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

FULL BENCH

PRESIDENT
COMMISSIONER GOZZI
COMMISSIONER WATLING

Hobart, 16 September 1992
continued from 8/9/92

TRANSCRIPT OF PROCEEDINGS

unedited

PRESIDENT: Are there any changes in appearances please?

MR VINES: I think today, sir, I appear also for the Australian Workers' Union. I understand some correspondence has been forwarded to you to that extent.

PRESIDENT: No, I haven't seen it, Mr Vines. It has arrived? Yes, thank you very much for that. Well, this is the commencement of the winding down period. Could I hear from parties as to the way things have formally gone in the last month or two? Mr Vines got the nod actually, Mr Pearce, unless Mr Vines wants to -

MR PEARCE: I just had a threshold question of the bench -

PRESIDENT: Yes?

MR PEARCE: - relative to today's proceedings. Did the commission have in mind a particular process?

PRESIDENT: Well, we thought we'd hear from the parties as to general report-back and then go to dealing with the matter of the - that the parties were sent away to consider - dealing with the health industry award concept. The matters of conditions of service and agency-specific items can be dealt with in the general report-back proceedings before we move to the health matter.

MR PEARCE: And also if we're able to request through the commission, those who speak for themselves during the course of today's proceedings and those who purport to represent others, could they clearly indicate to the commission, for both the benefit of the commission and the employer, as to what their precise position is in relation to any matter that they might be asked to address.

PRESIDENT: I think that's fundamental, Mr Pearce, yes - thank you.

MR PEARCE: Mr President.

PRESIDENT: Mr Vines?

MR VINES: Thank you, sir. I am speaking on behalf of the TPSA, and whilst I don't have specific instructions as to what to say, I assume I'm also speaking on behalf of the Australian Workers' Union, but primarily my submissions will relate to the TPSA. Sir, taking the first aspect that you have referred to, that is, the general report-back since the last full bench hearing on 20th - or 20 or 21 August, where at it was revealed that consultation could now begin in agencies on the review of all jobs and on the writing of accurate position descriptions, that being described in the decision of 21 August as a revelation and a breakthrough, is in response to that decision

of 21 August, the TPSA wrote to all heads of agencies seeking discussions on those matters that had been referred to in that decision. If I could tender a copy of that letter?

PRESIDENT: Yes.

MR VINES: Thirty, I think, sir.

PRESIDENT: V.31, I'm advised. Have all parties got a copy? Yes. Exhibit will be marked V.31.

MR VINES: That letter, Mr President, whilst this particular copy is addressed to the secretary of the Department of Tourism, Sport and Recreation, was sent to all heads of agencies and if I can just read that letter - actually the mailing list is attached to the back of that document.

> At formal hearings of the Tasmanian Industrial Commission held on August 20 & 21, representatives of the Minister administering the Tasmanian State Service Act indicated that Departments are expected to involve unions in the process of reviewing and re-designing jobs and drawing up of accurate position descriptions (see attached). In a decision handed down on Friday 21, the Full Bench described this "revelation" as a "breakthrough".
>
> The Tasmanian Public Service Association is anxious to begin this consultation as soon as possible. TPSA Industrial Officers will contact you in the very near future to arrange a suitable time to meet to formally discuss these processes and the mechanisms through which this work can be carried out.
>
> The TPSA recognises the importance and value of this work not only for the interests of employees but also the efficiency of the state service. The TPSA looks forward to achieving these goals in concert with you and your staff.
>
> Yours sincerely
>
> Greg Vines.

That letter as appended, sir, was sent to all heads of agencies of the government's agencies.

Within a week or so of that letter, as a result of a number of discussions between industrial staff of the TPSA, it was decided that in view of the varying progress in different departments on the implementation of those issues, that a further letter would be sent out to a number of heads of agencies to start - to

suggest a formal process and these letters were sent out to those agencies which, in effect, were not at that stage in a position to - or had not at that stage developed any formal process. And if I could tender a further letter which was sent out to - if I can remember -

PRESIDENT: There is a mailing list.

MR VINES: No, I'm sorry, sir, there isn't a mailing list attached to this one, but it was sent out to -

PRESIDENT: Well, we'll mark it V.32.

MR VINES: Thank you. Nine departments: the Department of Environment and Planning; Parks, Wildlife and Heritage; Tourism, Sport and Recreation; Employment, Industrial Relations and Training; Construction; Treasury and Finance; Roads and Transport; Mines and Audit, and the letter was written to the secretary of each of those departments stating that:

> I write with further reference to the Association's recent letter regarding the next stage in the process of Award Restructuring Implementation.
>
> If the benefits of Award Restructuring are to be achieved and to be achieved in a cooperative and consultative manner (in line with the Industrial Commission's decision) a number of steps need to be undertaken.
>
> The attached document provides a general approach which the Association believes would assist in the attainment of the objectives of Award Restructuring.
>
> I seek an opportunity to discuss this issue further with you as a matter of urgency.

And that letter went out on the 1st of September. In addition -

COMMISSIONER GOZZI: Mr Vines, just V.32 was sent out to those nine departments. Could you just identify them on V.31?

MR VINES: Yes, sir. The first one, the Department of Tourism, Sport and Recreation, Mr Tony Pedder; the Department of Roads and Transport, Graeme Kennedy; the Secretary of Mines, Mr McHugh; the Auditor General; Mr McGaurr of DEIRT; Mr Pearse of Parks, Wildlife and Heritage; Mr Ramsay of the Environment and Planning; and Mr Sproule of Construction.

COMMISSIONER GOZZI: Thank you, Mr Vines.

PRESIDENT: Tourism, Sport and Recreation?

MR VINES: Yes, sir. I mentioned that one first, sir, Tourism, Sport and Recreation.

PRESIDENT: And the other one was Treasury and Finance.

MR VINES: Oh, sorry, Treasury and Finance. Yes, the last one there, Dr Vertigan of Treasury and Finance. Also sent out at the same time was that second letter to work place representatives in those departments. It was a further information sheet to those representatives. If I could just also table a copy of that.

PRESIDENT: V.33.

MR VINES: V.33 is an example of the information sheet that was sent out by individual industrial officers of the PSA to their agencies and this is advising members of what we were proposing to do, and if I can read that information sheet as well:

> Please note attached letter and enclosure to your Head of Agency requesting the establishment of various groups to assist in the implementation of Award Restructuring in your Agency and Division.
>
> It is absolutely imperative that this process be undertaken in a co-operative and consultative manner and will require the input from all members.
>
> The Association has requested a meeting with Agency Management as a matter of urgency to ensure such occurs and will advise you of the outcome of those discussions.
>
> In the interim, however, if you have any questions on the proposed process or thoughts on how the implementation could be better achieved please contact me.

And as I say, that was signed by the individual industrial officers with responsibility for the departments.

Also, following on from that or over the same period we, the TPSA, has continued to conduct very successfully its range of training programs on the job redesign process and as I indicated at the last hearing of the bench, those courses will be continuing through until late October by which time we will have had something like 25 per cent of our membership through those training courses which is a very significant achievement in my view.

The response - if I could go through department by department - that we've had in relation to either or both of those letters and the progress - just a very brief summary of the progress in each of those departments. Firstly, in relation to the Department of Education and the Arts, we have received, firstly, a pro forma acknowledgement of our correspondence and then a follow up letter indicating the department's intention to convene TPSA and management meetings to discuss the issues. However, those meetings are yet to be convened.

In Environment and Planning informal discussions are progressing. The agency has indicated to us informally that they are not opposed to the concept of agency wide and divisional committees as was opposed in - proposed in the attachment to V.32.

Tourism, Sport and Recreation, again the discussions have only been at an informal level. The agency is in favour of establishing agency wide committees as opposed to divisional committees to look at the job redesign aspect. They favour a departmental centralised and coordinated approach.

Parks, Wildlife and Heritage, there has been no formal response, but ongoing discussions are progressing on particular occupation groups. The Department of Employment, Industrial Relations and Training have provided a formal response advising us that they will in fact engaging a firm of consultants to oversee award restructuring and their letter, as we would expect from the Department of Industrial Relations, indicates that the department recognises the role that unions can play in the process, so that gives us great heart.

The Department of Police, a number of work place committees have been established involving TPSA work place representatives and our staff, TPSA staff, are also involved in those committees. The committees are being overseen by the departmental human resource consultant and from what I understand those meetings - those ones are progressing quite well.

The Department of Primary Industry, the central part of that department, there is mixed progress. The agency managers these days, particularly as a result of the budget impact in their department, have become fairly demoralised and negative. They are focusing on the impact of those cut backs and in effect are not terribly interested in talking about award restructuring with us. Fortunately, the water boards which are individual authorities within that department, are somewhat more receptive and enthusiastic about the process of change in award restructuring.

The Department of Justice, there has been no progress to date, but a meeting has been arranged for September 23 to start talking about implementation.

The Department of Community Services is somewhat confused now as a result of the government's decision to abolish that department and what our staff and their - or what TPSA staff and their counterpart human resource people in that department are hoping to do is to use the consultative committees that will be established as part of the departmental merger process to also oversee these aspects of award restructuring because, of course, it would be very difficult to do the two in isolation particularly where jobs and work places and everything else are being redesigned.

Our concern there is that this will further delay the implementation of award restructuring in that area, but we will have to monitor that fairly closely. We have an agreement from the relevant minister that there will be full consultation on the development of the new department and he has also indicated that he will be pursuing a course which will ensure that that department and structures are established in a reasonable period of time, unlike the establishment of the Department of Community Services itself, which is still finalising its restructure from July 1989. The Forestry Department or Forestry Commission -

PRESIDENT: I might ask Mr Jarman a bit more about that a little later, Mr Vines. I still don't understand where it's got to, what impact it's had.

MR VINES: Oh, in community services. What part don't you understand, sir?

PRESIDENT: Well is it - has the merger formally taken place?

MR VINES: Oh, no, no, it has only been announced. The minister is very particular, as I'm sure Mr Jarman will be, to say that it is not a merger. Two departments are being abolished and a new one is being created. At this stage it is nameless, but we understand the favoured name is the Department for the Sick and the Poor. The government or the decision has been made. They are now just going through the consultative process to actually work out how they are going about establishing that department.

PRESIDENT: So, at the moment, community services is still operating as if it were a department?

MR VINES: Well, in effect, but much of their corporate services work is being done by the Department of Health for some time anyway.

PRESIDENT: Oh, I see, yes. Okay. Thanks.

MR VINES: Forestry Commission, discussions involving the TPSA are occurring. Meetings have been arranged to discuss translation. Parliament House, discussions with the TPSA are to occur shortly, although I understand we might have difficulty getting into the building. The Department of Construction, replies to our letters have been received but in those replies there is no evidence that the department intends to involve unions in the award restructuring process. We have received no response to those letters from Audit, and we have received no response from the Department of Roads and -

PRESIDENT: Could you go back to construction again; what was the point you were making about that?

MR VINES: Well as far as the reply to our letters go, we have received replies, but there is nothing in those replies to indicate the department is prepared to involve unions in the process.

PRESIDENT: Yes.

MR VINES: So, of course, we are -

PRESIDENT: Is it assumed or - ?

MR VINES: Oh, nothing is assumed with that department, sir, no. No, no, it is not assumed. We're following that up of course -

PRESIDENT: Yes.

MR VINES: - but, no, it's not safe to assume that. The Department of Construction are quite clearly not a high priority to award restructuring because they're giving a higher priority to getting rid of their work force by the end of the year. They see 1 December as the target date, not for award restructuring, but for termination of employment. Similarly, we have not had responses to those letters from Roads and Transport, Treasury and Finance, Premier and Cabinet, or Mines.

In relation to agency specific items and discussions there, discussions on those matters have commenced with Construction, Roads and Transport, and Forestry. In most of those instances they have given us conditions of employment as far as a heading goes. For example, it might be sick leave, but then no explanation or no expansion at all as to what they want to do with sick leave, so we have been given one-line proposals. Our requests for further detail on those items have so far gone unheeded.

It appears that DPAC involvement on these issues on an agency basis seems to be most concerned with establishing some form of single unit coverage in each workplace, and they are not giving any real interest to any of the other probably more significant issues.

The Forestry Commission, for example, with DPAC's involvement, discussions there have primarily centred on demark in the work in that area, despite the fact that continually at these proceedings and in all negotiations we have made it very clear to the employers that the unions see that as an issue that unions will sort out, not one that is there for negotiation with DPAC.

Tourism, Sport and Recreation, we have received a list describing the range of conditions that they want to discuss, but again there has been no explanation, they have only given us headings.

PRESIDENT: Have you had any meetings with these people to talk about that?

MR VINES: No, not in Tourism there hasn't been.

PRESIDENT: But there have been meetings in Construction, Roads and Transport, and Forestry?

MR VINES: That's correct. And what we are finding right across the board is that management within the departments and DPAC itself appear to be very reluctant to actually articulate what it is that they want on their agendas. As I say, they will give us a list of headings, as have previously been submitted to the bench, but no more detail than what is in those.

In relation to the issues of conditions of service, the third aspect of all of this, the commission will recall in its decision of 4 May this year it indicated that it would accept Exhibit H.27 that was proposed by the minister, with the exception of one variation, that was the date on which the draft, a final draft of conditions of employment matters wasto be provided. You changed that to 1 September 1992.

The H.27 where it referred to that, or what that was about, was that it states from H.27: A first draft setting out form, structure and substantial content to be provided by July 1992 with the final draft, including quantums, to be available by September 1992, which the bench determined would be 1 September '92.

We have been provided with a document. The document proposes clauses in relation to abandonment of employment, allowances, annual leave, Bass Strait Islands Allowance, bereavement

leave, bushfire fighting, court attendance, definitions, first-aid kit and certificate allowance, hours of work, overtime work in addition to ordinary hours, parental leave, payment of wages, public holidays, shift work, sick leave, special rates, tools, uniforms and protective clothing, travelling allowance, fares, and union activities.

However, in most cases there has been no quantum provided or, alternatively, there are references to quantums in a schedule; the schedules have not been provided. So, despite the direction of the commission that we were to have the final document with quantums, we have only received a further instalment, if you like, as at whatever today's date is, about 16 September.

So that makes it extremely difficult for us to negotiate at all on that document, because quite clearly you can't negotiate on something that you don't know what it is, and that is, of course, leading to further delays. So, our view is that serious negotiations on the package as it is at the moment are impossible, and we need further instruction from the bench for the government to adhere once again - or possibly for a first time - to a decision of the commission. The unions - public sector unions -

PRESIDENT: Are you ready to go into arbitral proceedings on conditions?

MR VINES: Well, I was about to say that the unions - we were surprised by the response without the quantums - the public sector unions are having a meeting on Friday to determine a position to bring back to the commission. The reason that hasn't been done so far is that we were hoping that through discussions, between the arrival of that document on, I think 2 September and now, we would have been able to get the quantum but, unfortunately, that hasn't yet been given.

From the TPSA's point of view we're prepared to go to arbitration, but that is not, from what I understand, the position of all of the unions, so we won't be asking for that today. But I dare say the next time we are before you we will. Although our view is that with the document that has been presented to us so far that indicates a very serious and severe attack on conditions of employment. It is not a document that is going to be easily negotiated because it is not a document that seeks to bring in a fair system of conditions of employment. In just about every clause its a reduction and an attack on conditions of employment.

So that with the exception of health is, I think, where we've got to in relation to this whole process. I've deliberately not reported on health at this stage seeing you wanted that kept -

PRESIDENT: I'd like to keep that separate.

MR VINES: - separate. So our view at this stage is, Mr President members of the bench, that my staff are continuing to try and push the implementation of award restructuring. Whilst there are some softer bricks in the brick wall, the brick wall is well and truly there and they're starting to get headaches from 12 months of banging their heads against it.

We have very serious doubts, very serious doubts, about the commitment of most departments to the whole concept of award restructuring and we are not at all confident that award restructuring is actually going to be implemented. And whilst we will continue to push it, I think the bench should be aware that we would regard, because of the employer attitude, the future of award restructuring in Tasmania is not at all bright. If the commission pleases.

PRESIDENT: Don't give up heart right at the moment, Mr Vines.

MR VINES: Oh, we're not, sir. I mean, it's occupying probably 50 per cent of my staff's time which they've got more important things to be doing at the moment, like going out and trying to save jobs instead of banging their head against brick walls all around the place. We will continue to pursue it but it would be very heartening, from my officials' point of view, to get some support from the bench in getting the whole thing processing. If the commission pleases.

PRESIDENT: All right. Yes, thank you.

COMMISSIONER GOZZI: Mr Vines, what support particularly are you referring to?

MR VINES: I think there - sooner or later it has to come where the commission makes a decision on what's going to happen in award restructuring, that it actually happens. Since November last year we've had, what we regarded particularly with the November decision, a very constructive decision referring to the success being contingent upon such things as cooperation and consultation, effectively being ignored the whole way through. We had been pushing a submission to the commission since February this year about the lack of ability for individual departments to negotiate with us. It was until August - we had to wait until August, 8 months into the year, that that issue was resolved.

The area on conditions of employment, a very firm decision was made by the bench on that. That has been ignored. So far it's been very much a one-way street where the unions have accepted all of the directions given to the commission, have acted in good faith, have spent, particularly in the case of my union, hundreds of thousands of dollars trying to get this

whole process up and running about fair dinkum workplace reform and award restructuring. But as I say, we're just banging our head against a brick wall; we've just got glazed eyes when we talk about award restructuring now.

And so what we would be looking for is the bench to say: Well, okay, enough is enough. We've got 3 months to get it finished off; go and get the damned thing finished.

COMMISSIONER GOZZI: Fundamental to the bench's decision though was that the conditions of service and agency specific matters be dealt with concurrently. Now it seems to me that if conditions of employment matters are not progressing the way you'd want them to progress then, of course, you've got the option, as the President asked, for the matters to be arbitrated.

MR VINES: Oh, yes, we're aware of that, sir, but it doesn't give a great deal of comfort to people when they see a decision of the commission being deliberately ignored and then the response to that being to us: Oh, well, you can come and have the conditions arbitrated. I mean, you did give a decision, a very, very clear decision as to what was to happen. That hasn't happened in relation to the conditions of employment.

I think both the spirit, the intention and probably even the facts that have been put in other decisions have indicated very clearly what is to happen in relation to agency specifics and the actual implementation of job redesign, translation and all of those sorts of things. But as the list shows that I've read out, our approaches to get that up and running have been largely ignored.

It is not a high priority in any department to have award restructuring implemented. And the longer this process goes on the more evident that is becoming. We were speculating that in February. Now we're coming here and producing the evidence of it. But in response to the president's commission -

COMMISSIONER GOZZI: Yes -

MR VINES: - my union will continue to push on because we see that it is the only alternative to what otherwise is going to be further unnecessary reductions in service and jobs in the public sector, because we believe that proper workplace reform, done properly between unions and employers, is the only way that this public sector is going to get out of the deep black hole that it is in now.

COMMISSIONER GOZZI: So in essence you're saying that the document that was made available to you on conditions of

employment on 1 September does not meet the spirit and intent of the commission's decision.

MR VINES: Well the words of it, that's correct.

COMMISSIONER GOZZI: In that?

MR VINES: It's not complete, it does not include quantums and they were the two - but it was to - the commission decision was a final draft and including quantums.

COMMISSIONER GOZZI: Thank you, Mr Vines.

PRESIDENT: Well the minister's representatives indicated that the document was the final document and I assumed that that at least means in terms of the general content. So the issues that are sought to be addressed in that document have been addressed. It's only the quantum in some cases that hasn't been provided.

MR VINES: Yes, I wouldn't say `only the quantum' because as we've made clear right through this whole process, the quantum is the most important part of it all. How can we negotiate issues if we don't know what the quantum is?

PRESIDENT: I wasn't trying to -

MR VINES: Yes, I accept that, sir.

PRESIDENT: - reduce the importance of the quantum but it is just that feature.

MR VINES: Yes.

PRESIDENT: It's that important feature that's missing.

MR VINES: Yes. Well if we assume that the only conditions of employment the government wants to look are those that are in that document that they've given us so far, that's one thing and we will accept that if that is the case. And that gives us some direction. But still the quantums issue is a major issue.

PRESIDENT: Yes.

COMMISSIONER GOZZI: Mr Vines, I'm a bit intrigued, I suppose, if quantums are the most important issues and quantums haven't been specified in the document that's been issued to the union, how can you conclude then that the conditions contained in that document represent a reduction in existing conditions of employment?

MR VINES: Oh, because not all conditions relate to quantums. Not all conditions of employment have a quantum in them.

COMMISSIONER GOZZI: So you're saying where they don't relate to quantums there is a reduction. Can you give us an example of the sort of thing you're talking about?

MR VINES: Definition of temporary employee is a reduction to what's currently in the award.

COMMISSIONER GOZZI: In what context?

MR VINES: Sorry?

COMMISSIONER GOZZI: In what way? What's the reduction; how's the reduction represented?

MR VINES: It's taking it back to the definition that is currently in the State Service Act, which is very different to the definition that is in awards and therefore the decision that prevails, the definition that prevails.

COMMISSIONER GOZZI: I'm sorry, that doesn't mean anything to me, I'm afraid.

MR VINES: The definition of a temporary employee in an award is more protective or advantageous to an employee than the definition in the State Service Act.

COMMISSIONER GOZZI: And is it your submission that that type of reduction is reflected throughout this document that you've received?

MR VINES: That's correct, sir, yes. From our point of view I don't think we've found, quantums aside, either in processes or suggestions, anything that is to the benefit of our membership anyway. We've only looked at it from the point of view of our membership at this stage.

COMMISSIONER GOZZI: So from your point of view there are aspects then in that document that could be the subject of arbitration.

MR VINES: I would say so, yes. Unless - unless we see the quantums. I mean, if we see the quantums they might be saying: all right we'll tighten up the provisions in relation to temporary employment but we'll give you an extra 8 weeks leave a year. That's probably something we'd consider. But it becomes very difficult to negotiate - I mean because we accept that what we're negotiating here with the conditions document is the full package, we're not just negotiating one issue and then another issue and then another issue, it's going to be a full package that's negotiated and it's very difficult to do that unless we know what the quantums that are proposed are.

COMMISSIONER GOZZI: Yes, thank you.

MR VINES: If the commission pleases.

