TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 6941 of 1997

IN THE MATTER OF an application by the Tasmanian Trades and Labor Council to vary all private and public sector awards to flow on to the jurisdiction of the Tasmanian Industrial Commission the decision of the Australian Industrial Relations Commission of April 1997, contained in Print P1997 - Safety Net Review - Wages

T Nos. 6928 to and including T6934

IN THE MATTER OF applications by the Automotive, Food, Metals, Engineering, Printing & Kindred Industries Union to vary nominated awards of the Commission to flow on to the jurisdiction of the Tasmanian Industrial Commission the decision of the Australian Industrial Commission of April 1997, contained in Print P1997 - to provide for a safety net adjustment to \$10 per week and for the adjustment of certain allowances and service increments accordingly

T No. 6947 of 1997

IN THE MATTER OF an application by The Australian Workers' Union, Tasmania Branch to vary nominated awards in a manner consistent with the Australian Industrial Relations Commission decision in Print P1997 - Safety Net Review - Wages, April 1997

T No. 6956 of 1997

IN THE MATTER OF an application by the Transport Workers' Union of Australia, Tasmanian Branch to vary the Transport Workers General Award in a manner consistent with the Australian Industrial Relations Commission decision in Print P1997 - Safety New Review - Wages, April 1997

FULL BENCH

PRESIDENT
DEPUTY PRESIDENT JOHNSON
COMMISSIONER WATLING

HOBART, 20 May 1997

TRANSCRIPT OF PROCEEDINGS

Unedited

PRESIDENT: Could we have appearances please.

MS L. FITZGERALD: LYN FITZGERALD, for the Tasmanian Trades and Labor Council. Thank you.

PRESIDENT: Thank you, Ms Fitzgerald.

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

PRESIDENT: Yes, thank you, Mr Baker.

MR G. COOPER: If the commission pleases, I appear on behalf of the Australian Workers' Union, Tasmania Branch, COOPER, G.

10 PRESIDENT: Thank you, Mr Cooper.

MR D. STRICKLAND: If the commission pleases, STRICKLAND, D., The National Union of Workers, Tasmanian Branch.

PRESIDENT: Mr Strickland.

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

PRESIDENT: Thank you, Mr Noonan. Those of you who are far back in the room might need to come forward to the microphone.

MR D. GRIFFITHS: If the commission pleases, I appear on behalf of the Australian Municipal, Administrative, Clerical and Services Union, GRIFFITHS, D.

20 PRESIDENT: Thank you, Mr Griffiths.

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

PRESIDENT: Yes, Mr Brown.

MR M. WATSON: May it please the commission, MARK WATSON, appearing with,

JENNY THOMAS, on behalf of the Tasmanian Chamber Of Commerce and Industry,
the Metal Industry Association of Tasmania, The Hop Producers' Association of
Tasmania, the Tasmanian Chamber of Retailers, The Pharmacy Guild of Australia,
Tasmanian Branch, the Printing Industries Association of Tasmania, The Master
Builders' Association of Tasmania, the National Meat Association (Tasmanian
Division), the Tasmanian Newsagents Association, the Air Conditioning and
Mechanical Contractors' Association, the TFGA Industrial Association, the Retail
Trades Association of Tasmania, the Australian Mines and Metals Association and The
Registered Clubs association.

PRESIDENT: Well done, Mr Watson. Yes, thanks very much.

MR T. PEARCE: If it please the commission, PEARCE, T., intervening on behalf of the Minister for Industrial Relations.

PRESIDENT: Very good. Thank you, Mr Pearce.

MR J.E. SWALLOW: SWALLOW, J.E., A.M.I.E.U.

PRESIDENT: Yes, thanks, Mr Swallow.

MR C. YOUNG: YOUNG, C., from the C.E.P.U.

PRESIDENT: Very good, thanks, Mr Young.

MR A.R. BENSON: BENSON, A.R., C.E.P.U.

PRESIDENT: Yes, all right, Mr Benson. Very good. No other appearances? Well, who is to go first? Can I look straight at you, Ms Fitzgerald.

MS FITZGERALD: Thank you. As you say, you have before you today our application to flow on to the awards of this jurisdiction the decision of the AIRC of April '97 contained in Print 1 P197 Safety Net Review - Wages.

We have had two meetings with the employer representatives to discuss this decision and the implications for the flow-on of that decision to this jurisdiction and the related necessary changes to the current Wage Fixing Principles.

We had a meeting on the 12^{th} May and a meeting again yesterday and we have another meeting scheduled for the 26^{th} May, so I guess that pre-empts perhaps what I'm going to say.

