 1990-91 that you will have all special cases resolved.

MR HANLON: Yes. But that's just an objective, it is not in our hands.

PRESIDENT: Before you go past that page, what's the 'Additional Matters for Government Consideration'?

MR HANLON: I am just coming to that, Mr President.

PRESIDENT: Oh, right.

MR HANLON: All that - rates is really not a heading at all. That is just another item which needs to be addressed in terms of those matters, and they are all matters which the government will need to have views about formed in the course of '91, and we will need to be in a position to address them as they go to ...

COMMISSIONER GOZZI: I hesitate to raise another concern, but you would be aware of the Bench's most recent decision in the teachers case where we have asked for applications to be filed with the Commission, and I think March is the date. I can't remember the date.

MR HANLON: The 25th, I think, isn't it?

COMMISSIONER GOZZI: What date was it?

MR HANLON: I thought it was the 25th, was it, or ...

COMMISSIONER GOZZI: 25 March.

PRESIDENT: 15th.

COMMISSIONER GOZZI: 15 March. That then assumes that something will happen in respect of teachers. What's that going to do for your timetabling?

MR HANLON: Well, I'm not exactly certain where the teachers case is going, other than the matter is listed, and given the complex issues involved, as to how long that's going to take, and when we will know, as the government, finally what we'll be confronted with.

COMMISSIONER GOZZI: Well, we have asked for applications on benchmarks to be lodged by 15 March.

MR HANLON: Well ...

COMMISSIONER GOZZI: So you'll know, if not before, you'll know on the 15th, I suppose.

MR HANLON: We may, but it is the separation of the 'me-too-ism' argument from the national benchmark which will take the time, Mr Commissioner, which certainly won't be settled in March.

COMMISSIONER GOZZI: But anyway you've got that - you've that into your timetable.

MR HANLON: No doubt Mr Willingham will cover that point.

And so I really don't need to say any more, other than that's the government's position in regard to a change, or to sharpen the focus of the PNG process.

We have no objection to an adjournment being sought, but I think I should make it clear our agreement with the TTLIC, and organisations ought to be aware, they've received the money. If they've got alternative proposals they don't include them as part, then we will certainly have alternatives but, again,

we await the TTLc's position and we will be seeking to have a PNG meeting, and we will be calling one ...

PRESIDENT: Before or after?

MR HANLON: Well, I don't want to interfere with the timetable of the TTLc. We've made it clear we were seeking a meeting. We had a proposal to put to them. They should first resolve that matter, and we'd be guided by what date after that. Whether we meet before the Bench or after really depends on the TTLc.

PRESIDENT: Well, thank you for that. We will adjourn as requested.

We ask the TTLc at its meeting with all the public sector unions to have regard to the paper which has been tendered as H.2; to be in a position to respond to that on our next hearing day; to consider carefully the problems associated with special cases, and to, if possible, present us with an agreed position on that as to whether or not the method of operation set out in the decision of 6 August should be altered.

The date of the next hearing will probably be the week after next - that will be Wednesday 20 February at 10.30. Mr Vines?

MR VINES: Where does that leave my application, sir, T.2399?

PRESIDENT: Specifically you'll want to pursue your ...

MR VINES: Our position.

PRESIDENT: Right. In terms of your position, I think it's - I'll be corrected if other members don't agree with me, but we would, I believe, take the view that you ought to continue to participate in the process that will be carried on under the auspices of TTLc, and we will consider the situation in greater depth when the report-back occurs on 20 February.

I'm not hearing any dissent?

MR VINES: I'm not altogether sure where that leaves me, sir, but I think I need ...

COMMISSIONER WATLING: Mr Vines, I think you have to recognise that you're on that peak negotiating body as the representative of the TTLc. Right? If you're going to withdraw from the peak negotiating body at least you should inform the body that you're representing first.

MR VINES: If you'd asked me the question, sir, I would have been able to answer that one for you.