PRESIDENT: Yes, thanks, Mr Vines. Who wishes to go next? Mr Pearce?

MR PEARCE: Another by surprise, Mr President.

MR VINES: What did you say, Pearce?

MR PEARCE: Caught me by surprise.

MR VINES: Unusual.

MR PEARCE: Mr President members of the bench, in respect to the general view of the government relative to award restructuring processes, we would iterate we in our perspective believe that there is a lack of commitment by organisations generally to all of the objectives of the award restructuring decision. We believe that the process lacks goodwill. We believe that there is a lack of goodwill on the part of the organisations to negotiate in good faith. We're confronted with conflict at every corner, at every turn. Every opportunity is taken -

PRESIDENT: Where you say conflict, Mr Pearce, do you mean -

MR PEARCE: Conflict not in the -

PRESIDENT: - between the organisations or between the organisations and government?

MR PEARCE: Conflict between organisations and government in a general sense. Not one opportunity is missed in the course of proceedings in this commission, and today is no exception with the TPSA particularly, to take the opportunity to seek to undermine the processes of H.27. They use every opportunity to use this forum as a means of venting their considerable spleen, not only directed at the government but also, as was witnessed on previous occasions, at the commission itself.

It appears to us that the sole and single minded aim of certain organisations, of which the TPSA is one, to frustrate the process. To debase and discredit H.27 ultimately with a view to having all issues arbitrated whilst avoiding the prospect of negotiation. Award and workplace reform, as has been said before, and presumably will be said into the future, will not come easily. It requires a significant commitment encompassing attitudinal change and the spirit to work to the future, not to dwell in the past.

Positive aspects of reform will not, in our view, be achieved through a continual approach of confrontation. Negotiated settlement is to be absolutely preferred to circumstances of having outcomes imposed. Clearly at the end of the process there may well be need to have recourse to the commission on matters where there exists fundamental disagreement. We as the government cannot seriously consider that each and every matter should be the subject of arbitral process. If that is the case, and it appears as being put this morning, then it's prima facie evidence that the commitment and goodwill necessary to achieve -

MR VINES: Mr President, could I just object at this stage? I'm getting a little bit lost. We have not asked for arbitration this morning. I apologise if I've upset the - prior to the hearing's preparation from the government. Maybe they are expecting us to ask for arbitration, but we definitely have not asked for arbitration this morning and I think if this sort of submission is going to be put, saying that we are seeking to undermine the process of H.27 and frustrate the process of H.27, a few facts had better be put on the table. We've put detail of our submissions. I think it's time for a few facts.

PRESIDENT: Yes, I understand what you're -

MR VINES: And also that the advocate be advised that there has been no request for arbitration. If the commission pleases.

PRESIDENT: Yes, yes, I think that's a fair comment, Mr Vines.

MR PEARCE: The inevitable consequence of what falls from Mr Vines' initial observation in relation to conditions of service would lead us this morning to suggest that they would place scant regard to - have paid scant regard to what is in that document.

PRESIDENT: He did - he did make the point that he was not seeking arbitration, he couldn't do that.

MR PEARCE: Well I - I clarify that by saying the inevitable consequence might well be in relation to the submission placed by them this morning.

COMMISSIONER GOZZI: I think Mr Vines was responding to questions that I put to him. He's simply saying if the process is as bogged down as it appears to be, then really the alternative may well have to be arbitration. Obviously I would be hopeful and I'm sure everybody would be that that wouldn't be necessary.

MR PEARCE: It's certainly our preferred view - Mr Commissioner.

COMMISSIONER GOZZI: But people have to make judgments about that at the end of the day as to how the matter's progressing overall.

MR PEARCE: Well progress, and when we can go back to W.2 of whatever era that was - it seems a long time ago - I suspect there hasn't been too much progress in that time - there's been a lot of money paid out, but there hasn't been any dividends in return and there's no sign that in the immediate future there will be returns to the employer. An example -

PRESIDENT: Well of course, Mr Pearce, that was one of the reasons why our decision was constructed the way it was, that these things all had to occur before the money changed hands.

MR PEARCE: I appreciate that, and even in spite of what the bench is saying, there seems to be a priority amongst the TPSA to pursue issues which relate to remuneration rather than the fundamental issues of workplace reform.

PRESIDENT: Yes. Mr Pearce, are you going to respond to the specific point of Mr Vines, that - in relation to quantums?

MR PEARCE: Oh indeed, I shall, Mr President.

PRESIDENT: Yes, yes. Thank you.

COMMISSIONER GOZZI: Mr Vines - Mr Pearce, sorry - I've heard now on numerous occasions that from the minister's perspective thatall the unions seem to be seeking is money, or pursuing those aspects that deal with increases in salaries. Now whilst I can recognise that that would be of concern, doesn't it all come down to one basic fact, and that is that the bench has indicated that the package per se, which is not only confined to new structures with the rates attached to them, will not operate until such time that those other issues which go to conditions of employment and agency-specific matters have been dealt with. So, is it really important - and that is my question to you - is it really important in the overall context to get this whole thing going, what is dealt with first?

MR PEARCE: Well it's certainly one redeeming feature of the commission's decision which we support in that context. However, it's the prioritising of it, I suppose, from the government's perspective as distinct from the perspective of organisations.

COMMISSIONER GOZZI: Yes, I don't understand this prioritising bit, Mr Pearce, because the bench has already put in place structures with rates of pay. Now, they exist. The

bench has already indicated on numerous occasions that to make those structures work there ought to be a job redesign process undertaken and a classification process undertaken as a consequence of that redesign process. The bench has already indicated that those tasks ought to be commenced as a matter of some priority and we indicated that quite some time ago. We've also put in place a timeframe for conditions of employment. We've endorsed the examination of agency-specific matters. It seems to me that the framework is well and truly in place. It's the process between the parties themselves to achieve the outcomes that seems to be deficient.

MR PEARCE: Yes, if I could just add to that, that with the protection that appears in the commissioners' decision which can be afforded to the employer in the sense that unless the to other arms of the package and of agency-specific and conditions of service matters are settled, then the translation process won't - well the remuneration benefits arising from the translation process won't begin to operate.

COMMISSIONER GOZZI: Would it be wrong for me to suggest that what we envisaged in our decision was a vigorous approach to workplace reform supported by the parties in the structured - in a structured way, and it appears to me that that vigorous pursuit of workplace reform in terms of conditions of employment, agency-specific matters, hasn't taken place. And it appears to me also that in respect of the preparation of job descriptions to fit in with the classification structure hasn't taken place either.

MR PEARCE: Well, I think that matter is being, certainly, opened up -

COMMISSIONER GOZZI: It's been opened up now -

MR PEARCE: - from the perspective of the TPSA since last proceedings in this commission.

COMMISSIONER GOZZI: Yes. So really, I'm asking you what the concern is from your point of view. You're making submissions that you think the bona fides of the other parties are not genuine. I'm just saying to you that the framework is in place, the decision I - and the statements that have been issued are clearly indicative of what the bench sees should happen. Why from your point of view and from the minister's point of view isn't it happening?

MR PEARCE: Well if I could turn to the specific matter which was addressed by Mr Vines this morning, and that is the issues of conditions of service. And he rightly made reference to the conditions of H.27 by which conditions of service matters would be processed, and indicated the first draft setting out the form, structure and substantial content

could be provided by 15 July with the final draft including quantums to be provided by 1 September.

What he omitted to say was the following paragraph:

> The working group will meet following receipt of the first draft. If appropriate, subgroups may be formed to consider particular conditions matters.

To expand upon that, if I could take the commission back to the submission by Mr Hanlon representing the government on 30 April where he explained the process of conditions of service. And if might just requote:

> On conditions of service we propose that to assist the parties which seemed not to either have the resources or the task - or the task was too large to process conditions of service via the process which we've used up until March of this year, that is, regular meetings with submissions by both parties of various clauses, working through them to suggest what we would produce a package that would enable the structure for the style and model Conditions of Service Award to be understood. And it would be our intention that we would contain the words and the form and that we would then prepare a quantum of the various entitlements and submit that, and we suggested September so that the parties or that aspect of it, because we've always said there needs to be a packaged approach that would have to be worked through sufficient of the agenda that we would be in a position to know where we were heading in terms of the costs and benefit.

What was being proposed and what was being said was that the granting of the first draft would not occur in a vacuum. I mean, what would be the purpose of submitting a first draft if nothing were to occur in the interim before - before the development of the second draft. On 15 July we met our obligation per H.27. That of itself is an invitation to the trade union movement to respond. We have waited expectantly but there has been no knock at the door, not a word.

MR VINES: Mr President, I must rise again. I know Mr Pearce may be at a disadvantage because he wasn't at the last proceedings, but if I can refer him to exhibits V.29 and V.30. They were the exhibits whereby we wrote firstly to - V.29 was the exhibit of 26 June 1992, where J.A. Bacon, secretary of the Trades and Labor Council wrote to the Premier asking that meetings commence. V. 30 was the Premier's response, which didn't - which in his response didn't give any reasons.

PRESIDENT: Was that on conditions of service?

MR VINES: It was on all matters of implementation of award restructuring. I'll read V.29 back to the commission.

PRESIDENT: I could -

COMMISSIONER WATLING: Mr Vines, state those letters again?

MR VINES: 26 June was V.29 -

COMMISSIONER WATLING: Yes.

MR VINES: - the Premier's response was 24 - sorry - 4 August.

MR PEARCE: Given the requirement of H.27, which said, that the first draft is required by the unions at - by 15 July, I fail to see the relevance of the letter quoted by Mr Vines of June 26. We met our obligation relative to 15 July. The unions for whatever reason have chosen not to come back and respond in any way, shape, or form to the proposition contained in that draft.

MR VINES: Because we're still waiting for discussions on it. We're still waiting for those meetings.

PRESIDENT: But Mr Pearce -

COMMISSIONER WATLING: Can I just ask a simple question and try to break through some of this? The bench decided the dates that the conditions of service should be forwarded to the other side. A simple question: When were they forwarded to the other side, were they complete, and did they contain quantums?

MR PEARCE: The first draft was due by 15 July, and - and I understand was met.

COMMISSIONER WATLING: Right. Final draft?

MR PEARCE: The final draft, including quantums, was to be provided by 1 September 1992.

COMMISSIONER WATLING: Right.

PRESIDENT: The second draft was provided, I think by that date, or on that date or posted on that date and received on the second -

COMMISSIONER WATLING: Right.

MR PEARCE: - with quantums.

COMMISSIONER WATLING: Right.

MR PEARCE: Because the essential element between the giving of the first draft and the preparation of the final draft would have required a process of negotiation.

COMMISSIONER WATLING: So - so you took it upon yourself to exclude the draft - the quantums which were contained in the commission's decision which said you had to; right?

MR PEARCE: Yes.

COMMISSIONER WATLING: Because of something else that happened prior, or didn't take place prior?

MR PEARCE: Because something - because of nothing that happened in the intervening period between the first and second draft.

COMMISSIONER WATLING: Well, why - why - why didn't you carry out your end of the bargain in accordance with the commission's decision? You could have come back here and told us that: well, this is what you've served on the unions in accordance with the commission's decision, but you could have then pointed out that nothing happened in the intervening period.

MR PEARCE: It wasn't for us to point out whether or not nothing happened in the intervening period, Mr Commissioner.

COMMISSIONER WATLING: Well, why didn't you stick with the commission's decision?

MR PEARCE: Clearly because the essential elements, as I've explained, in the process of 30 April would be that discussions would go to structure and form without quantum in the first instance.

COMMISSIONER WATLING: Well, that's right, and they did. But the commission's decision said the whole lot had to be there by the 1st. Why didn't you carry that out?

MR PEARCE: We clearly didn't carry it out because no discussions had taken place between 15 July and 1 September, and to enable us to form a position -

COMMISSIONER WATLING: Well, was our decision -

MR PEARCE: - as to what was put in the first instance -

COMMISSIONER WATLING: Was our decision predicated on that point?

MR PEARCE: Well, certainly if - if -

COMMISSIONER WATLING: No, no, take me to the -

MR PEARCE: - H.27 is an endorsement of the -

COMMISSIONER WATLING: Let's not fudge around. Take me to the decision where it says it's predicated on the point that - that it had to take place first, otherwise you had the liberty of not referring to the unions the total document including quantums.

MR PEARCE: Well, quite frankly, I think the position of the employer is, it's not prepared to reveal its full position until the process of negotiation commences.

COMMISSIONER WATLING: No, that's not my question.

MR PEARCE: Well, I'm - with respect, Mr Commissioner, I can't give you any other answer, apart from the fact that there's been no negotiation process. The employer is withholding his final position in terms of quantum.

COMMISSIONER WATLING: So, you took it upon yourself not to forward it and disregard the commission's decision on that point?

MR PEARCE: Well, it's probably a question which can also be relevantly directed to others, as to why no - as to why -

COMMISSIONER WATLING: Well, that -

MR PEARCE: - the working groups did not meet following its distribution of the first draft.

COMMISSIONER WATLING: Yes. Well, I - I'm really trying to find out what happened from your side, in view of the fact that the commission's decision quite clearly stated that certain things had to happen. And I'm just trying to find out in simple language whether it did happen, because there's some allegations being made that it didn't.

MR PEARCE: The answer is, it didn't happen.

COMMISSIONER WATLING: It didn't happen.

MR PEARCE: The quantums have not been provided, Mr Commissioner.

COMMISSIONER WATLING: Right.

MR PEARCE: And if it is a perception from this end of the table that to provide quantums in the absence of any negotiations, or to provide quantums is merely to act as a distraction from the basic elements which should under -

underline the particular term of the condition that we're talking about.

Mr Commissioner, if we can take a simple example, the issue of bereavement leave. It is covered by regulation. It is covered by awards of this commission, both as per the state standard as developed, I think, in the mid '80s with which you yourself, Mr Commissioner, would be familiar, it contained - it is contained in awards of this commission which do not reflect that state standard. It is contained in awards of the federal commission relevant to state employment, which are also dissimilar to the provisions in other awards.

The differences go to quantum, in terms of days. The differences go to distinctions relative to whether people are entitled to leave up to and including the day of the funeral. There are differences going to people who are absent or need to absent themselves on the death of a relative outside of Australia. There are differences going to the notification required by the employee to the employer.

Each - somewhere in the state service some person, or some persons benefit by either the optimum condition, and some are subject to the minimum condition. If we were to put quantums in which were - if we were to - if we were to throw up our hands and say: Look, there's 16 award conditions we just can't get a balance so let the status quo remain. There's no reform in that.

If we take the optimum which is clearly acceptable to the other side of the table, there is no reform in that from the government's perspective. Clearly the government has chosen to analyse each of the conditions and to develop what it believes is a reasonable, affordable condition of employment in keeping with community standards.

The problem is, that Mr Vines has spoken in respect to the TPSA, we haven't heard from the others because we were advised through Mr Vines that they haven't met. But there seems - the problem from our perspective is that the vested interest still comes through. What we say is, organisations must divest themselves of the vested interest and have a look at what is fair and reasonable, otherwise we will merely continue with 16 different provisions. So what we've done is, we've laid the -

COMMISSIONER WATLING: I can under - I can understand that, and I - but I just say that if - I think if I was on your side of the fence and you were being frustrated, as you put it, from having negotiations and the bench gives you a decision which says that you have to do a certain thing by a certain time, I think you must be the only employer that I have found bashful in being - in placing a log of claims before the union. You tell us you - on one hand you've been frustrated

and there was no meetings et cetera, et cetera. Why are you so bashful then to - to put the claim on the unions?

MR PEARCE: We've already heard from Mr Vines this morning, almost categorically dismissive, of what it is we've put in the first instance.

COMMISSIONER WATLING: Well, that's fair -

MR PEARCE: Not prepared to entertain.

COMMISSIONER WATLING: That's fair enough.

MR PEARCE: Not prepared to negotiate.

COMMISSIONER WATLING: That's fair enough. This will - this -

MR VINES: Well, I didn't say that.

COMMISSIONER WATLING: Mr Vines. That - that will happen, won't it? Undoubtedly you'll place a log of claim on the union, the union will either agree with it or disagree with it. If the union are unhappy with it surely they will place some sort of log of claims back on you. Right?

MR PEARCE: Well, I mean, they're open to make application at any time they wish.

COMMISSIONER WATLING: Right. Well, we're looking at a sensible process here. They'll place a log of claims back on you. At the end of the day you'll probably sit down and you'll probably agree on some and disagree on the others, and then if you can't move any further that's when probably the parties will invite the bench to arbitrate the issues. But no-one seems to be game to start the process.

MR PEARCE: Well -

COMMISSIONER GOZZI: I concur with those remarks totally, Mr Pearce. I mean, we've embarked upon an exercise - a mammoth exercise. I mean, I think the parties themselves -

COMMISSIONER WATLING: The unions are just as bad, by the way, for not placing the claim.

COMMISSIONER GOZZI: - should stand back and have a look at - at that, what we're attempting to do. We're looking at reducing 63-odd awards down to four main principal awards. We're looking at trying to get in place conditions of employment, agency specific matters which reflect the proper intent of workplace reform. And it seems to me entirely appropriate to get the ball rolling for the employer to put a position, and it might even be its final position.

I'm not saying you should even put an ambit claim. I mean, the argument that was put, I think by yourself Mr Pearce, in respect of the employer being in the best position to come up with the benchmark rates of pay, holds equally, I think, for conditions of employment. I think you need to know how you should want - how you want to organise your work environment.

And I think it's proper for the employer to put that position to the unions, and that was fundamental I think in our thinking going to 1 September deadline as far as putting quantums and conditions of employment forward. The process needs to start. And the process needs to be done on the basis that the employer is best placed to make those judgments about what method of operation best suits his work environment.

Now, unless that happens I think we're going to be sitting here for a damned long time waiting for somebody to bounce the ball. I thought that this bench determined who should - how the ball would be bounced, and that's why we've said that quantums should be put forward by the - by the minister, by 1 September.

MR PEARCE: What did the bench envisage by - in the 6-week period between 15 July and 1 September?

COMMISSIONER GOZZI: We envisaged that you -

MR PEARCE: And the reference to the working -

COMMISSIONER GOZZI: - we envisaged that the minister would put forward the conditions of employment that he considered would be necessary to run an efficient state service.

MR PEARCE: He did so in the first instance on 15 July.

COMMISSIONER GOZZI: Well, I'm simply saying to you, I saw as a final document, a totally inclusive document being put forward on 1 September, that negotiations would revolve around that document. And as Mr Commissioner Watling indicated, if parties couldn't agree we'd be arbitrating as a last resort.

COMMISSIONER WATLING: You see, if you placed a log of -

MR PEARCE: Yes.

COMMISSIONER WATLING: - if you place an initial claim on the unions at the date - at the initial date, and they didn't want to discuss with you that document, don't you say: Well, tough. I've got a - a decision of the commission to observe by another date. If people don't want to discuss it with me after I issue the first one, so I'll issue the next one in accordance with the decision of the commission.

Now - and if the unions don't like it, then they can issue a log on you. And I have to say, the unions haven't been proactive in this area, because they probably should have issued a log of claims on you in relation to conditions of employment.

MR VINES: We're not allowed to.

COMMISSIONER WATLING: Well, I hear someone interject saying they weren't allowed to. I've never seen the unions bashful either in doing that type of thing. Since when have the unions said they're not allowed to issue a log of claims on the employer? Never heard it in my life. It's rather ludicrous. So, I think it - it goes both ways. And I think both sides could be a bit proactive - or a bit more proactive in that area.

MR PEARCE: Well, the proactivity in general - in general was all one sided, Mr Commissioner. Has been to date.

COMMISSIONER WATLING: Right.

MR PEARCE: That's the - the position relevant to the employer on matters of conditions of service and the processes which have occurred to date, and the reasons why we have moved in that specific way. There are a couple of other elements that were addressed by Mr Vines, the issue of agency specific matters. And I think on the last occasion I outlined that there had been meetings at Department of Construction, Roads and Transport and one was imminent at Forestry, or it may have occurred, I - my recollection is slightly obscure on that.

However, since that time there was a further meeting, I'm advised, at Department of Construction. There were 17 organisations invited, and the dwindling attendance problems at TFL paled into insignificance in relation to that, because two organisations attended. And that was after the last hearing - the last report-back hearing on 21 August. Two out of 17.

And they say in their most recent correspondence there appears to be some reluctance by - on the part of Department of Construction to involve unions, not that the Department of Construction said that absolutely. It is an assumption. But if it's an assumption, then perhaps it has some justification when one realises that where they are invited they choose not to attend anyway.

COMMISSIONER GOZZI: Even more reason -

MR PEARCE: How can we develop agency specific matters?

COMMISSIONER GOZZI: Even more reason for you to prepare the agenda. I mean, why wait for somebody else to tell you what it is that you should - that you should get by way of workplace reform? I mean, I've never heard in the private sector, Mr Pearce, -

COMMISSIONER GOZZI: - I can tell you, an employer waiting to be told by the union what it is the employer should want by way of work place reform. Normally - normally - and where it's been very successful, the employer has said: Look, this is my agenda for work place reform; this is what I want, and they've gone for it, and in some cases, spectacularly successfully. Why should the government, if it is interested in public sector efficiencies, wait for some claim to come from the unions? Why wouldn't the government -

MR PEARCE: Let -

COMMISSIONER GOZZI: - the minister simply say: Look, we - as I said before - we want to run an efficient state service; these are the reforms that are necessary to bring that about.

MR PEARCE: Well let's say one of the efficiencies will come about as a result of the organisations being able to amicably resolve their internal demarcations or demarcations between organisations. Once again, Mr Vines gets to his feet and rightly says: That is something we will deal with in our own time.

COMMISSIONER GOZZI: I must say I just about feel like going through the roof on demarcation, Mr Pearce.

MR PEARCE: When is the time going to come?

COMMISSIONER GOZZI: We have said it and said it and said it that demarcations will take care of themselves when we determine interest in the new awards.

MR PEARCE: Well I understood -

COMMISSIONER GOZZI: We've said it that if it can't be negotiated, then clearly it can't be, then that is the appropriate way that that issue should be determined. We've said that.

MR PEARCE: Aren't we entitled to know in the end result with whom we are going to be negotiating?