There has been considerable disagreement between us and considerable difference between us on the detail of our application. I think it is possible now, at this stage, that we may be able to reach agreement on the package with regard to the application of the flow-on of the AIRC decision to this jurisdiction. So, because of that - because we are still to have discussions and because I think it's possible that we may well be able to resolve our differences and come to an agreed position, what I propose today is to seek an adjournment of the hearing of this matter until at least Friday the 30th May.

PRESIDENT: Yes, all right. Who is involved in the meetings, Ms Fitzgerald?

MS FITZGERALD: In the meetings: the representatives, affiliates of the TTLC, the Australian Workers Union - yes - the TCCI and the government.

PRESIDENT: And - yes. Yes, all right. I hear your submission. I might hear from the other parties - other applicants on that point. Is there any - yes, Mr Cooper.

MR COOPER: Mr President, in terms of the report that's been provided by the TTLC, we advise that that is consistent with our understanding of what has happened. We have actually attended both those meetings and we are as positive as the Labor Council that we may - may be in a position to reach agreement should we be allowed to have that further meeting that's been scheduled for the 26th May. So, in saying that, we support the application for adjournment made by the Labor Council.

PRESIDENT: Yes. Mr Baker, do you have a submission?

MR BAKER: Well, only that I support the remarks made by Ms Fitzgerald. I believe that there may be some possibility of reaching agreement. I certainly wasn't confident in a private discussion I had with Mr Edwards preceding yesterday's meeting. But I am encouraged by - by the results of yesterday's meeting and I wait to hear what the TCCI say in response to the remarks that have been made by Ms Fitzgerald.

40 PRESIDENT: Yes. All right. Well the ball's in your court then, by the sound of it, Mr Watson.

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MR WATSON: Thank you, Mr President. Our position is that we would support the adjournment as proposed by Ms Fitzgerald. Issues were put to the TCCI yesterday at our meeting and those issues need to be taken back to members both in relation to the board and also in relation to the TCCI's industrial relations advisory committee. There will also be another meeting of registered employer organisations which we hope at this stage to convene on the 22nd May, which is Thursday. We need to get fresh input on the issues that were put to us yesterday and that is the way that we'll go about it. As Ms Fitzgerald has said, there is another meeting arranged for the 26th May between the TTLC and the AWU which we will be participating in. And on that basis, we would request that the matter be adjourned for those discussions to take place in the interest of hopefully reaching some agreement in these matters.

In relation to Mr Baker's comment about private discussions with Mr Edwards, I am not sure what those discussions were. But I am not sure that it is appropriate to be revealing the outcome of private discussions in the commission on the record.

15 In relation to the timing of any -

PRESIDENT: He did say he was more optimistic of something developing following the meeting. So - $\,$

MR WATSON: - well, that wasn't - well hopefully that will be the case.

PRESIDENT: Yes.

MR WATSON: In relation to future timing, the 30th of May as proposed, I must advise the commission that in the afternoon of the 30th May we would not be able to attend the hearing at this stage. So I would indicate that to you at this point. If it please the commission.

PRESIDENT: Yes. Just one question, Mr Watson. Do you have any contact at all with the Tasmanian Automobile Chamber of Commerce?

MR WATSON: Yes, we do. Yes.

PRESIDENT: Yes. We received notification, this morning, that the Chamber wanted to put to us submissions in writing.

MR WATSON: I understand that that was on the basis that if the matter proceeds today they'd wish to do that.

PRESIDENT: No. No. It's holding back - we're informed that the `TACC will hold back its written submission until the matter is relisted when we intend to submit a written submission or alternatively appear before the commission in person.'

MR WATSON: Yes.

PRESIDENT: Can you make some contact with TACC to see whether or not you can combine the submissions if that is at all possible.

MR WATSON: We'll make contact with them, Mr President.

PRESIDENT: Yes, all right. Because we want everybody to have the opportunity to comment on the submissions that TACC makes.

40 MR WATSON: Yes, certainly.

PRESIDENT: Yes. All right.

MS THOMAS: Just for your advice, Mr President, I did in fact speak to Yilmaz this morning -

PRESIDENT: Yes.

MS THOMAS: - and we are keeping her informed of developments as they occur, and we do not represent them -

PRESIDENT: Right.

MS THOMAS: - so they will look after their own interests.

PRESIDENT: I understand that. Yes, all right. Thank you for that. Mr Pearce.

MR PEARCE: Merely to indicate, for the record, that there's unanimous support for the application for the adjournment and for the reasons advanced.

