

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

- 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. 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. 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

T Nos. 2467, 2469, 2470
2471, 2472, 2474, 2475,
2476, 2477, 2478, 2479,
2480 and 2481 of 1990

IN THE MATTER OF applications by
the Tasmanian Public Service
Association to vary nominated
Public Sector Awards

T No. 2653 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Ward Clerks

T No. 2655 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Maintenance Staff

T No. 2656 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Trade Instructors

T No. 2654 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Laundry Machine Operators

T No. 2657 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Attendants

T No. 1844 of 1989

IN THE MATTER OF an application by
the Tasmanian Teachers Federation
to vary the Teaching Service
(Teaching Staff) Award

re recreation leave allowance

T No. 2264 of 1989

IN THE MATTER OF an application by
the Secondary Colleges Staff
Society to vary the Teaching
Service (Teaching Staff) Award

re recreation leave allowance

T No. 3200 of 1991

IN THE MATTER OF an application by
the Tasmanian Public Service
Association to vary the Inland
Fisheries Commission Staff Award

re Coxswain's Certificate
Allowance

PRESIDENT

Hobart, 8 September 1992
Continued from 21/8/92

TRANSCRIPT OF PROCEEDINGS

unedited

PRESIDENT: Are there any changes in appearances?

MR JARMAN: Well I'm not sure, Mr President. I don't know that there is. Mr Willingham may not have been here on the last occasion. We appear today for and on behalf of the minister administering the State Service Act.

PRESIDENT: Thank you, Mr Jarman. Well who is to lead off this morning?

MR JARMAN: Well perhaps while I'm on my feet, Mr President, I may raise an issue. The situation is that the memorandum of understanding that was negotiated between the industrial officers has been put to the government and has been put to the union membership. Obviously the unions can speak for themselves but, as I understand it, we have an agreement with four out of the five unions involved in this exercise so there will be some opposition to the memorandum of understanding. And on that basis obviously we would seek to argue our points before this commission because we believe the memorandum of understanding should be adopted.

If that is the case then I would seek your guidance in this matter, Mr President. We are reporting to you as a member of the full bench. If there is to be argument on this issue then it may be more appropriate to put those arguments before the full bench. As I understand it the full bench is convening next week to hear argument on the award restructuring matter or a report back on the award restructuring issues as they apply to the state service in general. Perhaps with the commission's indulgence it might be more appropriate to continue these proceedings next week when the full bench convenes. If the commission pleases.

PRESIDENT: Yes, thanks, Mr Jarman. What are the views of the others?

MR REES: We would support those submissions, Mr Chairman.

PRESIDENT: Mr O'Brien?

MR O'BRIEN: We've got no problem with that course of action, there not being total agreement on the memorandum.

PRESIDENT: Mr Vines?

MR VINES: I'm not sure I fully understand what it is that is being put to the bench but if it's going to resolve the issue we don't have any real problem with it. The question mark in my mind at this stage is, though, the jurisdiction of the commission to hear the sorts of issues that Mr Jarman wants to put and particularly in regard to the direction from the commission at page 1624 of transcript where it sent us away to argue on matters relating to the implementation of award

restructuring.

Our view is the memorandum of understanding that the department will be seeking to argue before the commission has very little to do with the implementation of award restructuring. It has more to do with cutting jobs and services and on many occasions in the past my organisation for one has been told the commission doesn't have jurisdiction to hear those matters.

So I'm not sure where it's going to lead us next week. My understanding was on the matters that the commission asked us to go away and consider, that is matters relating to the implementation of award restructuring, there is substantial agreement. It is only in the matters that the commission didn't ask us to go away and discuss that there isn't agreement.

PRESIDENT: Yes, but since that time, of course, there has been the proposition that there should be a separate health industry proposal.

MR VINES: No, that came out of the transcript that I'm referring to at page 1624.

PRESIDENT: But my memory of that - and I haven't got it in front of me - was that the parties were asked to go away and see if they could develop a memorandum of understanding.

MR VINES: Do you want me to read it to you, sir, so we do know what we're talking about? It states, and I quote - and this is you speaking:

- that all parties to that area join together in negotiations for purposes of developing a memorandum of understanding which can be presented to the commission indicating how they would wish to proceed with regulating the wages and working conditions to apply in the health or hospitals area.

PRESIDENT: Yes. That's my understanding of it. You had me worried there for a moment. So you're still working through that process or seem to have reached a stage where there is likely to be full agreement.

MR VINES: I think there is likely to be full agreement in relation to the wages and working conditions part of things, side of things. There is not likely to be full agreement in relation to the manner in which jobs are going to be cut. And, indeed, I wasn't under the understanding that the commission wanted us to go away and negotiate job losses.

PRESIDENT: I see your point. We weren't aware that that was going to be an item for consideration in the memorandum of understanding but -

MR VINES: Could I say that it's seven-eighths of the -

PRESIDENT: It doesn't change the fact though, Mr Vines, that if a memorandum of understanding can be achieved which contains a number of those issues, then the commission would have to consider it. You're saying that you haven't - you don't believe that that sort of issue ought to be in the memorandum of understanding. That will be something for the full bench to have regard to.

MR VINES: Sorry, I understood Mr Jarman to say that those areas of disagreement they wanted to put full submission to the commission on. What I'm saying to the commission is that those areas of disagreement I don't believe the commission has jurisdiction to hear.

PRESIDENT: Well that will be something that would have to be addressed in front of the full bench. All right, I don't think there is any point in proceeding much further. No other issues that require attention in any other areas? Have things developed reasonably well following on the last full bench?

MR JARMAN: Well, yes. You're talking with respect of the health issue or the -

PRESIDENT: I'm not talking about the health industry specifically, I'm talking about the general award restructuring issues.

MR JARMAN: I can't comment on that, I'm afraid.

MR WILLINGHAM: Well for our part, Mr President, we've discharged the undertaking of this - contained and reiterated in the full bench decision of 21 August which is that we have conveyed yet again to state service agencies the procedures by which it has been agreed implementation should occur. That has been done.

I'd also indicate to you that the - I think the second version of the conditions of service documentation has been forwarded to all interested parties. To this point in time it is my understanding that no response has been received from any employee organisation in relation to that document but I guess they're still combing their way through it. We would expect to hear their responses -

PRESIDENT: That was only last week, wasn't it, Mr Willingham?

MR WILLINGHAM: I think the week before, Mr President. But anyway I'm not quarrelling with the fact we haven't got a response; I'm just noting it for the record. So from our perspective at this point in time things are on track.

PRESIDENT: Is that the position of the other parties? Mr Vines?

MR VINES: Half on track, sir. From our point of view we have now contacted all or written to every head of agency seeking those commencement of negotiations. Unfortunately the response to that has been very tardy. In relation to the conditions of employment or conditions of service matters, we have received a second instalment of the document. Despite the fact that it was meant to be, from what we understood, the document that would have quantums and final decision, there is still no quantums. All of the meat of it refers to an appendix A or attachment A or something or other which we're still yet to see. So the simple reason that there hasn't been any response to that as yet is that we don't have anything to respond to.

So it's moving but I'm not sure whether it's sideways or backwards at the moment.

PRESIDENT: Well as long as there's some - I'm sure it couldn't be backwards, Mr Vines, it just couldn't be. I thought we'd gone as far back as we possibly could.

MR VINES: Don't you believe it, Mr President, there is still a long way to go further backwards yet.

PRESIDENT: All right. Well thank you very much for attending this morning. The matter will resume before the full bench next week.

HEARING ADJOURNED