COMMISSIONER GOZZI: Well, Mr Pearce, -

MR PEARCE: The processes are available now and I think it was said in an earlier - in earlier transcript back in April and I think it was yourself, Mr Commissioner, who -

COMMISSIONER GOZZI: I said it.

MR PEARCE: - said that the 16th, the 28th, the 29th and the 6 and 7 of October would be set aside for matters of arbitral purposes for conditions of service issues, award interest. I mean, those processes can go ahead without - they are available now.

COMMISSIONER GOZZI: Mr Pearce, I think the reality is that we have currently still got in place 60-odd awards. We have parties and persons bound to those awards and there are a cross-section of unions in those awards as well as the minister and the TTLC. I think reality will indicate that it's going to be - you're going to be waiting for a long, long time for the unions to resolve who exactly ought to be in these areas and who ought to be out. The commission was mindful of that difficulty and provided the minister and the unions with a process to resolve it.

I don't see how you can legitimately say that demarcation between unions becomes a problem for you in that context. We're aware of it - we've been made aware of it virtually from day one that that was on the agenda of the government to rationalise a number of unions to respective awards. The forum and the mechanism will be there for you to argue that.

MR PEARCE: Well -

COMMISSIONER WATLING: And let's face it, if you're saying that you're not going to move until the unions demark - or until the unions sort out their internal problems, they may well say to you: Well if you want to sort out our problems, we can go into your areas and sort out some of the problems that you have in your areas in terms of the people that you represent - not you personally, of course. So I think maybe the employer should look after his own organisation and the employees should look after their own organisation.

MR PEARCE: Well as long people are cognitive that it is an inhibiting factor in this whole process.

COMMISSIONER GOZZI: Mr Pearce, I don't see it can be an inhibiting factor in the context of preparing what it is that you want. It might be difficult to achieve it in negotiations, but fundamental to the workplace reform is knowing what it is that you want.

MR PEARCE: Let's just take the correspondence from the TPSA to the agencies of 25 August and 2 September. Let's take, for example, the letter that went to the Department of Roads and Transport. There are nine organisations, many of whom would have been subject to the processes which were outlined in the

hearing of 21 August, and yet there is no unity of purpose amongst the organisations as to a cooperative approach amongst themselves in approaching the department. The TPSA of its own volition - presumably without reference or indeed without seeking to involve other organisations - would seek to set up little working parties within the Department of Roads and Transport -

MR VINES: We're proactive.

MR PEARCE: - to look at issues of - yes, but that then follows that each of the other nine organisations is going to presumably want to set up their own separate little working parties - here we go again. Why couldn't there be a coordinated approach from the organisations in respect of that particular issue?

PRESIDENT: So, how did construction respond?

MR PEARCE: That was Department of Roads and Transport.

PRESIDENT: Well, roads and transport, how did they respond?

MR PEARCE: I'm only reliant upon Mr Vines' summary -

PRESIDENT: Did they say: Well, yes, we'd like to do that but we'd like to involve the other unions as well?

MR PEARCE: I don't know if the Department of Roads and Transport expressed a view one way or the other, but -

PRESIDENT: That'd be a pretty simple response.

MR PEARCE: Well one assumes that the response might come in that format, but what I say, it's the single approach that seeks - there appears to be no unity of purpose between the organisations. I mean, the TPSA, rightfully, have taken advantage of the commission's decision and sought to enter into discussions with the agencies. Mind you, the employer has not been idle in that respect either. He has submitted a similar letter with a copy of the commission's decision, plus the exhibits presented on the last occasion, coincidentally also on 25 August to each agency head. So -

So, I mean, they are some of the aspects, where we believe are acting against the objectives.

COMMISSIONER WATLING: Well, you are really suggesting that the employee organisations haven't got their act together, and they are going off -

MR PEARCE: Well, they fought to have their act together before the commission but then they go away and it is every man for himself.

COMMISSIONER WATLING: Right, well if they haven't got their act together, and if you have arrived at that conclusion that they haven't got their act together and doing things unilaterally, that presupposes that the employer is highly organised, has a definite program and plan and has all the things sorted out on the agenda that the employer wants. So, there is total unity insofar as the employer is concerned. So, why aren't they implementing this total unity program that they have, because they have sorted it all out, they know exactly where they are going, exactly what they want, exactly what conditions of service they want across every agency?

MR PEARCE: The government, the employer, has devoted considerable resources to all of the aspects of the award restructuring decision - that's agency specific, conditions of service, the job families and benchmarks - and in addition now I believe at the last count, six special cases. It has got to prioritise somewhere the amount of resources that it can pump at any one time into one particular area. And, with due regard, it's about line ball in terms of meeting its obligations. But, I mean, all the obligations appear to be down at this end of the table.

COMMISSIONER WATLING: No. In fact, the point that I am making to you is, if you are organised, right, because the indication is that the unions are going off doing their own thing - if you are organised you would have issued - and I am sure if I was in your shoes I would have issued a log of claims on the unions on the date decided by this bench in terms of all the conditions of employment that you wanted to see as the employer implemented. Because you would have a view on what conditions you wanted by this stage after at least, what, 3 years or 4 years of talking about restructuring.

MR PEARCE: We certainly have a view as to how we want those conditions to operate. We have a view as to what the quantums ought to be, although that hasn't been conveyed to the union movement as yet, because we want them to specifically address the terms of the employment conditions which basically takes into account 16 other conditions rolled into one. It's that process we need to get some form of agreement on, from our perspective.

COMMISSIONER WATLING: So, you're saying that you are not going to progress anything unless you get total agreement?

MR PEARCE: No, I am not saying that either, Mr Commissioner, because there will be areas of disagreement. Subject to

instruction, I will need to establish when the quantums might be made available to organisations. I don't know -

COMMISSIONER GOZZI: Irrespective of what we say?

MR PEARCE: Well, we will certainly be mindful of whatever it is the bench says to us.

PRESIDENT: But it has already been said.

MR PEARCE: And in the manner in which it is said to us.

PRESIDENT: It has already been said, though, Mr Pearce. I understand -

MR PEARCE: Well, is the bench going to comment upon -

PRESIDENT: I understand your reliance on that part of H.27 which talks about working groups. They didn't take place. I imagine the government made every effort to get those working groups together. However, they didn't take place, and so the next deadline was 1 September, with quantums, in order to progress the matter so that we can get quickly to the next stage. We are running out of time.

MR PEARCE: Well, we are not running out of time -

PRESIDENT: I can see -

COMMISSIONER WATLING: We have gathered that.

MR PEARCE: - because time is on our side in the sense that when the conditions of service are resolved and agency specific matters are resolved, then we can turn our attention properly - from the unions' perspective - as to securing the other outcomes available under award restructuring.

PRESIDENT: Yes.

COMMISSIONER GOZZI: It's in your hands, though, Mr Pearce, isn't it; or the ministers hands?

MR PEARCE: It is, Mr Commissioner, it is.

COMMISSIONER GOZZI: And, if you agree with that, then it seems a logical step to provide what it is that you want, i.e. the quantums, and get on with it, and the agency specific items, and get on with it.

MR PEARCE: I hear what the bench says, Mr Commissioner.

COMMISSIONER GOZZI: We've heard in this commission, as variously constituted, financial argument, public interest argument, budget, net financing requirements, $100 million in

debt, the amount of money that has got to be used to service that debt, et cetera, the need to be efficient, having an efficient state service. Here is an open invitation to the minister, to the government, to come up with workplace reform initiatives and agendas, and we're hedging about who is going to bounce the ball first. It is unbelievable.

MR PEARCE: I think the ball has been bounced that often I think it is in danger of going flat, Mr Commissioner.

PRESIDENT: I think it has gone flat, Mr Pearce.

COMMISSIONER GOZZI: That is probably the problem. Try and pump it up, Mr Pearce.

MR PEARCE: Well, that would conclude, subject to what the bench might - in relation to our report back on award restructuring in general.

PRESIDENT: Yes. Yes, thanks, Mr Pearce.

MR VINES: Mr President, can I - I know we have these discussions each time as to what is the process here - but I think there are a number of comments that I should have a right to respond to, where there were specific references made to what the TPSA had or hadn't done, or was or wasn't doing, which I think should be set -

PRESIDENT: What particular issues are you concerned about, Mr Vines?

MR VINES: Well, the one that I raised earlier -

PRESIDENT: I thought you had raised them during the course of the submissions actually.

MR VINES: Well, I decided that the looks I was getting from the bench, I had better not have any more interjections. But there is still no evidence from Mr - or from the government's advocate that we have sought to undermine or frustrate the process. That was the opening submission. I requested that there be some evidence, and so if it is not going to be produced I request that that now be withdrawn. I think it is also necessary to point out that the documentation - unfortunately I don't have a copy of it here with me - I think it was so small it got lost in a bundle of newspapers somewhere.

But, the simple reason the unions did not seek any, or request any discussions on the 15 July document, was that there was simply insufficient detail or information in there to have any discussions. But it is most definitely worth noting that there was no suggestion from the government that there be any discussions in relation to that as well. And so the unions

took the view that there was no point in discussing something that isn't anything, let's wait until we have got this final document, which was only a matter of some 6 weeks away. Yet, we still don't have the final document.

I think it is also - in relation to the comments of Commissioner Watling - on the aspect of why didn't the unions log a claim, quite simply - and we considered this again - quite simply because it was very specific in H.27, which we opposed at the time, very strongly, if the commission recalls, that it was the government who was to prepare this.

Now I have had my knuckles rapped that many times through these proceedings for supposedly trying to do things outside decisions, or different to the decisions, or trying to get in through back doors, that we took a deliberate decision that we were going to be the good chaps, we weren't going to try and do anything different to the decision, but try and get the damn thing progressed.

I think it is also necessary to point out that the suggestion that the TPSA is trying to go it alone, in the vast majority of cases - in fact, if we put health aside, my organisation does not have any demarcation conflict with any other union.

In every other area in the admin., clerical, professional and technical, with the exception of professional engineers with whom we don't have a demarcation because we don't cover them -

PRESIDENT: Roads and Transport?

MR VINES: Sorry?

PRESIDENT: Do you have any problem with Roads and Transport?

MR VINES: None at all.

PRESIDENT: No.

MR VINES: Not in relation to state awards. That we are the exclusive union covering those people. So, we don't need to go and talk to a blue collar union or any other union to say: Can we go and ask the government something about our administrative and clerical members? And that must be understood. We don't need to go back and get a unified approach of all the blue collar unions to negotiate the clerical award because we have exclusive coverage, with the exception of in health. And what we are trying to do is as precisely as Mr Pearce has accused us of not wanting to do, is to be proactive, and we have done this the whole way through this exercise.

And we would also take extreme exception to his opening submission at the lack of commitment and goodwill. He has

seen the circulars we have put out; he has seen the journals we have put out; he has seen the information that we have put out to members on the need for us to be fair dinkum on this award restructuring, that there is going to be pain for people in it, that we need to bring in changes to the way work is done, conditions of employment, and all the rest of it.

We are fair dinkum about it, but our members are now starting to say, well you are selling us a bit of a pup here. Here you are telling us we need to change things but the government doesn't want us to. Instead all they want to do is terminate more employees. And that, of course, is another thing that gripes us very much when we hear this continued nonsense that the government has got nothing back from the 3 per cent agreements that have been struck over the last couple of years, or 2.5 or whatever they were.

Let's consider just one of those issues: redundancy program, a loss of two and a half thousand jobs over 2 years. If that's nothing back, I don't know what it. Let's look at the changes to the appeal system; let's look at the changes to the bereavement leave system, and so on and so on. All of these changes have been implemented, and I don't think it is right that an advocate can get up here, make these statements without putting any evidence whatsoever, without the bench questioning on that and, indeed, where there is no evidence put they have no right to stay on the record. If the commission pleases.

PRESIDENT: Yes; thanks, Mr Vines.

MR JARMAN: I am probably ready to start that health matter, Mr President, I wonder if we could have a brief adjournment?

PRESIDENT: Mr Pearce was -

MR JARMAN: Well, he probably has got quite a bit to respond to after that.

MR VINES: I might get up again as well.

PRESIDENT: Well, this will be the final - this is the -

MR PEARCE: Well, I mean, it seems as though I spent - it seems I spent 15 minutes on my feet talking about the lack of consultation which went between the first and second draft as evidence of a lack of commitment and Mr Vines asks could I provide an example of where they lacked the cooperation. I mean, it is self evident. All he did this morning in terms of that document was in a general way to say all it sought to do was to reduce entitlements for his members. I hope the commission is not seriously entertaining the last comment of Mr Vines that those submissions that fell from me be stricken from the record, so to speak.

PRESIDENT: I think - I do not think there is any need to strike them from the record, Mr Pearce. We understand the atmosphere under the circumstances which would have provoked those sorts of words and the words are not a lot different from the sorts of words that have been coming from the other side. But we are - I think the bench understands the problem.

MR VINES: Except ours are backed up with evidence.

PRESIDENT: How long do you think, Mr Jarman, that you -

MR JARMAN: Oh, 10 minutes, if that is convenient?

PRESIDENT: Ten minutes. Mr Rees and Mr Vines, in relation to the health matter?

MR VINES: Five minutes.

PRESIDENT: Yes. Okay, we will take a -

COMMISSIONER GOZZI: Mr Jarman - sorry, are you talking about 10 minutes adjournment or 10 minutes for your submission?

MR JARMAN: Ten minutes adjournment.

PRESIDENT: Oh, oh.

MR JARMAN: Oh, I think we will be here a lot longer than that, sir.

PRESIDENT: So, how long are you -

COMMISSIONER GOZZI: Yes.

PRESIDENT: - how long are you anticipating?

MR JARMAN: Oh, look, I cannot speak for my colleagues at the other end of the table -

PRESIDENT: No, you?

MR JARMAN: - I would say that I would probably go for an hour.

MR VINES: What on?

MR JARMAN: I have got plenty to say, Greg, and I am sure you have.

MR VINES: I have not, mine will be 5 minutes.

COMMISSIONER GOZZI: Well, it - can we just go off the record for a minute.

PRESIDENT: Yes, please go off the record.

OFF THE RECORD

PRESIDENT: Mr Jarman or Mr Rees? Mr Rees?

MR REES: Mr President members of the bench, on 17 June I advised the full bench of a number of major considerations of my particular union in respect of our desire to be allowed to hive off from the rest of the public service in the matter of award restructuring. Firstly, I advise that the costs in health should be contained in a cooperative way and, secondly, that the service to the public should be maximised by containing costs in that manner. And, thirdly and most importantly, the principal responsibility of my organisation should be to ensure that health workers do not lose their jobs in the current recessionary phase.

And, fourthly, we did indicate our concern that the decision of 29 November 1991 at page 16 of the transcript - of that decision stated that there would be a repeal of certain awards - in fact, that was referred to today by Commissioner Gozzi - unless the commission is persuaded to the contrary. And during our presentation of our submissions we referred to that in no uncertain way.

However, at the conclusion of the day the bench on 17 June 1992, at page 1624, stated that as to the submission of HSUA and the minister in relation to a health award:

> We are still uncertain and quite unclear as to how that might be developed. We would ask, therefore, that all parties to that area - and it could be either health or hospitals - that all parties to that areas join together in negotiations for the purposes of developing a memorandum of understanding which can be presented to the commission indicating they would wish to proceed with regulating the wages and working conditions to apply in the health or hospitals area.

And then you went on to give us a date to report back.

Well, Mr President and members of the bench, we have now developed a Memorandum of Understanding, and I will table that in a moment. We - the parties associated with that instruction on page 1624, that is five health unions, met the following day, that is 18 June, with the Department of Health industrial advisors and certain government officers and commenced to talk about putting together of a document of

understanding, or an understanding between the parties as to how we would proceed to develop a health industry award.

I think another nine sessions eventuated before a document was finally tabled with the blessing of the government. That is an exhibit I will tender, has been endorsed by Cabinet and the government as an authoritative document in respect of the agency of health. I might now tender that document, Mr President.

PRESIDENT: We will mark the memorandum HSUA.17.

MR REES: And before we turn to that in great detail I would wish to inform the bench that the Memorandum of Understanding has been put to in excess of 1000 members of my organisation representing over 4000 members of my organisation employed by the Department of Health throughout the various hospitals and health agencies in the State of Tasmania. We commenced reporting -

PRESIDENT: So, could I just clarify that. You have 4000 members in public hospitals?

MR REES: Yes.

PRESIDENT: And in - somewhat in excess of 1000 have actually voted on and agreed with the proposed -

MR REES: Yes, Mr President.

PRESIDENT: - memorandum?

MR REES: It needs to be understood and no doubt it would be understood by the bench assembled that the meetings called were not stopwork meetings, in other words a certain percentage would resting asleep in bed and others would be servicing the patients in the hospitals, however, at the major public hospitals the lecture theatres were packed and I refer to our first meeting on 18 August at the Royal Hobart Hospital that included - the first meeting was at 10 o'clock and each meeting that I refer to, sir, had a length of about an hour and a half.

That is, that the 7 page Memorandum of Understanding was read line by line and explained paragraph by paragraph to the assembled members. And in the afternoon of the 18th the health professionals had their meeting at the Royal. Now, I will not read all the dates that the meetings took place, Mr Chairman, but they concluded on 7 September but they did include the following: Launceston General Hospital including special meetings for health professionals, Queen Victoria Hospital, St Johns Park, Douglas Parker Rehabilitation Centre, Royal Derwent Hospital and Willow Court Centre, the Repatriation General Hospital, St Helens Hospital, St Marys

District Hospital, Scottsdale District Hospital, Burnie Hospital, George Town and Beaconsfield District Hospitals, Spencer Division at Wynyard, Deloraine District Hospital, Mersey/Latrobe Hospital, Woodhouse Wing and John Edis, New Norfolk District Hospital, Huon District Hospital and Ouse District Hospital, Rosebery District Hospital, Queenstown Hospital, Toosey Memorial Hospital and Campbell Town District Hospital. The only two workplaces, sir, that have not had the opportunity of physically having the Memorandum of Understanding explained to them is Flinders Island and King Island, and they will have their opportunity very shortly.

The memorandum, Mr President, commences with a statement of intent that is self explanatory, contains objectives that the parties have agreed on, there is a process that eliminates employees covered by the Nurses Tasmania Public Sector Award and employees covered by the Medical Practitioners Award and excludes, at this point of time, the employees employed at the central office in Davey Street and Brook Street or persons occupying similar Department of Health office administrative positions or statewide health positions throughout Tasmania, an so on.

PRESIDENT: I do not want to appear to be harping on a subject, but 3(a) says a single award will be created to cover Department of Health employees; does that - is there any problem there with the proposed amalgamation, merger or what have you?

MR REES: Well, that had not been announced at the time of developing the Memorandum of Understanding, but whatever problems there may be there we will certainly address them and if the process is going to be blessed by the commission in a continuing -

PRESIDENT: Are there - are there employees of the current community services area who would be involved in hospitals or health work?

MR REES: Yes, there would be.

PRESIDENT: Yes.

MR REES: On page 2:

> The health industry award will contain the clerical, technical and professional streams determined by the Tasmanian Industrial Commission in its November 1991 award restructuring decision.

And there's certain provisos in respect of competency standards and criteria for the non-promotional levels.

> The health industry award will contain an operational stream involving the broadbanding of classifications. In determining the appropriate operational stream the parties during their negotiations will have regard for the following -

And they're explained in the subsections (i), (ii), (iii).

COMMISSIONER WATLING: Can you just take me back to (b) - what's the `provided that' include? Explain that to me; what does that mean?

MR REES: What was the question, Mr Commissioner?

COMMISSIONER WATLING: In (b) on page 2 -

MR REES: Yes?

COMMISSIONER WATLING: - you quoted the first paragraph and then you skipped over the second paragraph. Would you mind explaining to me what is meant by the second paragraph, starting with `Provided that'?

MR REES: Well the progression will not be automatic through the three streams mentioned above. We have not, that is, the parties have not yet completed our discussions on what will be the competency standards or criteria, however -

COMMISSIONER WATLING: So you're not - you're not using -

MR REES: - we understand that there will be - there will be a - a process determined in which the - their peers, that is the peers in the professional and admin, clerical and technical streams, will elect a selection panel together with management that will view the claimants that will be desirous of advancing in the career - in the career paths.

COMMISSIONER WATLING: So what about within the levels then? So does automatic progression through the levels determined, say for example - let's be specific - in the base grade in the professional stream there will be automatic progression right through the base grade will there? And then a panel will determine whether you move to level 2 or level 3 or level 4 or level 5?

MR REES: Well, we haven't made finite decisions in respect of - of how people will and will not advance.

COMMISSIONER WATLING: Right -

MR REES: That will be certainly the next step in our discussions. It's a - it's a process that was welcomed by the

people that will be requested to set up a peer group, that the -

PRESIDENT: Are you saying the -

MR REES: I'm talking about broad principles, sir.

PRESIDENT: - the peer - yes.

MR REES: Don't ask me about the finite matters - I haven't got the finite matters.

PRESIDENT: No, I'm trying - I'm trying to talk in terms of broad principles. Will this peer group make decisions as to whether or not a person is going to be promoted?

MR REES: As I understand it.

PRESIDENT: Or - or will that be - or will they simply be dealing with the speed at which or whether in fact they will advance through the incremental levels within a classification?

MR REES: As I understand the potential of the - of the paragraphs that they're discussing, it will allow people, for example, therapists - occupational or speech or whatever, will elect on a statewide basis a number of their own qualified persons to sit with management to look at applicants that are desirous of advancing.

PRESIDENT: Within a classification?

MR REES: Yes. Within a discipline.

PRESIDENT: So - yes, well that's where I have a problem.

MR JARMAN: Could I -

PRESIDENT: The discipline covers a number of classifications.

MR JARMAN: Could I clarify this -

MR REES: The discipline would cover a number of steps of advancement, yes.

MR JARMAN: Perhaps I'll address it then - I'm on my feet.

PRESIDENT: Yes - no, continue, Mr Rees.

MR REES: I thought you were going to lend Mr Jarman some time. Well does that satisfy the commission in respect to the broad principle of that paragraph?

COMMISSIONER WATLING: No, I'm - you've lost me. I was trying -

MR REES: I think I'll leave you in the dark for a while then, Mr Commissioner.