COMMISSIONER WATLING: Right. And therefore the TTLC has asked for an adjournment to talk with its affiliates in relation to the whole matter. Right?

I think at this stage you're part of that adjournment arrangement to enable the TTLC to have discussions with its affiliates.

Obviously whatever comes out of that will affect your position, or even further submissions you want to place at a later stage.

MR VINES: Yes. Just in relation to our withdrawing from the peak negotiating committee, sir, our position on that was made very clear to the other members of the peak negotiating committee prior to the last meeting of the peak negotiating committee. In the caucus of that group that was held in my office, there were no surprises, whatsoever, and the other unions there endorsed the position that the PSA was taking at that time.

COMMISSIONER WATLING: So you've informed the TTLC, have you, that you wanted to pull out of that peak negotiating group?

MR VINES: We informed the TTLC back in December that the meeting on 18 December would be the last one we would be attending until there was some progress, as at the next time to measure that progress, if you like, was today, and there has been no progress in the working parties.

COMMISSIONER WATLING: Well, I think really the TTLC and the unions it represents has to get its act into gear there and organise the representation, and I think a lot of that can be - a lot of the work can be assisted if there is a streamlined approach to the work of the committees. And I think the union movement have to understand that they're there representing the various areas, and not there representing their various union interests on those bodies.

MR VINES: On some of those bodies, sir.

COMMISSIONER WATLING: Well, in fact, I would say on nearly all of them.

MR VINES: Well, no, that's not necessarily correct, sir, because in some instances the unions that have an interest were the ones who were ...

COMMISSIONER WATLING: Well, I don't want to debate it with you. All I am saying is that there's a need to get their act together.

PRESIDENT: Yes, I think it is inappropriate to withdraw at this stage and leave this hiatus between 18 December, or whenever it was, and 4 February.

Now, it's possible that nothing would have occurred anyway in that period, but by the same token ...

MR VINES: No, sir, there hasn't been a hiatus. There hasn't been a hiatus, it's been the period to determine whether the working parties could come up with anything, which they haven't been able to do.

PRESIDENT: You gave them a timetable?

MR VINES: My staff have been attending working parties at the rate of about two a week for the last 4 weeks.

PRESIDENT: Yes, I see. Well, that's good. Continue that work, and under the auspices of the TTLC we'll consider again the position on 20 February.

COMMISSIONER GOZZI: Mr Vines, I'd just like to add that in broad terms I agree with my colleagues. One of the other reasons that I would be anxious for you to continue on in the current processes, at least till after the meetings that have been spoken about have taken place, is so that the position of the TPSA in respect of special cases can be canvassed, because I do see a lot of the key to where we are heading is going to be tied around how the special cases are going to be proceeded with.

The other aspect is, of course, that the Association are an applicant in their own right, and if they seek subsequently to proceed, well then, as far as I would consider, that is a right that they have.

MR VINES: Well ...

MR HANLON: It's just a small - I'm sorry.

MR VINES: ... I think the only thing I can say, sir, I put the PSA's position this morning ...

PRESIDENT: Yes.

MR VINES: ... in relation to all those matters. Any change in that is going to have to be subject to a meeting of my full membership. And I, at this stage, would have no intention of suggesting that they change the view that the PSA has got at the moment.

COMMISSIONER GOZZI: I wasn't ...

PRESIDENT: That's your prerogative, I guess, Mr Vines, thanks.

MR VINES: Thank you, sir.

MR HANLON: Mr President, I just wanted to make certain: there were a number of meetings which we said if special cases proceeded, etc. there is no point in these other meetings, that which we determine today.

We're prepared that those meetings, which meet fortnightly and at standard times, we'll confirm, that from our point of view we're prepared to continue meeting as - along the lines which have been suggested to Mr Vines. And we would want, if the matter reconvene, to put our submission at that time as to why people shouldn't be allowed to depart from the process, which we really didn't address today.

PRESIDENT: Yes, I understand. Thank you very much. We'll adjourn till 20 February.

HEARING ADJOURNED