COMMISSIONER WATLING: Well, I think I have been a fair way through this, some say, but all I think - by what I gather that you're saying, is that - well, put it this way. These are the two issues that I'm confused on: are you saying that progression from level 1 to level 2 will be by a decision of a peer group committee, or movement within the various increments of level 1 will be decided by the peer group committee?

MR REES: I would say that the - your second -

COMMISSIONER WATLING: Is the one you're talking about.

MR REES: - proposition would be the one that would be -

COMMISSIONER WATLING: Right. Well I'm certainly slightly out of the dark now.

MR REES: - looked at by the peer group.

COMMISSIONER WATLING: Yes, the light's been turned on.

MR REES: Well now, is the bench satisfied with paragraph (c) insofar as when I say satisfied, have you -

COMMISSIONER WATLING: Well I haven't read it, I've been just concentrating on this part, so -

PRESIDENT: And when you - in relation to paragraph (c) you talk about broadbanding, does that mean bringing together the - the classifications which were determined in our first model operational award or are you talking about broadbanding the existing award?

MR REES: It will be in, respect of the operational stream, determined by the commission -

PRESIDENT: The proposed - yes.

MR REES: - with perhaps some minor adjustments in respect to the problems that may or may not be seen by the - by the agency - the health agency.

PRESIDENT: So that will have the effect of - of increasing the maximum amount which a person at any of those classifications might have - might have been able to receive under the - under the - our proposed operational stream.

MR REES: There's no guarantee - no, there's no guarantee that the maximum amounts determined in your November decision will be - will be increased.

PRESIDENT: But if they're broadbanded, there would be no other option.

MR REES: It will allow the parties to look at the - at the appropriateness of - of placing a group of individuals in a particular grade.

PRESIDENT: But no doubt that sort of information will - will eventually come to us as to what you have worked up?

MR REES: Yes.

PRESIDENT: Yes.

MR REES:

> The parties agree that the workplace reform process will be completed by November 1993 and will be undertaken with the participation and co-operation of all parties. The parties acknowledge that the reform process will address:

- and - at points (i) to (v).

COMMISSIONER GOZZI: Does it say who the parties are to the Memorandum of Understanding anywhere, Mr Rees?

MR REES: Pardon, sir?

COMMISSIONER GOZZI: Does it say who the parties to the Memorandum of Understanding are?

MR REES: No, it doesn't.

COMMISSIONER GOZZI: Oh, so -

MR REES: They will have to indicate - the parties were ourselves, the TPSA, the Electrical Trade Union, the Federated Miscellaneous Workers Union - however now known.

COMMISSIONER GOZZI: The MEWU - MEWU.

MR REES: Well what's that mean?

COMMISSIONER GOZZI: The Metal & Engineering Workers Union.

MR REES: No - and the FEDFA.

COMMISSIONER GOZZI: FEDFA. Five parties.

MR REES: Five parties, sir.

COMMISSIONER GOZZI: And the employer?

MR REES: And the - yes, the employers, the agency representatives and government representatives met I think on 10 occasions.

COMMISSIONER GOZZI: Yes, so this document then is a Memorandum of Understanding on behalf of these parties?

MR REES: Well, the parties will indicate that themselves, whether they - you know - whether their membership have endorsed it or otherwise. I'm dealing with my own membership's attitude to it.

COMMISSIONER GOZZI: Right.

MR REES: As I understand it, four of the five are in favour of the memorandum.

COMMISSIONER GOZZI: Okay.

MR REES: Is it the intention of the commission to have me read the whole thing through?

PRESIDENT: Yes please. I think it's important that you take us through it.

MR REES: Yes.

PRESIDENT: Someone's got to take us through it.

MR REES: Well is there any problem then from the bench, sir, that in respect to points - in paragraph (d) (i) to (v)?

COMMISSIONER WATLING: I don't think it's a matter of us determining whether there's any problem. I think - I think you need to explain to us what's in it, and we've just taken on board what's in your agreement.

MR REES: Well the parties acknowledge -

COMMISSIONER WATLING: You just explain it to us.

MR REES: - the reform process will address:

(i) skill mix assessments.

(ii) technological advancements.

(iii) job evaluation and/or redesign and drafting of accurate position descriptions.

(iv) work practices and demarcation.

(v) productivity and efficiency improvements.

(e) The parties accept that translation of positions to the classification streams to be included in the health industry award will not take effect until the workplace reform process has been completed.

PRESIDENT: And that could be any time up until November '93?

MR REES: Well, it could be before November '93.

PRESIDENT: Yes.

MR REES: Yes, sir. And that is addressed later on in the - in the memorandum.

(f) The parties acknowledge that there is a need to develop an equitable set of employment conditions for the health industry award. This process will include the removal of duplicate or disparate sets of conditions covering the same subject matter.

An equitable outcome in relation to each matter raised shall be negotiated in the first instance, or failing that arbitration will follow within agreed parameters.

Now we've heard Mr Tony Pearce on that this morning.

The budget initiatives:

The parties are agreed that the budget initiatives contained in Attachment 1 will be implemented in accordance with an agreed process. The parties are further agreed that consultation will occur on the outcomes of the reviews mentioned in the budget initiatives prior to any recommendations being implemented. Should a dispute arise during implementation of a budget initiative it is agreed that the standard grievance procedure will be followed provided it is understood by the employer that the unions do not accept the concept of privatisation.

.... which .... some of the media reports in respect of the memorandum discussions by the rank and file of my unions, but here is a private enterprise government recognising the fact that unions in the public sector do not accept the concept of privatisation.

PRESIDENT: Will it stop the government privatising though?

MR REES: I don't think so.

PRESIDENT: No.

MR REES: But they recognise our right to protest about the privatisation.

> Should management consider implementing a budget initiative which is not contained in Attachment I, the Manager, Industrial Relations or the Director, Corporative Services will be advised of the initiative and consultation with the parties to this agreement will take place.

In other words, you know, if there are any cowboys out there that were perhaps described this morning, Mr President, the government is saying that through its agency heads that whatever initiatives which are not contained in Attachment I that may seem attractive to someone managing a district hospital or a major hospital, then industrial relations or the Director of Corporate Services will be advised and initiatives and consultations will take place - will take place, not maybe - so it ensures that the question of cooperative approach and consultation will occur irrespective of individuals at managerial level.

> The parties accept that is a need to implement the budget initiatives contained in Attachment I to assist the Department of Health in meeting its budgetary obligations and to minimise job losses.
>
> Where jobs are affected by the implementation of budget initiatives the incumbent employees will be offered every assistance through the existing provisions of the State Service Act or any redundancy program or separations package initiated by the Government provided that the union parties reserve their right to seek amendments to such redundancy program or separations package through normal industrial processes.
>
> Where redeployment opportunities are proved to a displaced employee the parties acknowledge that compulsory redeployment through the existing provision of the Tasmanian State Service Act may be necessary provided that the employee concerned is treated fairly and equitably.

PRESIDENT: Before you move onto the next topic there, Mr Rees, in the first sentence in paragraph (a) which reads:

> The parties are agreed that the budget initiatives contained in Attachment I will be implemented in accordance with an agreed process.

What - is that something that's going to be worked out in the future?

MR REES: Well when we come to the budget initiatives, we'll explain where some of the processes are already agreed, sir.

PRESIDENT: Okay. Thank you.

MR REES: And where it isn't, of course, we'll need to talk about a process.

Paragraph 5 - Implementation:

> The parties are agreed that the broadbanded classification streams referred to in 3a and 3b above shall not be implemented before the workplace reform process and rationalisation of employment conditions have been completed but in any event no later than 1 December 1993.
>
> The parties are agreed that existing awards may continue to apply until 1 December 1993, providing that such awards will be adjusted for any general State wage increase or enterprise bargaining arrangement awarded by the Tasmanian Industrial Commission in the interim.

COMMISSIONER GOZZI: On that point, Mr Rees, if the public sector restructuring exercise has gained some momentum and we are then dealing with repealing of awards, let's say that some of the awards that might impact in the area are repealed, what happens? Is it the intention for those awards to be maintained on behalf of the health sector or what? What have you got in mind there?

MR REES: If you are suggesting that the process that we were discussing this morning is completed, prior to what, December 1993?

COMMISSIONER GOZZI: Yes.

MR REES: Well -

COMMISSIONER GOZZI: That envisages repealing of certain awards.

MR REES: Yes. We certainly would be putting to the bench in no uncertain terms that the health awards, currently constituted, should be left alone.

COMMISSIONER GOZZI: So, principally, the Hospital (Public Hospitals) Award.

MR REES: Yes.

COMMISSIONER GOZZI: What other - I mean, we're talking here about clerks too, aren't we?

MR REES: In that award?

COMMISSIONER GOZZI: Yes.

MR REES: Yes.

COMMISSIONER WATLING: The physios award.

MR REES: The physios award.

COMMISSIONER GOZZI: So you'd be saying that all those awards where the HSUA is a party and person bound should remain in force and be maintained until such time as this operates?

MR REES: Yes.

COMMISSIONER WATLING: Pharmacy -

COMMISSIONER GOZZI: Conceivably -

COMMISSIONER WATLING: - medical scientists -

COMMISSIONER GOZZI: - that might then result - or it could result in a model award affecting certain categories of employees, the identical category of employee being employed in one of those health awards and that would produce, conceivably, separate outcomes for same classifications.

MR REES: It may, it may not.

COMMISSIONER GOZZI: Well, if the model awards are in place, the structures will be different to existing award structures. I'm really asking -

MR REES: When you're talking about model award, sir -

COMMISSIONER GOZZI: Well I'm saying -

MR REES: - you're talking about the four streams decided in the November decision?

COMMISSIONER GOZZI: Yes, the four streams, yes.

MR REES: Right.

COMMISSIONER GOZZI: I'm saying the four streams, that those awards will produce different outcomes to what would be contained in the existing awards and so, conceivably, if the exercise in terms of restructuring is completed ahead of December 1993, you could - as I say, conceivably - have different arrangements apply for same classes of employees. I'm just wondering what your thought is about that.

MR REES: Arrangements by way of wages and salary, sir, it could possibly, yes, but in so far as conditions are concerned, we'd be hopeful that the problems that were highlighted this morning in respect of conditions of service for all of the employees of the government in the public sector will be rationalised before then.

COMMISSIONER GOZZI: All right. Well I'm -

MR REES: But obviously nothing will flow until it is.

COMMISSIONER GOZZI: No. But I'm accepting then what you're saying that the parties or particularly the HSUA and the employer have thought their way through that there may be - and I put it no higher than that - a difference in terms of rates of pay for a time - till this exercise is finalised.

MR REES: Yes, yes, and the employees are - that were addressed on the question understand that.

COMMISSIONER GOZZI: Right. And the difference, presumably, could continue even beyond - could continue to operate, depending on what happens as a consequence of this memorandum of understanding.

MR REES: Well it would continue for too long because we're committed to have the award, hopefully, up and endorsed by this commission by November 1993.

COMMISSIONER GOZZI: Yes, which - in the non-promotable levels - would reflect what's in those streams and in the promotable levels, would be subject to the arrangement that you've outlined previously. Don't you see that as being a difference?

MR REES: Of course it's a difference.

COMMISSIONER GOZZI: Yes, and - but one that you -

MR REES: Well the purpose of it -

COMMISSIONER GOZZI: - what I'm getting at is that it's one that you have thought through and you are prepared to accept those differences, whatever they may be.

MR REES: Well we haven't, you know, set up the work place reform processes as yet because of today's hearing, but every speed will be given to the process in an agency that is receptive of those work changes and reforms.

COMMISSIONER GOZZI: Yes, I've got no difficulty with what you are saying. I just want to understand it. In broad terms, there is agreement that classes of employees in - say, if a health award was made - could be different to identical classes of employees under the four stream proposal.

MR REES: Yes.

COMMISSIONER GOZZI: Fundamentally, there seems to be an acceptance that that could be an end result.

MR REES: Yes.

COMMISSIONER GOZZI: Right.

MR REES: For a period of time, and it could well be that certain classifications may remain with a difference for all time.

COMMISSIONER GOZZI: Yes.

PRESIDENT: Well it certainly will in respect of operational and most probably will in relation to professional. They will be - they will end up being different. I mean, that's the whole purpose of the exercise, isn't it?

MR REES: Yes.

COMMISSIONER GOZZI: And could be different in respect of technical as well.

MR REES: Well it's not the whole purpose of the exercise.

PRESIDENT: Well -

MR REES: The purpose of the exercise is to have an island award.

COMMISSIONER GOZZI: But the document is negotiated on the premise that those differences could exist and continue to exist by virtue of what is contained in this new proposed health award. Certainly the differences would exist with respect to progression over and above the non-promotable levels as it says in that paragraph 4(b).

MR REES: Well it depends on the competency and the competency standards that -

COMMISSIONER GOZZI: ....

MR REES: - the parties agree to.

COMMISSIONER GOZZI: Sorry, 3(b).

MR REES: It could well be that there was no difference.

COMMISSIONER GOZZI: Yes. I just simply want to be assured that if we're going down this track and the bench endorses it, that those possibilities have been considered by the parties and that it will not hit a rock as a consequence of those differences manifesting themselves because quite clearly the intention is to produce something that might be called unique - that is unique to the health industry area, and -

MR REES: Yes.

COMMISSIONER GOZZI: - and 4 - I'm sorry, 3(b) - paragraph 3(b), the proviso, articulates what I believe to be a fundamental difference even now between what will be contained in the health - in the professional - sorry, in the streams - the four streams, and what is proposed in the health industry award, and that difference, evident right now, goes to progression beyond the automatic range. So, it seems to me, Mr Rees, that the parties have agreed -

COMMISSIONER WATLING: Within -

PRESIDENT: It's within it.

COMMISSIONER WATLING: Within it -

COMMISSIONER GOZZI: - well, within and - I'm sorry, within it and beyond it, so there is a fundamental difference, appears to me, in 3(b) and I just want to make sure that we are not going to get all the way through this exercise -

MR REES: No, I would submit that the employer now has the right to determine incremental progression and -

COMMISSIONER GOZZI: Well the point I'm getting to is that the streams contain classification standards and it will be those standards that determine what the job value and if somebody is performing the value of that job, they get paid in accordance with that standard.

MR REES: My understanding is they will apply for it and they will - they've got to convince the panel that has been elected by themselves, together with the employer representatives, that I have the qualifications and the competency to advance.

COMMISSIONER GOZZI: Yes, but this provides for different competencies, and foreshadows different competencies to those that have been endorsed in the four-stream areas.

I just simply want to understand that that is the case, that progression within the health award would be on the basis of competencies yet to be determined by the parties, and that essentially those competencies might be different - they probably will be different - to the standards currently contained in the stream awards.

MR REES: Well, they may be, and when we determine the competency standards we will come back here and advise the commission of our determination.

COMMISSIONER GOZZI: Yes. And I simply wanted to get confirmation that that is what is intended, and that this exercise - when those differences probably will manifest in a very tangible way - will not blow this exercise out of the water; that the parties are going in it on the premise of, yes, there will be differences.

MR REES: Well, this is the purpose of us holding separate meetings from the general staff in respect to the professional stream. They had their own opportunities to look at their own particular problems within their own disciplines, and at each of their meetings the memorandum was adopted, following fairly intense questioning, by unanimous decisions.

COMMISSIONER GOZZI: Yes, well - and I am simply indicating that the way I read this document that those differences could apply to identical classes of employees between those that are employed, or could be employed, under the health award and those that might be employed under another stream award outside the health award area.

MR REES: It is a possibility.

COMMISSIONER GOZZI: Yes, well, a very real possibility.

MR REES: You are leading me.

COMMISSIONER GOZZI: As long as we understand that the parties, or the HUSA in particular, recognises that that would be a most likely outcome, or could be a most likely outcome.

MR REES: Yes, it could be an outcome, sir.

COMMISSIONER GOZZI: And we are not going to hear a whole lot of complaints about that when that finally happens?

MR REES: I would hope not.

COMMISSIONER GOZZI: Okay.

MR JARMAN: I suspect that you will hear them today.

MR REES: Exactly right, exactly right.

COMMISSIONER GOZZI: I've scratched something, have I?

MR JARMAN: It doesn't take much to bleed.

MR REES: Mr Jarman will have his turn, won't he?

PRESIDENT: Section 5, Mr Rees.

MR REES: Attachment 1 -

PRESIDENT: I think you were on -

MR REES: I thought I had completed it.

PRESIDENT: No, you were dealing with implementation, I believe, or about to.

MR REES: Well, I read that to the bench, sir.

PRESIDENT: Did you? Yes, you did, you are quite right. Thank you.

MR REES: `Attachment 1, Budget Initiatives':

> The matters referred to below represent the budget strategy to be implemented by the Department of Health in 1992/93.
>
> 1. Transfer of nursing home beds to the non government sector.
>
> Transfer of nursing home beds to the non government sector subject to adequate recurrent and capital funding not being available from the Commonwealth, e.g. Huon and Spencer.

- aged facilities.

COMMISSIONER WATLING: Can I just ask the question, the purpose of putting this attachment in relation to the memorandum, are you saying to us that you actually agree with the attachment, or this attachment only to highlight what the employer's view of the world is, or are you agreeing to it?

MR REES: We are agreeing with the budget initiatives.

COMMISSIONER WATLING: Right.

MR REES: Or if we don't agree with the budget initiatives, then the loss of jobs will be astronomical.

And dealing with the transfer of nursing home beds, the federal government has consistently starved this state of adequate funding for nursing home beds. And the only solution for the government is to sell off its nursing home beds to private operators who are prepared to spend the millions necessary to upgrade some of their very, very aged facilities, looking after the aged.

COMMISSIONER WATLING: And they will get a greater handout from the commonwealth government than the state government does.

MR REES: There will be immediate greater handouts from the commonwealth government to the private operator, yes.

COMMISSIONER WATLING: That's right. Yes, I understand.

MR REES: In fact, there will be no need for the government to transfer its nursing home beds if it received the same compensation from the federal government as would you or I for operating a private nursing home.

2. Staffing levels - Nursing Homes

Introduction of CAM/SAM staffing levels for all long term aged care (non medical) facilities.

3. Service Reviews

The following review of services will occur:

(a) Diagnostic services including pathology, radiology and pharmacy
(b) Cleaning
(c) Laundry Services
(d) Maintenance and minor works
(e) Obstetric services north and north west

COMMISSIONER WATLING: What sort of - when you say `review' what do you really mean by a review? Do you just examine the operation of it, the staffing of it, whether or not it should continue to operate, or what?

MR REES: Yes, the efficiency of it. With the cleaning, we are currently undergoing a survey of the efficiency of the cleaning of major hospitals. The Department of Health has imported professional advice from interstate, and consultative examinations and meetings are going on. In fact, there is one this Friday that will be held, as I understand it, at the Launceston General Hospital.

The department is allowing all of the shop stewards, elected persons, from each of the cleaning areas to attend these seminars. That will clearly mean an alteration in the working

practices, and here we are dealing in an early stage to the work performed processes that the cleaning staff will undertake in public hospitals.

Laundry services, likewise, will be looked at and regulated in respect of the efficiencies of them. In some of these smaller district hospitals one could only describe some of the laundry services as Dante's Inferno where women still use the old wooden mangles to iron sheets, and you know, if you could only witness some of the equipment you would plead with us to hurry up the laundry service review.

(d) Maintenance and minor works

- would mean that - and an example is given, and I notice that the representative of the ETU is here today and he may enlighten the bench when he talks about his area at the Royal Hobart Hospital.

But there the department tendered for work at the Royal Hobart Hospital and won the contract, and we are able to save, as I understand it, something like an amount in excess of $70,000 and erect a far enlarged facility than was originally planned and save that amount of money.

So this is what is meant by service reviews in those areas that the maintenance crews in the major hospital would tender for work that would perhaps normally go out to private enterprise.

COMMISSIONER WATLING: So, could a review of services mean that it's possible to let some of these things out to private tender? Is that envisaged in a review, or could it be?

MR REES: That could be, but it hasn't been mentioned in the talks that have been -

COMMISSIONER WATLING: No, but that's a possible result.

MR REES: That is a possibility, sir.

COMMISSIONER WATLING: Maybe unlikely, but it is possible.

MR REES: Well, in early discussions when the private hospital at Burnie was being commissioned, that the public hospital would tender for work and service the private sector by selling out the services of painters and electricians and so on.

So there are many forms of review, I would agree with you. Some may go out to private tender. The public sector may also compete with the private sector.

COMMISSIONER WATLING: In the tendering arrangements. Fair enough.

MR REES: Such as the example I have given in Burnie.

(e) Obstetric services north and north west -

- well, I think already a new facility has been opened in that area. The old Devonport Maternity Hospital has been closed and put up for sale.

Introduction of Cook Chill

PRESIDENT: Before you move on to that, Mr Rees, I think it might be a convenient time to break now until quarter past 2.

MR REES: We'll deal with the cooking later then, sir, after lunch.

PRESIDENT: We'll cook after lunch.

MR REES: Thank you.

LUNCHEON ADJOURNMENT

PRESIDENT: We are about to start cooking, Mr Rees.

MR REES: Mr President, and members of the bench, before we go to item 4 on Attachment 1, and I request the commission's guidance, Mr Richard Warwick would like to explain a little further answers to the questions put by some members of the bench in respect of paragraph 3(b) in respect of competency standards and criteria and so on, or would you prefer to have that explanation at the end of the document?

PRESIDENT: It matters little to me, Mr Rees.

COMMISSIONER GOZZI: I'm easy.

PRESIDENT: I think if you just proceed with what you have got to tell us about the document, and Mr Warwick can address us when you conclude.

MR REES: Fine. We'll then return, Mr President, to Attachment 1, paragraph 4:

4. Introduction of Cook Chill

The parties agree that:

Introduction of cook chill in the South will occur and the feasibility of the introduction of cook chill in the North West will be considered.

I don't think the bench needs any explanation in respect of that matter, it is a very old item.

PRESIDENT: I thought it was already organised, wasn't it?

MR REES: It goes back to 1988, as I understand.

PRESIDENT: I thought it was a 4% second tier matter.

MR REES: It was certainly in respect of some percentage, anyhow.

COMMISSIONER GOZZI: Over a million dollars I thought it was worth.

MR REES: It was. It still is - no it's more with inflation.

COMMISSIONER GOZZI: It still is I suppose, plus inflation.

MR REES: With inflation, yes.

COMMISSIONER WATLING: It's the same figure going around, is it?

MR REES: The agreement was in those days that that was a major item in respect of the adding up of the costs of the give-aways. We are not bargaining it, but agreeing that it should be introduced.

5. Hospital Service Reviews

The following reviews and changes to hospital services will occur:

(a) Review of catering services at Georgetown.

This simply means that there has been an alteration in the catering processes at George Town District Hospital who up to recently provided the meals for the private nursing home `Ainsley House' since `Ainsley House' was commissioned as a private nursing home the catering services were supplied by the public hospital on a charge-back basis.

The private hospital or nursing home has now commissioned its own kitchen and will not need the services of that hospital. So obviously the catering services at George Town District Hospital will be curtailed and - and people will be either invited to take redundancies or will be found work elsewhere.

(b) Review of Beaconsfield and St Marys operations and possible conversion to nursing home (respite and community health centre).

Now, the - the Regional Health Boards have already held meetings in the St Marys area with the local population requesting that they make some decision as to the - the future of the St Marys Hospital and that - that type of public communications and consultations is continuing. I'm not sure about Beaconsfield, whether the - the process has commenced there. But it means of course that the - the delivery of a particular service will be - will be broadened for the community.

(c) Conversion to multipurpose centres at King and Flinders Island.

(d) Transfer of D.P.R.C. to Rehabilitation Tasmania

That process is continuing.

(e) Review of services at the East end of the North West Coast e.g. Health Centre Devonport and Psychiatric Services.

6. Staffing Reviews

The following staffing reviews will be completed:

(a) Review of career structure and nurse staffing levels.

(b) Review of sessions allocated to Medical Practitioners.

(c) Review of Policy Division and the establishment of the Information Systems Division in Central Office.

(d) Review of administrative positions in the Southern Region with the advent of regionalisation.

(e) Review of administrative positions should Department of Health and Department of Community Services merge.

PRESIDENT: That word again.

MR REES: Yes.

7. Other Matters

The matters below will be progressed during 1992/93:

(a) Feasibility study in to the use of non government organisations to undertake certain domiciliary services.

(b) Introduction of a home support workers classification.

(c) Introduction of case mix funding and expansion of day surgery procedures.

8. Conditions of Employment

And this is somewhat of a repeat I think.

The following conditions of employment will be examined and discussed by the parties with a view to achieving one set of conditions which can be universally applied throughout the Public Sector Health Industry. This process will take into account core conditions of employment which are generally applied throughout the State Service and are deemed suitable and applicable to the Public Sector Health Industry.

COMMISSIONER WATLING: Now when you refer to the public sector health industry are we talking about the departments in Davey Street et cetera and the hospitals? What do you mean by the public sector health industry? Or are we just talking about hospitals?

MR REES: No, we're talking about the delivery of health services and, you know, the facilities that support that delivery of health services.

COMMISSIONER WATLING: Including the -

MR REES: And -

COMMISSIONER WATLING: Including the department?

MR REES: Well, in the - on the - on the front page, sir, under the process the employees employed at central office in Davey Street and Brooke Street and other areas are excluded at this point of time.

COMMISSIONER WATLING: So, they'll be excluded from `8' as well?

MR REES: Excluded from what, sir?

COMMISSIONER WATLING: So, `8', where it says `public health sector' they're not included in that?

MR REES: At this point of time. But obviously from this morning's discussion the government is anxious to have a common set of standards throughout its -

COMMISSIONER WATLING: Yes.

MR REES: - its public sector, which will obviously include the public health sector. And we are still parties to those negotiations that Mr Vines indicated will be going on this Friday. But I'm now informed, sir, that they've - they've been cancelled until the - I think the 29th of this month. That is the combined public sector unions' discussions on the - on the documents that were under intense discussion this morning, issued on the 1st or 2nd of September. I think Mr Pearce was referring to it.

PRESIDENT: So that - that paper will go to the combined meeting of unions on the 29th of September?

MR REES: Well, it was to be dealt with this Friday but it was cancelled early this morning. Mr Vines would not have known that before the - the phone call came through obviously after he'd left his office.

MR JARMAN: .... this morning.

MR VINES: Well, I'm the convener of the meeting and I haven't cancelled it ....

MR REES: ....

MR VINES: So, it's still on on Friday.

COMMISSIONER GOZZI: I'm not quite clear what's being said here. Mr Rees, are you saying that there'll be discussions between the public sector unions and the minister's representatives with respect to public sector conditions of employment?

MR REES: No. I'm saying that the public sector unions were scheduled, as I understand, to meet this Friday and will not now meet until the 29th. Perhaps I've got the wrong message. However, if that is so they'll be meeting this Friday, in concert with themselves to determine their attitude to the document that Mr Pearce indicated was sent to the unions with blanks in them on the 1st of September.

COMMISSIONER GOZZI: Right. Thank you.

MR REES: The translation process.

> Once the workplace reform process has been completed translation of the position and employee to a classification level in the new award shall be

made by reference to the classification standards contained in the new award.

Provided that where the workplace reform process leads to the need to create a new and unique position it shall be created and filled in accordance with the provisions of the TSS Act immediately following the implementation of the new award.

There will be no spill of any positions except in accordance with the proviso contained herein.

PRESIDENT: That's an interesting proviso.

MR REES: Isn't it. Not a bad bargaining chip is it, tell 4,000 employees: Well, you haven't got to apply for your own jobs, ladies and gentlemen, as the nurses had to in their career structure shuffle and reshuffle.

PRESIDENT: Who determines whether there's a new and unique position?

MR REES: Well, I suppose, the employer and the relevant unions will.

PRESIDENT: I thought our decision of 29 November envisaged all decisions -

MR REES: Well, the world will not stop because of a decision of -

PRESIDENT: - all the positions being new -

MR REES: - 29 November 1991. Everyday it is a changing world out there. There may be no need to create unique or new positions but should there happen to be the necessity then the employer and the health unions agree to a certain process.

COMMISSIONER GOZZI: Mr Rees, does that mean within the scope of the new award?

MR REES: Yes.

COMMISSIONER GOZZI: Well, that is available now, is not it?

MR REES: Yes.

COMMISSIONER GOZZI: Well, what is the significance of it being put there?

MR REES: Well, the significance would be that we are reaffirming - reaffirming the provisions that currently exist, perhaps. In the case of the new award those -

COMMISSIONER GOZZI: I mean, one could speculate, Mr Rees, that that simply means that existing employees will retain their jobs but as new jobs are defined they will be filled presumably, on what, subsequent to calling for vacancies - filling of vacancies or what? How is that going to work?

MR REES: Well, I have not got a ready answer, commissioner.

COMMISSIONER GOZZI: You have not got a ready answer?

MR REES: No. But I may have before we adjourn.

COMMISSIONER GOZZI: Well, I will look forward to that answer, Mr Rees. Delightfully vague.

MR REES: Attachment 2:

> Conditions of Service
>
> The parties agree to negotiate on the following conditions of service. Where no agreement can be reached between the parties then the matter shall be the subject of arbitration.
>
> The parties will be seeking to introduce a consistent set of conditions to cover all employees in the health agency.

PRESIDENT: Excuse me, Mr Rees, is this the list of items agreed - or appear to be contemplated in 8, conditions of employment?

MR REES: Yes.

PRESIDENT: I, sort of, assumed that that colon there that there would be a list of items - list of conditions underneath it?

MR REES: Yes, that is the conditions.

PRESIDENT: And this is it, the attachment 2? Yes, thanks.

MR REES: One:

> Review of allowances with respect to appropriateness of absorption into rates of pay.
>
> Review of the Hours of Work clause.
>
> Review of call back provision.
>
> Review of method of payment for public holidays if added to periods of annual leave.

Review of payment of wages clause including waiting time provisions.

Adopt sick leave provisions currently in the Hospital Employees Award for all Health Agency employees covered by this agreement.

Introduction of pro-rata entitlements for temporary employees currently receiving a 20% loading.

The parties will also negotiate on conditions of service outcomes that may arise from any conditions of service negotiations involving the Tasmanian State Service and the Combined Public Sector Unions. This will occur on outcomes that affect conditions of service common to employees of the Crown and may include:

Bereavement/Compassionate leave
First Aid allowances
HDA/MRDA
Maternity Leave
Mixed functions
Annual leave
Living away from home allowances

COMMISSIONER WATLING: Can I just ask you, does the use of health agency mean something different to the use of public sector health industry? And, if it does, can you explain the difference to me? Because you seem to, through this document, use a whole mixture of words and I am not too sure whether you are talking about the same agency or organisation or organisations or buildings where employees are working. I - does it mean something different? If not, why are you not consistent?

MR REES: Well, it may - it may now following the decision of the government and the announcement of the Minister for Health in the creation of, as Mr Vines put it, of a Health and Community Services agency that -

COMMISSIONER WATLING: Yes. Well, in the health -

MR REES: - exactly will be the name. So we will need to address ourselves to that new - that change that was not, of course, a matter of public knowledge when the unions met to discuss -

COMMISSIONER WATLING: Right. I can understand that. But does health agency in your document mean something different to public health - public sector health industry?

MR REES: No, I do not think it, in my opinion, would.

COMMISSIONER WATLING: It would not.

MR REES: The public sector health industry is an all embracing - an all embracing description of the health and delivery of health services. And whether you are a clerk -

COMMISSIONER WATLING: So, once again to clarify it, would it mean then that the exclusions contained in - earlier on in the document - I am just trying to put my finger on the number, 3 is it, yes in number 3(a) - would they all be excluded from, quote, `the health agency'?

MR REES: Yes, sir.

COMMISSIONER WATLING: They would be.

MR REES: Yes, they would.

COMMISSIONER WATLING: Good.

MR REES: Then, Mr President and members of the commission, is our understanding, anyhow, of the Memorandum of Understanding and perhaps other people might have slightly different opinions of what certain matters mean in the document. That is the way we explained it to our members assembled in 25 workplaces in their numbers in excess of 1,000 representing approximately 4,000.

It is a document, sir, that has been negotiated with the largest employer, that has the largest fiscal expenditure in excess of 25 per cent of the total state budget. It is with the largest employee organisation. It has been - it has been produced in an atmosphere of cooperation and consultation. The unions have been cooperative, not uncooperative as described by Mr Pearce this morning.

The unions in negotiating it were not in conflict with the government. We will not lack the endeavour of working parties or any initiatives. As I only indicated this morning that the unions met the day after you so allowed, that is we submitted our request to you on 17 June and it was granted that afternoon and we met on the 18th. The document contains matters that will not fall within your jurisdiction. We therefore ask that the commission allow the parties to continue in developing their understanding and the matters contained in the Memorandum of Understanding and the development of new health industry award particularly those matters for which the commission has jurisdiction that in my opinion would include, one, the development of an industry award, two, the scope of that award, three, the streams.

That is, the admin and clerical, the technical and professional streams decided by this commission in its

decision of 29 November 1991. Four, an operational stream that will be somewhat different to the operation stream decided by the commission in its November decision. Workplace reform, employment conditions, translation and the date of effect. And, in my opinion, those matters contained in the memorandum you will have the jurisdiction and the legal right to make decisions in respect of those matters, sir, and we ask that the parties that find the memorandum favourable to allow to further develop an industry award in respect of the principles contained in that memorandum of understanding. If the commission pleases.

PRESIDENT: Just before you sit down, Mr Rees. One of the primary reasons behind the move towards an award was put to us by you that there would be an opportunity to minimise job losses in the health area. Are you in a position to be able to either quantify, verify or confirm that job losses will be minimised and how do you arrive at that position?

MR REES: On 25 August I wrote to the Minister for Health, the Honourable F.R. Groom in the following terms requesting from him that the health agency and his jurisdiction explain just what jobs would be abolished and how many and would they be limited to 350 or would they be in excess of 350, because the hype was on then the argument between ourselves and other unions position in respect of the development of the memorandum. And he answered to this effect:

> Dear Mr Rees
>
> Budget initiatives - effect on position
>
> I refer to your query and the statements alleging that the number of positions within the health agency that will be abolished will be in excess of 350. I can confirm my previous advice which has been given to all health unions that the budget savings required to achieve the budget for the health agency equates to 350 jobs.
>
> The effect of discussions and consultations that can identify savings impacting on the target figure will be to reduce the number of jobs that need to go. In fact, it is my clear understanding that the purpose of the Memorandum of Understanding is to maximise the consultative processes, the work reform process and to identify all possible areas of savings thereby minimising job losses in the health agency.
>
> It is unfortunate that the TPSA seek to misconstrue the intent of the memorandum to create an outcome that is totally opposite to the outcome agreed between all parties.

Yours sincerely,

F. Roger Groom
Minister

Well, now in further developing that position of the minister with his representatives we are informed that the transfer of the Spencer/Wynyard Division to the private sector will involve 80 to 90 positions that will be lost from the state payroll but the majority of which will be picked up by the private investor. Other figures perhaps that may be given to you by Mr Jarman in answer to that question with the situation at the George Town Hospital that probably mean from three to five positions because of the change of the cooking process and the development of the new kitchen at Ainslie House, Low Head.

The other initiatives in respect of the district hospitals will alter the positions because at the moment they are cheap bed hospitals. We believe that we have put our finger on approximately 170 of the 350 positions that have been nominated to go, or jobs to go.

PRESIDENT: Is that -

MR REES: Well, 80 odd -

PRESIDENT: - is that agreed or is that hopeful?

MR REES: No, that is agreed.

COMMISSIONER GOZZI: One hundred and seventy saved?

PRESIDENT: So, that -

MR REES: No, 170 of the 350 -

COMMISSIONER GOZZI: To go?

MR REES: - are as I described, 80 or 90 of which will be the transfer out of the public payroll -

PRESIDENT: Yes.

MR REES: - into the private payroll of the Wynyard/Spencer age facility.

PRESIDENT: That 80 or 90 from Spencer Ward part of the 170?

MR REES: Yes, yes.

PRESIDENT: And, again, what is the 170? They are jobs that will not disappear from the health industry -

MR REES: That -

PRESIDENT: - per se?

MR REES: They will disappear.

PRESIDENT: The broader health -

MR REES: They will disappear, yes, from the public payroll.

PRESIDENT: But not from the broader health industry?

MR REES: Not necessarily from the broader health industry. Not necessarily -

PRESIDENT: So, there will be probably a net loss to the broad health industry of something like 180 jobs?

MR REES: And that may be minimised as the minister has indicated, by savings in workforce - workplace reforms in other areas.

COMMISSIONER GOZZI: Mr Rees, does that take into account potential, I put it no higher than that, increases in the operational stream? Just a moment ago you indicated that the operational stream will be different to the other three streams, that is obviously brought about because of broadbanding of classifications that will take place -

MR REES: Yes.

COMMISSIONER GOZZI: - which logic will lead you to the conclusion that there will be increases in the operational stream. Has that cost been factored into those jobs?

MR REES: The cost has been under surveillance but we deal within the process 3(c)(2) where we're talking about the introduction of operational stream at minimal cost.

COMMISSIONER GOZZI: Well that could mean anything. I mean reality - reality is that -

MR REES: Well it certainly doesn't mean maximum cost does it?

COMMISSIONER GOZZI: No, but the realities if you broadband, then there will be a cost. All I'm asking is whether or not that's been taken into account in the number of jobs that you were going to save - or hope to save.

MR REES: It will be, sir. It certainly will be.

COMMISSIONER GOZZI: Has there been any discussion about the effect of broadbanding classifications in the operational stream that that may have on other operational classifications outside the health area?

MR REES: No, not as yet. No, we haven't been able to talk about the more finite positions that the parties will obviously need to talk about and that's why we request that we be allowed so to do.

COMMISSIONER GOZZI: I mean I certainly think it needs to be discussed and we need to be informed because fundamentally if the hospital - the health area was to have a significant or any increase over and above what we determine as a 100% benchmark, then I guess there would substantial ramification for the rest of the state service subject to the operational stream.

MR REES: Well we - we determined that in 3(c) also, sir, in determining appropriate operational stream that parties during their negotiation will have regard for the following - the appropriateness of the 100% benchmark determined by, you know, this commission's November decision. So yes, that - that is headlined for discussion and it's obvious that the government hasn't entered in this agreement with .... unions with the latent knowledge that they will be up for millions more, when in fact the Memorandum of Understanding deals with the understanding of the parties to minimise the cost of - of -

PRESIDENT: But I take it that's to minimise -

MR REES: - the budget initiatives.

PRESIDENT: I take it that is to minimise the additional cost.

MR REES: Yes, and it's to minimise the current cost.

PRESIDENT: Over and above the existing - the proposed operational stream.

MR REES: Yes, and where - and where economies can be further determined and found, that obviously will preserve jobs and prevent the maximising of job losses. In fact the memorandum talks about minimising job losses outside - you know, outside the budget initiatives. In the budget initiatives obviously there will be job losses. People being transferred - they will be - they will be - the vacancies will be sought by separation packages and so on.

COMMISSIONER WATLING: So what you're really saying to us today is - just so I can get it clear in my mind - you're reporting back to us that you've had discussions with the

employer and thus far you have got a number of understandings which are listed in HSUA.17.

MR REES: Yes.

COMMISSIONER WATLING: You're telling us that they haven't been finalised and I suppose if you take that to its end conclusion they'll only be finalised when you come back with a draft award. So today, I take it that you're just reporting that you - these are the things that you're looking at but you can't give us anything conclusive until you really draw up these things in a draft award. And indeed, that debate may take place during the time which the commission has to consider whether or not it abolishes the Health Award.

MR REES: Yes.

COMMISSIONER WATLING: And that's when we'll be looking at the proposed award that you're looking at in this area I take it?

MR REES: Yes, I think that is absolutely the situation.

COMMISSIONER WATLING: Right. That's fair enough, I've got it clear in my mind now.

COMMISSIONER GOZZI: Just one little question, and that is, that in the Attachment 2 conditions, I note there is maternity leave there and the draft enterprise agreement pieces of legislation also refers, if they get through the way they are, to the commission having to determine paternity leave. Does that mean - parental leave, I'm sorry - should that be one of the conditions mentioned here then?

MR REES: Well it was certainly mentioned in the - at least one conference that we had.

PRESIDENT: It was referred to, I believe, by Mr Pearce earlier in the day to parental leave being a condition of employment - it was being examined.

MR JARMAN: That should have been parental leave not paternity leave.

COMMISSIONER GOZZI: Yes, so - parental leave. Is there - is there a decision about parental leave?

MR JARMAN: I beg your pardon?

COMMISSIONER GOZZI: Is there a decision about parental leave?

PRESIDENT: There is one pending.

MR JARMAN: Well I certainly understand there is one in the federal jurisdiction, sir, so perhaps we can discuss that and bring it back to you with our proposal.

COMMISSIONER GOZZI: So I take it, Mr Jarman, that the minister is agreeable, taking Mr Pearce's comments on board as well, to parental leave?

MR JARMAN: I think you really have to go to the proviso above.

COMMISSIONER GOZZI: Proviso?

MR JARMAN: Yes, which says that this will occur on outcomes that affect conditions of service common to employees of the .... and may include -

COMMISSIONER GOZZI: Yes, I'm just saying - that may include parental leave as well.

MR JARMAN: Well that may very well be the case. I don't have a crystal ball on this matter.

COMMISSIONER GOZZI: Well I'm saying that the draft - my question was premised on the basis that the draft legislation would require the commission to determine a parental leave provision. Does that then mean that the government is in agreement with a parental leave provision?

MR JARMAN: It's there as a matter to be discussed at an appropriate time over the ensuing months. The particular circumstances at the time may no doubt influence those discussions between the parties. If the commission pleases.

COMMISSIONER GOZZI: Yes, but it is a proposed requirement in the draft legislation, and I am asking whether you or Mr Pearce can tell us whether the government has a view about that sort of leave.

It's a draft - it's a requirement contained in the draft enterprise legislation for the commission to determine parental leave. I think it is an hourly rate for parental leave, or something like that. I can't quite bring it to mind.

I am just wondering what the position of the government is, given that it's in the draft legislation.

MR JARMAN: Well, given that it is in the draft legislation, it is not yet law, and I think we should wait and not pre-empt any decisions that might come out of the legislative process.

When the legislative process has been completed no doubt we can then discuss it in an industrial context and come to this commission with a full and frank answer.

COMMISSIONER GOZZI: That would be nice. Thank you.

MR REES: Is the answer to that hypothetical properly, my friend, Mr Jarman?

PRESIDENT: Yes, I think it supplied all the answer so far as we can take it at the moment, Mr Rees.

MR REES: Well, that concludes our report back, Mr President, and members of the bench.

PRESIDENT: Do you wish Mr Warwick to -

MR REES: Yes, well I would -

PRESIDENT: - follow?

MR REES: I would like to refer, with your permission, myself back to Commissioner Watling's answer in respect to the award situation - what will happen to the current health awards.

We would certainly want some commitment from this bench that the current health awards are not abolished.

COMMISSIONER WATLING: Yes, well the point I am making is that you're reporting to us that you are having some discussions. These are the discussions you are having; this is what you are looking at, but you undoubtedly would want this converted to an award. Right?

MR REES: Yes.

COMMISSIONER WATLING: The commission has foreshadowed that it is going to hear argument at some later stage after the conditions of service have been looked at. It is going to look at what awards should be abolished.

I would think that that's when your Memorandum of Understanding would be converted to an award document so everyone could examine it and look at it and read it and look at the scales and grades and everything else, and it would probably be at that time when you are urging the bench not to abolish the health award you would be arguing that this should be probably implemented as the new award in health. But it is a report, I take it, at this time? These are the things you are looking to.

MR REES: Yes, well the parties - obviously I -

COMMISSIONER WATLING: You don't expect the bench to now go away, do you, and take the document and make some ruling as to whether or not you have a health award?

MR REES: No.

COMMISSIONER WATLING: No. Oh, well, we are on the same wave length.

MR REES: At the bottom of page 3 of the memorandum:

> It is noted that the parties are agreed that existing awards may continue to apply until the 1 December 1993 provided such awards will be adjusted for any general State wage increase or enterprise bargaining arrangements awarded by this Commission in the interim.

In other words -

COMMISSIONER WATLING: Yes, but the crunch will come when the hearing does come on to abolish awards, because you'll be, I take it from what you are saying through this document, you will be arguing that the health awards - whatever awards they may be - shouldn't be abolished and something else should be put in its place.

MR REES: Or maybe we'll be arguing that they should be abolished and this new award should take the place of all others, or something like that.

COMMISSIONER WATLING: That's right. Yes. So, the crunch - I am really looking at the crunch point - which will be at the phase after the conditions of service phase.

MR REES: That's so. Thank you, Mr Commissioner.

PRESIDENT: That leads to one more question, I am sorry, Mr Rees. When do you think you might be in a position to tender a draft award to the bench?

MR REES: Well, that depends on your decision as to the speed - I know you privately and publicly have indicated problems about delays. We met the employing authorities on the 8th of June and of course completed the whole exercise together, with the problem of the Minister for Health being on annual leave for some 2 or 3 weeks, and during the parliamentary closure. I think the minister was certainly out of the state for a couple of weeks.

So, all speed has been afforded by the parties in respect of the development of the understanding.

PRESIDENT: Are we looking at -

MR REES: We can meet tomorrow.

PRESIDENT: But are we looking at a draft award being ready by, say, the 1st of December?

MR REES: That's not impossible.

PRESIDENT: Because if we have got to consider whether or not awards should be repealed in order to put everything else in place, then we'd need to know precisely what the health award was before we could make that decision - I think.

MR REES: I think it is suffice to say, sir, that the parties associated with the development of a new health industry award will use every possible endeavour to speed the process up in order of the possibility of the 1st of December is not improbable.

PRESIDENT: Yes. Okay. Thanks very much. Mr Warwick?

MR WARWICK: Thank you, sir. I am sorry to have to, from my organisation's point of view, chop and change a little. I will be brief. Mr Rees unfortunately was not able to attend all of the 9 or 10 meetings that were involved in determining the contents of the memorandum.

I'd specifically like to address you on the matter raised by Commissioner Watling in relation to the proviso in 3(b) relating to competency standards. It was initially raised by Commissioner Watling and then further questions were raised by the commissioners.

The position is very clearly that where the document says that `the clerical, technical and professional streams will be implemented', what is meant by streams, the levels, classification standards and the rates contained in those three model awards, and their inclusion in the award will be immutable.

The employer will retain absolute rights in respect to recruitment and promotion from level to level within the structure - that is from level 1 to level 2, level 2 to level 3, and so on and so forth, subject of course to whatever appeal mechanisms will apply.

COMMISSIONER WATLING: That doesn't say that there in the first couple of sentences, though, does it?

MR WARWICK: Sorry?

COMMISSIONER WATLING: That doesn't say that there. It says:

> Provided that all streams -

Right? All streams - that's the four streams -

> - will include competency standards and criteria in the non-promotional levels;

So I take it that that's level 1.

MR WARWICK: No, sir, that's all - it's a reference to the increments. It's intended to be a reference to increments in all -

COMMISSIONER WATLING: Well, that's not what it says there.

MR WARWICK: Well, my purpose in rising to my feet is to clarify that, what is intended by the document.

COMMISSIONER WATLING: Right. Can you see what I am saying? It says, `in the non-promotional levels', so I take it it is level 1 - that's the non-promotional level. So you are saying that you will have standards in that level, and, `progression through the incremental levels' I take it - right - it could be from year to year - within each of the levels will be on this internal assessment process, or a peer assessment process.

So, for example, if you are a level 1, first year of service, you wouldn't move to level - the second - you wouldn't move to the second year of service automatically after 1 year of service unless you got an internal assessment by your peers that you were capable of moving to the second year of service in level 1.

MR WARWICK: That's correct.

COMMISSIONER WATLING: So, it would be possible to sit on level 1, first year of service, forever and a day until you got a successful review from your peers.

MR WARWICK: That's correct.

COMMISSIONER WATLING: So there would be no base career scale.

MR WARWICK: That's correct.

COMMISSIONER WATLING: Well, that's what I think the words say.

MR WARWICK: Yes, but I think, Mr Commissioner, there was also some confusion I think about whether there would be additional competency standards introduced in respect to the question of progression from level to level.

My initial comments were to point out that there will not be any additional competency criteria introduced into the streams, other than those that are contained within the classification standards in the decision.

COMMISSIONER WATLING: So, from level 2 upwards would be promotional levels, and then I think the State Service Act would come into play, etc.

MR WARWICK: From level 1 to level 2, and so on.

COMMISSIONER WATLING: Yes. Now when you hit level 2 and go onto the first year of service in level 2 you wouldn't move onto the second year of service in level 2 until your peers told you that you were competent enough to move to the second year of service, and that might be 3 years on the first year of service. Not quite, but I am taking it hypothetically. You could sit on the first year of service for 3 years before your peers said you'd move to the next year of service.

MR WARWICK: That's correct, sir, but -

COMMISSIONER WATLING: Right.

MR WARWICK: Well, if we have clarified the point that the only - the first point I wanted to clarify was that the only competency standards which will apply from level to level - that is promotion, not at salary increments - the only ones that will apply will be those contained in the classification standards in the model award.

Now, in respect to the question of increments, you are quite correct in your analysis of what the document says, but what the document says must be read within the context of what's contained in the existing award.

If I could read onto transcript clause 3 of - subclause (3) of clause 23 - Salary Increments - what contained in the award at present is as follows:

> Notwithstanding anything contained in this award no employee shall be entitled to receive any increase in salary by virtue of this clause -

- and that is the salary increments clause -

> - unless in the opinion of the controlling authority his conduct, diligence and efficiency during the 12 months immediately prior to the date from which such increase would be payable have been satisfactory.

So the position at present, from our point of view, is clearly that the employer has absolute authority to grant salary increments.

COMMISSIONER WATLING: I am just trying to weigh -

PRESIDENT: That's now being - sorry.

COMMISSIONER WATLING: I am just trying to weigh this up with our decision.

MR WARWICK: Certainly. I understand that.

COMMISSIONER WATLING: Right. Our decision doesn't deal with that.

MR WARWICK: I appreciate that, sir, but I think that it also needs to be borne in mind that all that is comprehended in the proviso in 3(b) is a new salary increments clause.

COMMISSIONER WATLING: Yes; but of course in our decision that award is up for argument as to whether or not it should be repealed.

MR WARWICK: Indeed. Indeed. Well, it's a condition of service and I understood that all conditions of service were subject to discussion.

COMMISSIONER GOZZI: So, in a nutshell, existing classification standards as determined will remain for those three streams?

MR WARWICK: Absolutely.

COMMISSIONER GOZZI: And that progression -

MR WARWICK: And they are immutable.

COMMISSIONER GOZZI: - progression both at the incremental levels and the automatic range would be subject to the review process that you've outlined?

MR WARWICK: Yes. But progression from level to level through recruitment or promotion will be at the discretion of the employer, as is currently the case, subject to whatever appeal mechanisms apply.

PRESIDENT: You've confused me with the introduction of the existing salary increments clause. Were you saying that that overrides the - or it has got to be read in conjunction with the agreement?

MR WARWICK: Read within the context of what currently applies.

PRESIDENT: Because they are different, aren't they? The award one provides the head of agency with discretion -

MR WARWICK: Yes.

PRESIDENT: - and what you're proposing will be a peer assessment arrangement.

MR REES: With management.

MR WARWICK: Industrial democracy, broadly speaking.

PRESIDENT: Yes. Now, which one applies in respect of the -

MR WARWICK: In the memorandum?

PRESIDENT: Yes.

MR WARWICK: The memorandum proposes the peer review system.

PRESIDENT: So, really the award one is irrelevant until such time as the new award -

MR WARWICK: Well, I think the award one is the law, sir. It is highly relevant at the moment. But -

PRESIDENT: Yes; but in terms of the Memorandum of Understanding, you'd be proposing to change that?

MR WARWICK: Yes.

PRESIDENT: Okay.

COMMISSIONER WATLING: You are confusing me. Why would you be working on the award one when we've said we'll hear argument? After determining the levels and the scales and the classification criteria, we said we would hear argument to repeal those awards, and therefore that provision wouldn't apply.

MR WARWICK: But it currently does apply.

COMMISSIONER WATLING: If, for example, hypothetically this or a number of other awards are repealed. You'd move from - in the base grade - you would just move up the ladder over the years.

MR WARWICK: Yes. Well, what's comprehended in 3(b) to the extent - to the question you have raised - it does constitute a departure from the decision as to what's contained in 3(c) in respect of the operational stream.

But I am simply trying to clarify the extent of the departure. There is certainly not the extent to which I feared the bench had some misunderstanding in respect of.

COMMISSIONER WATLING: Oh, no, I think you and I were saying the same thing.

MR WARWICK: Indeed.

COMMISSIONER WATLING: But I was just glad you've clarified now that even at the base level you can't move up the rung on annual increments until you get a tick from your peers.

PRESIDENT: Okay, thanks, Mr Warwick. Mr Vines?

MR VINES: Thank you, Mr President. Sir, the initial part of Mr Rees' submission as to the history of this matter between the hearing of the commission on 17 June and towards the middle of August about the negotiation, we concur with those submissions.

We understand that on 20 July or my understanding is that on 20 July the memorandum of understanding in its form of HSUA.17 was submitted - or we were advised that it would be submitted to Cabinet for approval and then sometime towards the middle of August we were advised that that memorandum of understanding had been accepted by Cabinet and that we were therefore at liberty to distribute it to our members.

On 17 August we issued an information sheet from the PSA to our workplace representatives in health, and if I could tender a copy of that document.

PRESIDENT: V.34.

MR VINES: V.34 is, as I say, an information sheet from the TPSA distributed to our workplace representatives in health indicating that Cabinet had recently enforced the draft memorandum of understanding, that the document addresses the issue of award restructuring, review of the conditions of employment and budget initiatives, that we had indicated our willingness to present the memorandum of understanding to mass meetings of members for membership consideration and that prior to that we would be conducting meetings with our workplace representatives on the dates and times listed on that document and then it was expected that we would conduct mass meetings of members in the week commencing the 24th.

We requested our representatives, that is our workplace representatives and workplace contacts to widely distribute the document, that being the memorandum of understanding, to members and if that was accepted by members indicating that it will have an impact on the working lives of all health

employees and that representatives and contacts were urged to obtain the views of members for discussion this week, that being that the workplace representative meetings prior to the mass meetings of members being arranged or held.

We conducted those meetings with our workplace representatives and they did distribute the proposed memorandum of understanding quite widely throughout - or right throughout our membership. Those meetings of workplace representatives, despite the fact that when we put this memo out to them, inviting them into these meetings, we did not have a position on the memorandum of understanding. Those meetings of workplace representatives brought to light a number of very serious concerns that we did have with the memorandum of understanding and that led to the memorandum of understanding not being accepted in full by our membership and, indeed, a number of resolutions being passed at mass meetings of our members rejecting certain aspects of the memorandum of understanding.

If I could tender copies of the resolutions as passed at those meetings and explain those in the context of the document.

PRESIDENT: V.35.

MR VINES: These resolutions were passed unanimously at meetings of our members that we held in all workplaces, in both hospitals, regional offices, administration and the dental service throughout Tasmania in total, attended by in excess of 500 of our health members. The memorandum of understanding, as I indicated, was released to members at least 1 week prior to the first of these meetings being conducted and there was ample opportunity for members to consider it. Similarly, we went through the document in quite significant detail at those meetings with members.

The first resolution reads that our members rejected the proposed memorandum as it relates to job cuts, service cuts, contracting out and privatisation and called on the government to immediately commence meaningful negotiations with us on budget measures but demand that every effort be made to maintain jobs.

Secondly, that we rejected out of hand, as is the policy of our organisation, to reject any proposals that would lead to forced retrenchments. Thirdly, that we support the full retention of the professional, technical and administrative and clerical streams and the review of the operational services stream in the health area and called on the TPSA to pursue their implementation by December 1992, as proposed.

And fourthly, that we supported the continuation of the negotiations towards a health award provided that such is on terms no less favourable than for other state service workers

and that any proposal is referred back to members for consideration.

The memorandum of understanding, as I indicated, had several areas of concern to us and that primarily is what the first resolution is all about. In the commission's decision of 17 June we were instructed to go away and see if we could reach a memorandum of understanding on how we would wish to proceed with regulating the wages and conditions to apply in the health or hospitals area. We went away with that intention but the document that came out at the end of that process is very different to what that original request was. Indeed, probably four-fifths of the document does not relate to the award restructuring but to the government's budget strategy which my organisation rejects and is not prepared to reach any agreement that goes to endorsing that particular budget strategy.

In terms of the memorandum of understanding, the statement of intent, the first clause in it, is very much based on the emphasis being given to the health budget situation rather than the implementation of award restructuring, as is the whole of the objectives. The objectives were of major concern to us because - if I can go through the points in there. Firstly we were being required to commit ourselves that every attempt would be made to assist the Department of Health to balance its budget in reference to attachment 1 and in reference to the budget initiatives.

Now we don't have any objection to assisting anyone balance their budget, but the view that we have maintained throughout all of our discussions with government or all of our attempts to have discussions with government, is that we are prepared to work with the government on a budget strategy for the state and those offers have been continually and constantly rejected by government. In our view it is simply not good enough for the government to make the decisions and then decide that it wants our cooperation. We had offered on many occasions to put the proposal up front, that we would assist them in developing a strategy and then implementing it. We just don't agree to a situation whereby they come to us at the eleventh hour and say: We've made the decision, now we want you to help us implement it.

In terms of the impact on jobs I have no evidence, of all that has been presented to me, to suggest that one job less than 350 will be lost in the Department of Health and, indeed, in our view, this memorandum of understanding provides for jobs far in excess of 350 to go. As I indicated before, we were advised on 20 July that this document was going to cabinet. On 12 August the state government handed down their budget and in his budget speech the Premier and the Treasurer, Mr Ray Groom, at page 12 says - and this was after Cabinet had or government had had the final document for some 3 weeks: In

the Department of Health approximately 350 full-time equivalent positions, which means more then 350 jobs, far more than 350 jobs, of course, because of the large number of part-time employees. Approximately 350 full-time equivalent positions are involved as a result of initiatives to refocus resources on patient activities, transfer functions to the non-government sector, including some `hotel services', and improve efficiencies in the core delivery services.

So there is no doubt at all in our minds that the government intention after this document was prepared was that job loss of 350. The memorandum of understanding goes on though to say that whilst every effort would be made to minimise the loss of jobs, which we applaud and support, jobs will be maintained in areas not affected by budget initiatives so those areas outside what are in that attachment 1 will be maintained except for two provisos, or two conditions, the first one of those being the workplace reform identifying any positions that might be surplus.

So outside the budget areas, outside the 350 jobs, if the workplace reform process comes up with any jobs that are surplus they can go and then, secondly, in any circumstances where voluntary redundancies are agreed. So if there is an agreement to do away with more jobs through voluntary redundancies, so be it. Now our concern with that is we're not going to stop in the way and we have made a deliberate position decision not to stop in the way of any member who wants to take a voluntary redundancy. We will caution them but we won't do anything to stop them.

But what you must remember in this process is that the initial 350 jobs can be axed in a variety of ways, including under the employment rationalisation program, forced retrenchments. In other words, sackings. And we are not prepared in any shape, form or anything else to accept any document that would allow any single person to be sacked in the public sector, not today, not tomorrow, not as long as I'm secretary of this organisation. We will not agree to anything that allows sackings.

PRESIDENT: And where do you draw that there will be sackings or there can be sackings?

MR VINES: Because this provides for the 350 budget jobs to go at clause 4(d) in accordance with the redundancy program and separations package. That redundancy program and separations package includes forced redundancies and discussions that I have had with the Minister of Health have led to him acknowledging that he is not in a position to say that people will not be sacked. He is not prepared to say there will not be forced retrenchments. I accept they've said they will try at all lengths to avoid them but he is not prepared to say that there will -

PRESIDENT: That's not over and above the 350 though, is it?

MR VINES: No, inclusive of the 350, I'm sorry.

PRESIDENT: That's included in it, yes.

MR VINES: Yes.

PRESIDENT: Yes, so you're just objecting to the notion of -

MR VINES: Of sackings, sir.

PRESIDENT: - forced redundancy.

MR VINES: That's correct. Clause 3 of the document, process, does not create any major problems for us at all, nor did it to those meetings of members we held. There is some concern in relation to part (a)(iii) amongst our members, some saying that those central office areas should be excluded, others saying why should they be excluded. We have not reached a definitive position on that except for the resolution at item 4, that we've been authorised to continue negotiations - resolution 4 from V.35 where we've been authorised to continue negotiations towards an award but then to bring it back to members at the end of the day. We would be continuing our negotiations on the basis of item (iii) so that it would exclude the head office administration, but I am not authorised to finalise those negotiations until I've taken it back out to members in a final form so they determine at that stage whether it's all or some who are involved in it.

In relation to item (b) as the commission is aware the TPSA has maintained this right through these discussions, on 17 June in particular, that we would not accept any diminution of the clerical, technical or professional streams and we argued at the commission since that time that they should be maintained and we accept that they are now maintained in the proposal.

However, we do not accept the proviso as provided at part (b). We do not accept the introduction of competency standards for incremental progression. There is currently, as has been referred to the commission in public sector awards, a progression clause relating to increments that refers to diligence and efficiency. That is very different to competency standards; very different to competency standards.

The whole design of the award restructuring and the four stream proposal is based on definable skill levels for levels of competency and those are the levels. They are not the increments. And we simply do not accept that it is appropriate that the incremental proposal - incremental

component of the model streams be subject to yet to be defined competency standards.

It is our view and, indeed, I think it is fair to say it was put in discussion, it was mentioned in discussions, that - or it has been mentioned in discussions, that one of the objectives in that would be to limit progressions for professionals in class 1. Because as has been put to the commission before by the Health Department, where the unions have been saying they want a review of services the department has constantly said that if services are on the table we want professional on the table as well. Because in some areas it will cost them money.

And the - my understanding of the objective there is to limit the progressionability of professionals, particularly at level 1. But even if that is not the case, even if I have misunderstood the situation in relation to health professionals, which I do not think I have, we are not prepared to, as I said before, reduce the conditions and the decision of November last year by putting further restrictions into awards that will apply to health employees. So we are not able to accept that proviso in part (b).

In relation to part (c) we welcome and applaud that aspect of a review of 100 per cent benchmark that was determined in the decision of November 1991. As we have said right through these proceedings it is not an area of major membership involvement with us but we are aware of the very significant concern, particularly from the HSUA but also from other blue collar unions at that level, and we welcome that proposal from health that that matter be reviewed. And so, similarly, we accept the proposal there in clause (c).

In relation to clause (d), our only difficulty there is in relation to the date, that is the November 1993 date. We do not believe it is appropriate that award restructuring lag in the health area. It has lagged in all areas now, if you like, and it may well or it may well not be completed by November 1993 everywhere else. Although I can just about assure the commission if it is not, we will not still be here. We would have given it up for dead. But we do not believe that there should be a later date of application for health employees compared to other public sector workers.

Clause (c), we agree with that as a concept. Again, as we are on the record continually as saying. Similarly, with part (f), we see that as being part and parcel of the award restructuring process. Clause 4 of the document, we do not believe has any part to play in the document and is outside the scope of the Memorandum of Understanding that the commission asked us to go away and consider.

Part 4 commits the unions or those people who accept this implementation - this Memorandum of Understanding to agree to the implementation of certain budget initiatives. In our view those budget initiatives will lead to service cuts, to job cuts, to privatisation, and to contracting out. And in those areas, again, my organisation and my members have a policy that we are not prepared to commit ourselves to agree to the implementation of any of those measures.

We will negotiate on them, we will try and find a way around them but we are not prepared to lie down and give the government or a department an open door in relation to those sort of cuts. Whilst the document acknowledges that we do not accept the concept of privatisation from my union's point of view that is not a strong enough acknowledgement. My union is a public sector union and one of our strongest areas of policy is in defence of the public sector. We do not accept in any circumstances documents - signing documents that lead to a privatisation of public sector work or utilities.

Clause (b) in this budget initiatives I think is a very, very dangerous clause. Whilst it is being put that it is there to curb the rambos or the cowboys or whatever in the Department of Health who might come up with them and that Martin Jarman and Michael Stevens would come in as the good guys and say: No, you cannot do it. I read it precisely the other way with my very suspicious and cautious mind and say that in fact what that provides for is for the department to do whatever else it wants in relation to budget initiatives, job cuts, privatisation, contracting out and sacking. All it has to do is tell us.

Because, you see, consultation with this government is not a process that commences before a decision is made. It is a process that commences after a decision is made. And what we would be finding in relation to (b) is the decisions are made and then we are told about it. And we are not prepared as a - again to accept a document that provides for unlimited scope for budget initiatives to be introduced without us having a right to do something about fighting those or without us having the right to come up with alternatives to that.

In relation to item (c) we do not accept that there is a need to implement those budget initiatives. We do not accept that. We do not accept the government's budget strategy of debt reduction to the '94-95 financial year. The economic research that we have commissioned does not accept it. And they have given very sound alternatives to it that the government has chosen to ignore. That does not mean that we stop opposing what the government does.

Because there is an alternative that does not cost jobs and that is a very sound alternative of reducing that or extending that period of debt reduction to maintain jobs and to maintain

services. So we are not prepared to accept the necessity for those budget initiatives because in all cases they are not necessary. In some they may be but not in all. We agree with the concept, as I said before, of minimising job losses. Indeed, we want to avoid them.

This document does not, in our view, do anything at all to minimise job losses and it most definitely does not do anything to minimise job losses. As I say, after the negotiations on this document were complete the government come out with a budget that said 350 jobs will go. In black and white it is written there, 350 jobs - sorry, 350 FTEs to go in that document and we just simply cannot and will not accept that.

Clause (d), as I indicated to you before, provides for the application of the government's employment rationalisation program, or as for the Minister for Construction quaintly calls it, the employment rehabilitation program. The - that program provides for forced retrenchments which as I have indicated before we refuse to accept in any form. The Labor government tried to reach an agreement with us last year that included the ability to have forced retrenchments and again we refused to accept that agreement last year and refused to sign it.

We will be maintaining our position in relation to forced retrenchments or sackings and we will not accept them. In relation to clause (e), that is all very well and we welcome that. It will be novel in many instances for people to be treated fairly and equitably when their jobs are on the line but that does not hold any great faith for us because the discussions that I have had with the Commissioner for Public Employment who is responsible for such areas of redeployment have indicated to me that the opportunities for redeployment are going to be very, very slim. Very, very slim.

And whilst we welcome that being put in the document it is very much superfluous because it is in the act anyway and does not do anything to alleviate the situation from our point of view. In relation to implementation, clause 5, item (a) in that does not present any problem except for the suggestion that it be extended out to December 1993. And similarly with clause 5(b) the extension out is something that we are not prepared to accept.

So, our position basically, sir, in relation to the document is that we do very much want to continue discussions with the Department of Health -

PRESIDENT: What do - before you move onto that, what do you say about the conditions of service and so on?

MR VINES: We, as I have - I think I covered that wherever it was in the body of the Memorandum of Understanding, we accept the conditions of service are a matter that have to be discussed as part of the award restructuring. Our position on conditions of service in health is exactly the same as what it is in every other area of our involvement. Except that workplace reform, budget initiatives - not budget initiatives - workplace reform, conditions of employment, agency specific matters and new awards are all part of the award restructuring process.

And so our position in relation to them is as it has been everywhere else. We do not necessarily agree that they are all provisions that need to be considered or, indeed, that all of those need to be considered. There is no doubt at all that we accept the need and have volunteered the need for discussions on the or negotiations on the area of conditions of employment.

PRESIDENT: That is - I mean that is predicated on the basis that they are conditions which apply to the health industry?

MR VINES: Well, as I said in the resolution before, I do not have any ability to agree to anything that is less than what prevails in the public sector generally, but quite clearly there are conditions in the health service that do not apply outside the health service and that is why there is a discussion about putting health to - aside. And we are more than happy to negotiate on whatever there, provided I mean those negotiations are reasonable of course.

But in terms of the concept, of negotiating with the objective of reaching agreement, yes we are very eager to do that. Indeed, in relation to this whole process as you can see from the resolutions that were passed by a very large number of our members in the health system, we are prepared to do a number of things. We are prepared to continue negotiations with the government on their budget initiatives, on the need for doing something in relation to the budget in the Department of Health and we are prepared to continue with those negotiations towards a Health Award but very much on the understanding that I do not have the authority to agree to it. I have to take that back out to the people who make the decisions in my organisation to get their approval to it before I can, which I am sure the commission accepts. If I could tender a further letter, sir, or a further -

PRESIDENT: V.36.

MR VINES: V.36 is a copy of the letter from myself to Mr Ian Fletcher, the secretary of the Department of Health, on 5 September this year which was a day or two after we concluded our workplace meetings advising him of resolutions that had been passed at our meetings and indicating that we were

prepared to continue discussions on the creation of a Health Award incorporating the professional, technical and clerical streams emanating from the November decision as well as negotiating a new operational stream. Further that we are willing to commence discussions on budget initiatives as a matter of urgency and anticipated his early reply.

Not unreasonably, it is only 11 days since, but we have not had a response to that, but that is the position that the PSA has reached. And as I say, there is ample room, in my view, in the resolutions and in the marching orders that I have been given by members, to continue discussions on this matter. There is also -

COMMISSIONER WATLING: Can I just say, what do you mean - what do you expect him to reply to in this letter? You are saying that: further the Association is willing to commence discussions on budgeting initiatives, are you expecting him to write back to you and say: well, come and talk to me about it, or something?

MR VINES: Yes, I am, sir.

COMMISSIONER WATLING: Right.

MR VINES: Yes. In - I think that would be a normal expectation.

COMMISSIONER WATLING: Well -

MR VINES: It's happening in a number of other departments where budget cuts have been announced after the budget. Because, Mr Commissioner, you might not as yet be familiar with the budgetary process this year, but very little was actually announced in the budget. Most of the decisions were being made after the budget. And we're involved in discussions in a large number of departments, be it on the further closure of libraries and abolition of bookmobiles, the abolition of the apple research funding and a whole range of different things that other agencies are talking quite reasonably with us on. And we would expect or we anticipate a similar constructive response from the Department of Health.

Mr President, members of the bench, I think that just about concludes the - or does conclude what I have to say, except just simply to summarise. That in relation to those matters that the commission asked us to go away and seek to develop a Memorandum of Understanding on, I believe that there is substantial agreement there. The - not full, but substantial agreement. The difference has been in relation to the proviso - or primarily the proviso in clause 3, and although less significant the operative date. But we are not prepared to say that we have an agreement in relation to the issue of budget initiatives.

But it's quite clearly my view that there is ample room to continue to negotiate on those. But it is also interesting to note, in closing, that in each other year that we've come before the commission on these and three percents and the rest of it, where we have reported on the very significant impact of budget strategies on the public sector and their leading to workplace reform, in each other occasion it's been the government who has been telling us that those matters had nothing to do with workplace efficiency and award restructuring. If the commission pleases.

COMMISSIONER GOZZI: Mr Vines, just so that I can be clear. Exhibit V.35 summarises the results of stop work meetings or mass meetings.

MR VINES: V.35, which one was that, sir? The resolutions?

COMMISSIONER GOZZI: Resolutions. Right?

MR VINES: Yes, it does.

COMMISSIONER GOZZI: Now -

MR VINES: They - rather than summarising what happened, they are the resolutions that came out of it.

COMMISSIONER GOZZI: Look, sorry, yes. Yes, the resolutions.

MR VINES: Unanimously.

COMMISSIONER GOZZI: If I understand you correctly, resolution No.3, and in fact resolution No.1, go to budget initiatives. Is that right?

MR VINES: No, No.3 doesn't.

COMMISSIONER GOZZI: Which ones?

MR VINES: Oh, sorry. No.2? Yes, that's correct.

COMMISSIONER GOZZI: 1 and 2.

MR VINES: Yes.

COMMISSIONER GOZZI: Now, it seems to me that those resolutions prohibit the TPSA from embarking upon budget discussions or budget initiative discussions.

MR VINES: Not at all. Not at all. The second paragraph in -

COMMISSIONER GOZZI: But you're not -

MR VINES: Sorry, the second sentence in resolution 1 calls on us to commence those discussions.

COMMISSIONER GOZZI: Yes, but isn't the invitation there to discuss budget initiatives as outlined in -

MR VINES: No.

COMMISSIONER GOZZI: - HSUA.17 -

MR VINES: It's to commit ourselves to them. To agree to the implementation of them. And we don't.

COMMISSIONER GOZZI: Well, is the budget initiatives, as I understand it, that the HSUA has agree to -

MR VINES: Yes.

COMMISSIONER GOZZI: - consider?

MR VINES: No. To implement.

COMMISSIONER GOZZI: Oh, to implement. To pursue.

MR VINES: That's right. We're happy - we're happy to consider anything. We're not going to give a blanket agreement for implementation.

COMMISSIONER GOZZI: The point I'm getting to, isn't this an invitation for you to be involved in discussions?

MR VINES: No.

COMMISSIONER GOZZI: Doesn't HSUA.17 -

MR VINES: No, it goes further than that.

COMMISSIONER GOZZI: - give that opportunity to the TPSA to be involved in discussions on budget initiatives?

MR VINES: No, but it - no, it is an - it's a invitation, for want of a better word, for us to commit ourselves to them; to agree to the implementation of them.

COMMISSIONER GOZZI: Well, it talks about reviews, you see.

MR VINES: No, clause -

COMMISSIONER GOZZI: Service reviews and .... service reviews and -

MR VINES: Yes. Yes, that's right.

COMMISSIONER GOZZI: - staffing reviews.

MR VINES: And the implementation of those reviews. Let's not kid ourselves that the agreement is just a sit down and agree that the reviews are going to happen. The agreement is that they be implemented as well.

COMMISSIONER GOZZI: Well, it seems to me that - and I -

MR VINES: There's no savings in just reviewing something, that's not a budget initiative so -

COMMISSIONER GOZZI: No, but the budget initiatives set out a range of areas where reviews will take place. Now, presumably those reviews will entail negotiation; an examination of the issues and negotiation.

MR VINES: Oh, no, these aren't reviews that we do. I mean, for example, in the pathology services area there are reviews that they've brought external consultants into the -

COMMISSIONER GOZZI: Yes. You see the point I'm getting to is -

MR VINES: And then when they bring down a decision, that decision is implemented by agreement in clause 4A.

COMMISSIONER GOZZI: Is it splitting straws - and that's the question really - is it splitting straws to put the interpretation that you have on the budget initiatives contained in HSUA.17, and on the other hand seeking discussions with the secretary of the Department of Health on budget initiatives?

MR VINES: No, not at all. What the difference is, and it's not a subtle difference, but what the - and it's not splitting straws, it's a very significant difference. This document commits us to a course of action. All right, it commits us to a final outcome. What we're saying is, we're prepared to go along the path, but we're not going to commit ourselves to final outcome until we know what it is.

You know, we will - we will participate as far as we're allowed to participate in these reviews and other things that we might want to put on the table, but we will not sign something now to say that we will accept what's coming out at the other end. And that's - that's what the big difference is, Mr Commissioner.

COMMISSIONER GOZZI: Well, you see, I don't necessarily -

MR VINES: And it - and we don't - and this budget initiative is also aimed at that - what I referred to here, from the budget speech, which we don't accept. We don't accept the loss of jobs. We don't accept privatisation.

COMMISSIONER GOZZI: Yes. I must say I simply read into Attachment 1, Budget Initiatives, on HSUA.17 that there would be as a matter of course the involvement of the parties to this agreement -

MR VINES: Yes.

COMMISSIONER GOZZI: - in the review process.

MR VINES: Yes.

COMMISSIONER GOZZI: And logically -

MR VINES: But -

COMMISSIONER GOZZI: - well, logically anyway that would entail some sort of negotiation.

MR VINES: Yes, it may well do, but we're - but clause 4A still agrees to the implementation of it. It commits those signatories to the party, the parties are agreed that the budget initiatives will be implemented.

And we don't agree with initiatives being implemented -

COMMISSIONER GOZZI: Well, in accordance with an agreed process though.

MR VINES: Yes. So what? I mean, but it still -

COMMISSIONER GOZZI: Agreed between -

MR VINES: It doesn't matter what the process is, we're happy to negotiate a process, we're not .... prepared to commit ourselves to an outcome that is aimed at 350 jobs, contracting out, privatisation, and that's what it boils down to. This goes one step too far than we're prepared to go, is what I'm saying.

COMMISSIONER GOZZI: I understand, Mr Vines. Thank you.

PRESIDENT: Yes, thanks, Mr Vines. Mr O'Brien?

MR O'BRIEN: Mr President, speaking on behalf of my organisation, we support the Memorandum of Understanding. This approach is not dissimilar to the approach my organisation took in relation to discussions with the Department of Education and the Arts last year which led to variations to the Miscellaneous Workers (Public Sector) Award, which in fact specifically addressed workplace reforms and reflected a number of those reforms in the award.

This memorandum obviously doesn't go as far as that. It is the - a process leading towards some of those objectives. And I would say that in relation to the objectives about the reorganisation of work, review of different processes, guarantees about the protection of jobs, acceptance that certain jobs may go, is certainly on all fours with the process that took place in relation to the matter that I've just referred to.

Now, the position is that, of course, the unions have given a commitment to pursue the implementation of the commission's decision in this matter, on the basis of an expectation of being able to work around particular problems. The commission's aware that the decision is not without difficulties from the trade unions' point of view, or at least some of them.

This memorandum is the type of arrangement which my organisation and others certainly would believe would provide possible solutions to those types of problems. It need not be stressed that, for example, clauses 3(b), 3(c) and 3(f) permit outcomes which would possibly differ from the outcome in the November decision, or indeed in the review of common public sector conditions. And in that regard this memorandum would provide additional flexibility in this area.

Now it's not my purpose to substantially go over what's involved there, simply to say that it allows the parties an additional amount of flexibility whilst maintaining a commitment to some of the general principles that are contained in the decision. And it is, I think, as Mr Vines has indicated, a mechanism in 3(b) which would allow for certain other criteria to be added to the - the standards which apply in the clerical, technical and professional streams in relation to movement from one salary level to another. And in that regard it would allow for, whilst not guaranteeing, a different outcome to that which is provided for in your decision of November 1991.

In relation to item (c), again it would allow for a different outcome to that which is provided in your November 1991 decision, whilst not guaranteeing that. It allows the parties to look at that and have a degree of flexibility about that, whilst at the same time having cognisance of the general principles that apply in that decision.

It would have to be said also that if there is a separate process to allow the parties to review conditions of employment, although regard will be had to the outcome of any service-wide conditions of service agreement or determination, that there is the facility for a different set of conditions to apply in this area.

The important thing I think to be given consideration in this matter is that the most important and critical outcome of this process is in fact workplace reform. Now the parties shouldn't be caught up in the idea of a - a solution to the process being wholly and solely in the creation of award streams or conditions of service, but rather the overall approach of achieving workplace reform. And that, no doubt, is - that is the question of wage and conditions - part of that process.

You can't have one without proper attention to the other. But by the same token there has to be a recognition of the need for change. Now I referred at the outset to the approach which my organisation takes in relation to work practices, employment, training, materials and equipment, a number of other related matters in relation to the Miscellaneous Workers (Public Sector) Award to indicate that in that area we didn't really address the question of wages and - whilst some conditions were addressed - conditions generally.

But rather, we addressed the fundamentals of workplace reform, and some of the questions which Mr Vines addressed and which this Memorandum of Understanding addressed, and that is the questions of changes to work practices, the number of staff, how excess staff would be dealt with et cetera. And in that - notwithstanding some of the hitches in those discussions, I might say that the discussions between the department and my organisation involved a cooperative approach and ultimately led to an equitable outcome which minimised casualties and allowed the cementing of a viable ongoing relationship, and which was approved by this commission.

The Memorandum of Understanding before the commission is the vehicle which would allow a similar result. And in my submission it is that result which is of greatest importance and ought to be the greatest consideration in relation to these proceedings and the ultimate aim of workplace reform and restructuring.

As I say, it's critical that as much as possible the introduction of workplace reform be achieved by negotiation and agreement and this memorandum of understanding is an indication that, indeed, there is great possibility for progress in that area. I suggest that arbitration would not ensure that workplace reform was achieved or would not ensure that the maximum reform was achieved without endangering the spirit of cooperation.

The other aspect of the agreement which, I think, the commission ought to note is the parties in 3(f) refer to arbitration within agreed parameters of matters which are not agreed in terms of conditions of service. And that is designed to ensure that the parties can have a firm view at the beginning and during the course of negotiations of where

they might end up even though they might not agree on a final position but they can agree on boundaries within which the final document ought to be established.

And if that position is endorsed by the commission, of course, it's an endorsement of the right of the parties to have at least some control over the process even though they're prepared to hand to the commission the role of determining disputes so that conflict can be minimised and agreement, even if they can't agree to every aspect of the negotiation process and the resolution of the negotiations, that the parties are committed to the outcome on the basis that they'd agreed, not only to arbitration, but that the parties have agreed to a control within that arbitration process.

COMMISSIONER GOZZI: What would happen, Mr O'Brien, if the commission in those circumstances determined something outside the agreed parameters?

MR O'BRIEN: Well I think -

COMMISSIONER GOZZI: I mean, the record would show that mostly that wouldn't happen but it could happen.

MR O'BRIEN: It could happen and I think what has happened, in my experience, in many cases where the parties have put that if the commission isn't prepared to make such a finding, then the parties are able to recommit themselves in relation to the whole agreement. And that's certainly not uncommon where the parties go to the commission with an agreed package. It's not uncommon for the parties to say: Well here's a package. If you can't approve part of it you'd better tell us because it is a package.

COMMISSIONER GOZZI: But this wouldn't necessarily come forward as an agreement per se where that process that you've outlined would happen. This would come forward as a draft award and the same rules wouldn't necessarily apply or don't apply.

MR O'BRIEN: Well I used the word `agreement'. You could have an agreement to make an award rather than a registered agreement, for example. But I understand what you're saying but I think these perhaps minor points are important in terms of what I think is a very important component of this whole process that we're in danger of forgetting, and that is that this is supposed to be engendering a cooperative approach to workplace reform and the bottom line, so far as I'm concerned, is the more of it that is arbitrated, with due respect to the commission, the less of it that's going to be enduring.

COMMISSIONER GOZZI: Well I totally agree with that view. It's a case of getting the parties to get on and do it.

MR O'BRIEN: I would suggest that this memorandum of understanding is the strongest indication of process that the commission has got down the path of workplace reform and award restructuring in relation to the whole of this case. I may be wrong, you may be able to point to something I'm not aware of.

PRESIDENT: What it does raise, in my view anyway, Mr O'Brien, is the question why is it only possible to reach this sort of agreement in the context of the health industry? Why can't it be reached in the context of the service - public sector per se?

MR O'BRIEN: Well I've got some personal views that I don't want to put on the record now, but I think the possibilities are there for this sort of agreement to be pursued in other areas and for the difficulties in the implementation of workplace reform to be overcome. And we are a minor player in relation to this area but I think the principles involved are very important and the view of the commission on this approach is very important in terms of the progress towards achieving what I believe should be the ultimate aims of this whole process.

I suggest that the parties be encouraged to continue down this path but, I think, there needs to be a position taken by the commission on this matter very quickly because I don't really think it is viable, as has been suggested, for us to proceed down the path of this work, given that, I think, it's implied in the document that it's going to take a lot longer than the end of this year to finalise this documentation. But by the same token the suggestion is, well, maybe this has got to be in place by the time we deal with the question of which awards are set aside and which awards are not.

And I think that is a proposition which poses a great deal of difficulty and I had understood that the memorandum was put forward on the basis that the parties would be seeking an acceptance by the commission of its general propositions and that, particularly, item 5(b) would be approved. That is the existing awards would continue to apply in this area until such time as the process had been completed.

Now I'm not sure of the commission's intention in relation to the general approach but let us assume that, as I think is fairly certain, we get to the next hearing dates without resolution of conditions of service, if I was hearing correctly this morning, I guess I would have assumed that the commission had some intention to attempt to resolve the outstanding matters on conditions or service, or all of them if there's no agreement at all. I may be wrong with that but -

PRESIDENT: Well we don't know what the situation is until the parties talk about it. They haven't even started to negotiate yet.

COMMISSIONER WATLING: .... carried out the decision of the previous occasion yet, it seems.

MR O'BRIEN: Well it would seem to me that in relation to that timetable there is - given the amount of time it's taken to get to the point we're at now, it's unlikely that there's going to be an agreed position on conditions of service and that would seem to pose difficulties in relation to what happens about the continuation of awards. But those matters, I'm sure, will be addressed at the meeting which, I understand, is going on, on Friday of the trade unions. Mr Vines, I think, was suggesting that was the case and that there was going to be a meeting of unions on Friday about conditions of service.

So what I'm saying is that my understanding of the memorandum of understanding on that point is that irrespective of those proceedings, were they to continue, for example, this year that the parties would be asking the commission to accept that the applicable awards would continue in operation pending the finalisation of the negotiations and bringing before the commission all the resultant documentation for the health award.

So we putting the document in that context would support the memorandum. I would just say this in relation to clause 2 - Objectives, that it seems to me that the - at the very least, the job protection guarantees which are contained in that document are greater than exist in its absence, that is that other than those items which are already targeted under the budgetary process there is a great deal of control placed over the reduction or any further reduction in job numbers as a result of the entering into of this memorandum of understanding, certainly a great deal more control than that which would exist in its absence.

COMMISSIONER GOZZI: It clearly puts the onus on the parties to come up with some worthwhile reforms.

MR O'BRIEN: Yes. And all that it says, in my estimation, is that if, apart from those budget initiatives either the workplace reform process identifies positions that may be surplus and then some method has to be agreed as to how that's dealt with, or there are voluntary redundancies the parties agree to. And that's my interpretation of the objectives, and certainly a significant degree of job protection in that particular clause.

So we would support the memorandum. We would ask the commission to endorse the process and allow the parties to

continue down that path. I suggest that in doing so not only will the commission give a positive message to the parties in this area, that the overall aims of the workplace reform process are contained within the documentation and are endorsed by the commission will also encourage others to consider their position and perhaps follow a similar path. If the commission pleases.

COMMISSIONER WATLING: So are you suggesting that by us encouraging the parties to continue along this line, we would be encouraging others to then go out and negotiate agency agendas?

MR O'BRIEN: We might be.

COMMISSIONER WATLING: Well what was the meaning - what am I supposed to glean from your submission on that point?

MR O'BRIEN: If you allow me to finish. You might be encouraging that or you might be encouraging a central process but what you would be encouraging is the process of workplace reform which seems to me to, in some respects, be stalled in the general public sector at the moment.

COMMISSIONER WATLING: So what do you want us to take from that comment?

MR O'BRIEN: Well just what I've said, that you can encourage it in -

COMMISSIONER WATLING: Well you've given me three things. What do you want me to -

MR O'BRIEN: No, I want you to take all of those things on board, Mr Commissioner, because you can encourage it in a number of ways, but the important thing is, in my submission, that you encourage workplace reform in general which is not inconsistent with the approach the commission has taken throughout these proceedings. The fact that for one reason or another that process appears to be stalled in the general area and appears to be progressing here is something that the commission will have to take into consideration.

COMMISSIONER GOZZI: Mr O'Brien, if we head down the path that you're advocating we go down -

MR O'BRIEN: I'm sorry, someone turned a page and I missed the first couple of words.

COMMISSIONER GOZZI: Yes, if we adopt the approach that you're advocating that we adopt, it raises a couple of issues. I'll try and put them to you succinctly: The health award proposal contains an operative date, if you like, or a finishing date in December 1993. Now it probably would be in

the interests of the government generally, in the wider public sector area, to phase all conditions and stream matters in at the same time. Now if that is an agenda item I think we need to know about it because whilst the health area is doing its thing, we're also concerned as a bench with the wider public sector.

To try and unravel the situation why wouldn't, rather than keeping - this is only a - I'd like to hear a response to this - why wouldn't the bench invite, as a first step in the health industry award-making process, an application, indeed, to make that award in respect of title and scope and then give the parties an opportunity to discuss the issue of who should be bound by the award. In other words, determine interest in that award, which would remove at least one major stumbling block in that area. It certainly would overcome some of the problems that Mr Pearce referred to in the wider public sector area.

I know - I know that that would create some problems in that we've gone a certain way in that award making process without the commission really having indicated yea or nay to the final outcome. But it seems to me there are some advantages too. What do you think about that proposal?

MR O'BRIEN: Well, the first aspect of your - your question was dealing with the provision which would permit the continued operation of existing awards until the 1st of December 1993. Now, the implication in this document is that this matter will be finalised by that time. I know of no guarantee under the current decision that all of the awards will be finalised by that time, if I understand the impact of your decision.

If, for example, conditions of service is not resolved by the 1st of December 1993, then nothing comes into play. So this - this is - this is, in that respect, although, you know, I know people have differing views on when it is realistic to expect the implementation of the overall decision, but in that respect this agreement has - is an advance on that operative date position.

In relation to the process that you suggest, I guess one argument is that there is already a Health Award in place, and why ought you go through the process of setting that aside and making another title and scope which may well be identical or very similar to the existing one.

COMMISSIONER WATLING: Because they all wouldn't be covered by it. They all wouldn't be covered by it. What happens with therapists -

MR O'BRIEN: Well -

COMMISSIONER WATLING: - who are not covered by that award?

COMMISSIONER GOZZI: There'd be a multitude ....

COMMISSIONER WATLING: What happens to medical scientists that aren't covered by that award?

MR O'BRIEN: Well, you're - you're asking me questions which don't pertain to my area and given - given time to consider it then I might think - I may agree with your proposition.

But my first thought would be surely, you've got a vehicle there at the moment surely there is a way to use that vehicle in the context of this type of agreement and deal with the sorts of problems that you're talking about rather than throw the whole lot out and start with - with something which has no effect other then naming a title and scope. Because until it's got conditions and classifications it doesn't mean anything.

COMMISSIONER GOZZI: Yes. I understand. I guess I premised my comments to you on the basis that I was optimistic that the public sector general area would, in fact, be able to be completed ahead of that December date. Because from where I sit the commission has given directions, albeit they've been ignored, that the conditions document ought to be forwarded with quantums in it. That the agency specific matters ought to be able to be dealt with. And that we, as a commission, would in tandem, if you like, consider all the issues as they arise, in tandem with the health area.

But to facilitate the process in the health area that we would at least get to the stage of demarking it earlier rather than later. If in fact it's going to be demarked beyond what is there now. Because in the current scenario, I guess the scenario you've put forward, Mr O'Brien, the concern I have is that we're not just talking about the Public Hospitals Award, we're also talking, as Commissioner Watling said, the Therapists Award, Medical Scientists, Scientific Officers, a whole range of -

COMMISSIONER WATLING: Pharmacists.

COMMISSIONER GOZZI: Which would really then mean the retention of a whole lot of awards till the health area is finalised.

So, you have the health area driving the whole of the public sector agenda whereas, I guess, I envisaged that the health matters would be considered subject to what happens in the - in the public area.

MR O'BRIEN: Well, yes. That - that isn't the only solution, but - and I don't pretend to have a - you know, an off-the-cuff solution, but again I think that we're talking hypotheticals in terms of what might happen in the general area and what's going to happen in this area.

If that was going to be a problem then I think that could be addressed and a solution found closer to the timing of the emergence of our problem. But that's an off - again, that's an off-the-cuff answer to a question that I'd rather take on notice, if I could.

COMMISSIONER GOZZI: Yes. I mean, at this stage it would seem maybe not unreasonable for the bench to re-defer - if that's the right way of putting it - what it said in its last decision about quantums being provided, to drive the agenda with respect to agency specific matters, and also go part way to what you're asking, to ask the parties to make an award application where those matters that we've discussed can be - can be determined. And clear the decks.

MR O'BRIEN: Well, I'll take that on notice I think, is the best I can say. Thank you.

COMMISSIONER GOZZI: Thank you.

PRESIDENT: Yes, thanks, Mr O'Brien. Ms Moncrieff?

MS MONCRIEFF: Yes. If it please the commission, Mr President, commissioners, most of what should be said has been said by the unions, so I shall make my submission brief.

The FEDFA is in agreement with the Memorandum of Understanding. I might just touch on one thing, sir. Mr President, you've question why - or in effect have said, it's difficult to understand why the health process has apparently cooperatively reached this point, whereas in the other areas of government we haven't. And I think we all bite our tongue as to - to saying specifically what we think the problem is.

However, I would say that, for example, last week in the Forestry Commission area we met. There are six area - six unions involved in that area and at the meeting with the department at which a representative of the Department of Premier and Cabinet held sway over the discussions, it was simply put to the unions: Well, we only want two unions here, and until you agree to that - and I'm paraphrasing here - until you agree to that we're not progressing discussions any further. There's nothing more to talk about.

When the union movement comes across that - that sort of attitude it becomes difficult to progress anything. And we then begin to wonder whether indeed there is a real desire on

the part of government to progress matters, or simply to frustrate and to - to continue in this way.

However, to get back to this particular area, the approach taken by the minister and, through the minister, the department has been such that they are prepared to sit down with all the unions. The unions have looked at the proposals being put forward. We certainly have differences, but we're prepared to go down the track, and that track is outlined in the Memorandum of Understanding.

And from my own position, or the position of my union, if other departments of the government were to adopt this approach as, indeed, have other industries and other government - governmental bodies, such as the Hydro Electric Commission, then we would certainly be further down the track as well. If it please the commission.

PRESIDENT: Yes. Thank you very much.

MR COPPLEMAN: Ken Coppleman, I represent the Electrical Trades Union.

PRESIDENT: Yes, Mr Coppleman?

MR COPPLEMAN: Mr President, members of the commission, I would just like to inform you that my association has managed to inform all my members on this Memorandum of Understanding and we also agree with it.

I would just like to reiterate what Di Moncrieff has said, and that's the fact that the department, as far as cooperation goes, concerning us, has been very helpful and have afforded us all the help that they could. I think that if we can continue on in that vein then we will come to a decision which will be, maybe not happy with everyone, but it will be .... Thank you.

PRESIDENT: Yes. Thank you, Mr Coppleman. Very good.

MR JARMAN: Thank you, Mr President.

PRESIDENT: Mr Jarman?

MR JARMAN: Just as well we didn't take Mr Vines up on his offer this morning of 10 minutes. If I'd been waiting for him down at the local for him I'd be in a sorry state by now, wouldn't I?

MR VINES: I was only 15.

COMMISSIONER WATLING: Or a happy state.

MR JARMAN: Mr President, I could - I can start my submission, I'm prepared to do that. However, I think I should advise that we are not going to finish this evening, that's unless you want to sit beyond 4.45 to 5 o'clock, or whenever. And I'm just wondering about the availability of the bench after today.

PRESIDENT: Yes. Well, we have programmed other days, but they are in October.

MR VINES: There's two other days this month, sir, I think, aren't there?

PRESIDENT: Is there?

MR VINES: 29th and 30th.

PRESIDENT: Yes, 29th and 30th.

MR JARMAN: Well, obviously this is a matter that we would like to see concluded as quickly as possible.

PRESIDENT: Yes.

MR JARMAN: We are champing at the bit to get on with this process, but as has already been suggested by a number of the applicants today, we feel it's appropriate that this commission, after requesting that we develop this .... endorse the process. So, I'm in your hands, Mr President, we continue today or we adjourn to another date.

PRESIDENT: Yes. Just a minute, Mr Jarman. Since we're going to need some more time, Mr Jarman, we might take the opportunity for a brief adjournment, and we'll return at 4.30.

SHORT ADJOURNMENT

PRESIDENT: Well, to help you out, Mr Jarman, and to perhaps help everyone else, we've - we'll set aside 9 o'clock tomorrow morning, continuation. That will have to conclude by 10.30 and resuming again 9 o'clock the following morning and - if necessary. And that can only go until 11.00. But that should give us the opportunity to - to get through the issues that are before us today and to enable the bench to inform the parties as the results of our deliberations.

MR VINES: Mr President, could I just indicate that I have a commitment at 8.30 tomorrow morning in relation to the significant number of job losses potentially in the Government Printing Office, with the secretary for the Treasury Department. Which means that I may not be here at -

PRESIDENT: Can somebody else represent you?

MR VINES: Well, someone else can be here, but I think potentially we would want to be responding to what Mr Jarman will be looking to say. So if the commission can take that into account?

PRESIDENT: Yes.

COMMISSIONER WATLING: You wouldn't look - be looking to respond?

MR VINES: We would be.

PRESIDENT: Yes.

MR VINES: I dare say.

COMMISSIONER WATLING: Yes, well -

PRESIDENT: Well, we'll be -

COMMISSIONER WATLING: What are we supposed - what are you - am I supposed to glean from that? You're saying that, that if you're not here we set another date aside for you to respond?

MR VINES: No, not at all. Not at all. I'm just indicating to the commission that I won't be here.

COMMISSIONER WATLING: Yes. But you do want to respond to Mr Jarman?

MR VINES: Yes, that's right.

COMMISSIONER WATLING: So, does that mean we set another date aside for you to respond?

MR VINES: Well, one has already been set aside, hasn't it, for Friday morning?

PRESIDENT: Friday.

COMMISSIONER WATLING: The Friday morning.

MR VINES: Yes.

PRESIDENT: Well, if the worst comes to the worst, that Friday morning would be the opportunity -

MR VINES: Yes. I just thought it was courteous to let you know that I hadn't spat the dummy when I'm not here in the morning.

PRESIDENT: I - I didn't for one moment think that you would have, Mr Vines.

MR VINES: I didn't think you would have, sir.

PRESIDENT: Mr Jarman?

MR JARMAN: Thank you, Mr President. If I can say at the outset, it's appreciated that the bench is making itself available over the - over the following days of this week.

Unfortunately I may not be able to attend on Friday morning, I have been invited to attend a `love in' at Bronte over the next couple of days, if I can get there.

PRESIDENT: I - I'm rather - rather disturbed by the way in which you describe that event, Mr Jarman -

MR JARMAN: Yes.

PRESIDENT: - since my spouse will also be attending.

MR JARMAN: Well, I don't think I'll follow that up with any further remarks, Mr President.

PRESIDENT: I don't think you should.

MR JARMAN: Other than to say that I will make myself available tomorrow morning.

I think it's appropriate if we start by reading a couple of segments from transcript in this matter. And it comes from a hearing called on the 22nd of July, and I refer in particular to page 1643.

And on that page I make submission which is in response to some comments made by the President and I would like, if I may, to quote from that part of transcript. It goes as follows:

> I would just respond to your comments if I may, Mr President, about statements of intent. I endorse some of those comments. I understand exactly what you're referring to, however, what I would say is that the parties have negotiated a blueprint of what hopefully will happen over the ensuing months.
>
> It would be fruitless at this point in time to do a lot of work, to go into a lot of detail only to have the government disagree with the concept and to ultimately have the members knock it back. What we have done is set out the parameters of what we believe is appropriate for a health industry award and for the management of the health agency over

> the next financial year, and if government approves of our intended course of action and the members are supportive of that course of action then we will proceed with all due haste. If the commission pleases.

I there end the quote.

Sir, members of the bench, what we have been doing is developing a process - a blueprint which will enable the parties to negotiate and discuss a range of issues over the ensuing months of this financial year and perhaps even beyond that which will ultimately lead to the creation of an appropriate award covering employees of the public sector health industry in this state.

HSUA.17 represents the blueprint. You have heard today from five unions, four of them are in agreement with the process. The fifth union wants part of the process and wants to forget about the other parts. I think it's appropriate that I go through the Memorandum of Understanding. I understand that the bench has already been taken through it by Mr Rees on behalf of the HSUA, however, during his submissions there were a number of questions asked by the bench and I think it appropriate that on behalf of the government I respond to some of those points.

The Memorandum of Understanding starts with a statement of intent and the statement reads:

> The parties to this memorandum of understanding are hereby agreed that as part of the structural efficiency process due regard will be given to the budgetary situation faced by the Department of Health in 1992/93; that every attempt will be made to achieve real productivity and efficiency improvements through the rationalisation of conditions, the ultimate implementation of broadbanded awards and the processing of budget initiatives.

And I there end the quote. If the commission pleases, the Department of Health in this financial year has a budget shortfall of 8.5 million dollars. The government expects the department to balance its books at the end of the financial year. Now there are a number of ways that the department can do that, but what we have sought to achieve through this cooperative process is an approach which allows all of the interested parties to have a say in how the department will balance its books at the end of the year.

Mr Vines has made some comments about job loss. He's made some comments about budget initiatives and I will address those during the course of my submission but, nevertheless, I

would stress at the outset that the department, on instructions, set out to achieve what we believed to be an appropriate approach to the management of the agency over the next few months of this financial year.

The Memorandum of Understanding under item 2 deals with the objectives of the parties and I would read into transcript the content of part 2. It goes as follows:

> The parties agreed on the following:-
>
> (i) Every attempt will be made to assist the Department of Health to balance its 1992/93 budget.
>
> (ii) In the processing -

PRESIDENT: Before you move off - does - so the agreement with the unions is only up until the 30th of June 1993 in terms of budgetary initiative assistance.

MR JARMAN: That's the way that this Memorandum of Understanding is set up, yes.

PRESIDENT: Okay.

MR JARMAN:

> (ii) In the processing of budget initiatives every effort will be made to minimise the loss of jobs. Jobs will be maintained in areas not affected by budget initiatives subject to:
>
> a. the work place reform process identifying positions that may be surplus to requirements; and
>
> b. voluntary redundancies that may be processed in agreed circumstances.
>
> The employer will consult on any positions that are identified under parts 2(ii) (a) and (b).
>
> (iii) Positions identified under 2 (ii) (a) will be managed through the process referred to in clause 4(d) below.

I there end the quote. Now, Mr Vines has spent some time this afternoon talking about job loss and the fact that there is nothing in this agreement that gives his members any protection whatsoever. Well, I would have to refute those statements. I think the objectives in the Memorandum of Understanding quite clearly spell that the parties - and that includes the employer - will do everything that they possibly can to minimise job loss. We understand that there will be

some jobs lost in the process, but we have, in fact, limited the job loss to certain areas linked to budget initiatives.

We've gone further than that. We have said that outside of those budget initiatives certain processes have to be followed when it comes to proposals that jobs be abolished.

Now given that this is just a Memorandum of Understanding which spells out a process, and that the parties are yet to embark upon the real voyage, I think that the objects as they are spelt out, clearly define an appropriate process and give all parties - with the exception of the TPSA it seems - some hope - some optimism that we can do a good job in this area.

If I could go back to the Memorandum of Understanding and quote from part 3 which is headed up `Process', and I quote - goes as follows:

> To assist in attaining the objectives the parties are agreed on the following processes:-
>
> (a) A single award will be created to cover Department of Health employees, subject to the following exceptions:
>
> (i) employees covered by the Nurses (Tasmanian Public Sector) Award.
>
> (ii) employees covered by the Medical Practitioners Award.
>
> (iii) employees covered in Central Office in Davey Street and Brooke Street or persons occupying similar Department of Health office administrative positions or Statewide Health positions throughout Tasmania or in Central Office positions located in the regions provided that this exclusion is reviewed after a period of 12 months from the date of effect of this agreement.

And I there end the quote.

PRESIDENT: What is the date of effect of the agreement, Mr Jarman?

MR JARMAN: We would hope that following an endorsement of this approach by the commission, that the endorsement itself would provide the date of effect.

COMMISSIONER WATLING: Mr Jarman, can I ask you to outline the current awards that you would see being sort of involved in the new health industry award.

MR JARMAN: Well, yes, commissioner, there would be several awards rolled up into that new award and we would see the Hospital Employees Award; the Physio, Occupational Therapists and Speech Pathologists Award; Hospital Scientists Award; Welfare Officers Award; Pharmacists Award; Psychologists Award; and School Dental Therapists Award, as they apply to employees of the public sector health industry.

There would be, of course, commissioner, a number of other awards like the General Officers Award; the Technical Officers Award; and the Clerical Officers Award which cover employees at places like St Johns Park and Royal Derwent Hospital. We would expect that employees covered by those awards would translate to whatever new award is put in place.

COMMISSIONER WATLING: So, are you saying to me then, that scope of the proposed new awards in technical, clerical, operational services and professional would exclude the health industry?

MR JARMAN: No, I'm not saying that - well, yes, I suppose I am saying that, yes. I'm - I was coming at it from the other way - I beg your pardon. Yes, so -

COMMISSIONER WATLING: I was going to say that I've got another twenty questions for you if you didn't.

MR JARMAN: What we are saying is that the four stream approach applies in the state service, apart from in the public sector health industry and a different award will apply there.

COMMISSIONER WATLING: Yes, so - you see, at St Johns Park, for example, that would pick up, say, those technical and general officers, et cetera, being involved in this new award that you're talking about.

MR JARMAN: Yes.

COMMISSIONER WATLING: So therefore, in the making of the four stream awards, there would have to be some exclusion.

MR JARMAN: Yes, that's correct. And I did miss one award and that is the Boiler Attendants Award and the Miscellaneous Workers (Public Sector) Award - any others?

MR O'BRIEN: That'll do.

MR JARMAN: And we've got the Professional Engineers Award as well.

MR ....: Not as yet - to be specified.

COMMISSIONER WATLING: Any more bids?

MR VINES: Librarians -

MR JARMAN: I hope not - Mr Vines indicates that the Librarians Award could also be affected; I'm not aware that that would be the case because I believe the librarians that we employ are employed in central office in the main .... case.

Anyway, perhaps if we could take that particular matter on notice and get back to you.

COMMISSIONER WATLING: Right.

MR JARMAN: If I continue reading from Part 3 of the Memorandum of Understanding. At the top of page 2 and this would be subsection (b) and I quote:

> The health industry award will contain the clerical, technical and professional streams determined by the Tasmanian Industrial Commission in its November 1991 award restructuring decision.
>
> Provided that all streams will include competency standards and criteria in the non-promotional levels; progression through incremental levels will be assessed through a process to be determined and in accordance with competency standards and criteria agreed by the parties. The draft document on competency based progression to be provided by the Department of Health will be used to initiate discussions.

And I there end the quote.

This particular part of the Memorandum of Understanding has been subject to some discussion today. If I could just refer to the questions put by Commissioner Watling and the following statements made by Commissioner Watling, what he said is in fact what will occur as far as the parties are concerned. There will be an evaluation carried out on health professionals by a peer group -

COMMISSIONER WATLING: Just health professionals?

MR JARMAN: Well -

COMMISSIONER WATLING: Or all streams?

MR JARMAN: - I'm talking about health professionals in the context that they would be one stream, other streams would be clerical and technical.

COMMISSIONER WATLING: Yes, but all streams would go through the same process?

MR JARMAN: Yes, that's correct.

COMMISSIONER WATLING: But you're using it as example.

MR JARMAN: Yes, that's correct.

COMMISSIONER WATLING: Right.

MR JARMAN: That - that parties covered by a stream would be evaluated on an annual basis in accordance with agreed criteria and then allowed to progress or not progress as the case may be.

I refer to comments made by Mr Vines about the salary increments provision that is currently contained within public sector awards and the fact that the employer is currently able to progress or not progress employees in accordance with the - the grounds established on diligence and efficiency.

Mr Vines went on to say that those grounds in no way relate to competency-based criteria. Well it won't come as any surprise but I refute Mr Vines' submissions in those areas. If the - if the subject of efficiency has nothing to do with competency then I think we'd better give up the whole exercise of award restructuring and structural efficiency, enterprise bargaining, et cetera.

What we are about here is ensuring that people are competent to progress from one increment to another in accordance with criteria that can measure their skill and - skill levels and competency.

COMMISSIONER WATLING: So would that be sort of a formal employee appraisal and assessment scheme that you'd introduce?

MR JARMAN: Well it would certainly be like that, yes. But there would be a group established of peers and management representatives to oversight that process.

COMMISSIONER WATLING: So would it be a formal thing whereby someone sort of makes out a report and then the employee could examine the appraisal and assessment and make comment on it and that type of arrangement?

MR JARMAN: We expect that employees would be given every opportunity to demonstrate that they should be progressed to the next increment.

COMMISSIONER WATLING: Yes, well, hear hear, but that didn't answer my question. I'm - it was a good one - I'm trying to find out how you do this because in lots of other industries

there's a formal sort of employee appraisal and assessment scheme and someone might sort of write something - their peers might assess them and make comment on their slack in this area, they're really good in this area and even the employees can respond to the judgments that are being made about them.

MR JARMAN: Look I'm not trying to be glib here, commissioner, I'm not trying to dodge your question, but I think I would be pre-empting discussions that may take place -

COMMISSIONER WATLING: So -

MR JARMAN: - along the track.

COMMISSIONER WATLING: - you haven't finalised it yet?

MR JARMAN: No, we haven't finalised our position on that - on this matter.

COMMISSIONER WATLING: Oh right, well that's fair enough, that's all I want to know.

MR JARMAN: We've just agreed in principle that there will be a process put in place which evaluates employees that wish to progress from one increment to another.

COMMISSIONER WATLING: Yet to be decided?

MR JARMAN: Yes, that's correct, right.

PRESIDENT: It could even end up being the same clause that's currently in the award.

MR JARMAN: I doubt very much that that will be the case, Mr President, because the clause that is currently in public sector awards is very, very rarely implemented. That's one of the reasons why we're going ahead with this particular provision.

PRESIDENT: It could be though?

MR JARMAN: It could be, it could be.

PRESIDENT: I mean if you take Mr Vines' line he was saying that it was different - it was too different from the - from the old system and therefore he's concerned about it. You're saying - you started off to say that it was really no different.

MR JARMAN: Well, I don't know that I said that.

PRESIDENT: Competency and diligence and efficiency are pretty - are almost synonymous aren't they?

MR JARMAN: Yes, exactly. It is appropriate I think to change awards to reflect what is current or acceptable practice. What the commonwealth government, the ACTU, the federal commission are endeavouring to do in this country at the moment is to create situations where people can get together to improve efficiency and productivity in industry. They are also about creating appropriate training courses, evaluation processes, for employees so that this country can get on with the job of becoming more prosperous.

So far as Mr Vines' comments are concerned, I think he's living in the dark ages. We've got to move on and quite frankly that's what this Memorandum of Understanding is all about.

PRESIDENT: How are you situated - is that a convenient time for you, Mr Jarman?

MR JARMAN: That would be a convenient time, Mr President.

PRESIDENT: Yes, very well, we'll adjourn until 9.00 in the morning.

HEARING ADJOURNED