PRESIDENT: Yes.

MR PEARCE: If it please the commission.

PRESIDENT: Yes. Very good. We might go off the record for a moment and look at diaries.

15 OFF RECORD

PRESIDENT: Well, thank you for that brief adjournment. We can inform you that your application to adjourn the matters is granted and we have set aside June 5^{th} and 6^{th} at 10:30 for resumption.

All right. Thank you very much. The matter is adjourned until those dates.

20 HEARING ADJOURNED

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T No. 6977 of 1997

IN THE MATTER OF an application by the National Union of Workers, Tasmanian Branch to vary nominated awards in a manner consistent with the decision of the Australian Industrial Relations Commission decision of April 1997, contained in Print P1997 - Safety Net Review - Wages

T No. 6979 of 1997

T No. 6987 of 1997

T No. 6991 of 1997

T No. 6993 of 1997

IN THE MATTER OF an application by The Australasian Meat Industry Employees Union, Tasmanian Branch to vary the Meat Processing Industry Award and the Meat Retailing Award in a manner consistent with the Australian Industrial Relations Commission decision in Print P1997 - Safety New Review - Wages, April 1997

IN THE MATTER OF an application by the Textile, Clothing and Footwear Union of Australia, Tasmanian Branch to vary the Bootmakers Award, the Clothing Industry Award and the Textile Award in a manner consistent with the Australian Industrial Relations Commission decision in Print P1997 - Safety New Review - Wages, April 1997

IN THE MATTER OF an application by the Australian Municipal, Administrative, Clerical and Services Union to vary nominated private sector awards in a manner consistent with the Australian Industrial Relations Commission decision in Print P1997 - Safety New Review - Wages, April 1997

IN THE MATTER OF an application by the Health Services Union of Australia, Tasmania No. 1 Branch to vary nominated private sector awards in a manner consistent with the Australian Industrial Relations Commission decision in Print P1997 - Safety New Review - Wages, April 1997

FULL BENCH

PRESIDENT
DEPUTY PRESIDENT JOHNSON
COMMISSIONER WATLING

HOBART, 5 June 1997 continued from 20/5/97

TRANSCRIPT OF PROCEEDINGS

Unedited

PRESIDENT: Could we have appearances in those new matters, please.

MS L FITZGERALD: If it please the commission, LYN FITZGERALD for the Tasmanian Trades and Labor Council, and I am also authorised to appear today on behalf of the Transport Workers' Union.

5 PRESIDENT: Very good. Thank you Ms Fitzgerald.

MR R HUNT: ROD HUNT appearing on behalf of the Tasmanian Trades and Labor Council. I have supplied the relevant authorisation.

PRESIDENT: Very good. Thank you Mr Hunt.

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

PRESIDENT: Very good. Thank you Mr Baker.

MR G COOPER: If the commission pleases, I appear on behalf of The Australian Workers' Union, Tasmania Branch, COOPER, G.

PRESIDENT: Thanks Mr Cooper.

MR T LYONS: If the commission pleases, my name is LYONS, T. I appear for the National Union of Workers, Tasmanian Branch; the Textile, Clothing and Footwear Union; and The Australasian Meat Industry Employees Union, and also in that application lodged by the Trades and Labor Council. If the commission pleases.

PRESIDENT: Yes, very good. Thank you Mr Lyons.

MR T EDWARDS: If it please the commission, firstly a change of appearance. My name is EDWARDS, T for the Tasmanian Chamber of Commerce and Industry. I am appearing with MS THOMAS in place of Mr Watson who appeared on the last day of hearing. We appear for the TCCI; the Metal Industries Association of Tasmania; The Hop Producers' Association of Tasmania; the Tasmanian Chamber of Retailers; The Pharmacy Guild of Australia, Tasmanian Branch; the Printing Industries Association of Australia, Tasmanian Region; The Master Builders' Association of Tasmania; the National Meat Association of Australia (Tasmanian Division); the Tasmanian Newsagents Association; Air Conditioning and Mechanical Contractors Association; Australian Mines and Metals Association; and The Registered Clubs Association. If it please the commission.

PRESIDENT: None missed out there, Mr Edwards?

MR EDWARDS: I don't think so, sir. There is a couple of amendments from our last appearance -

PRESIDENT: Yes, that's what I thought.

MR EDWARDS: - in fact, that I'm sure will be picked up by other persons who are in attendance in the building today, which I understand Mr Rice will appear on behalf of two of the organisations that we entered appearances for on the last day of hearing.

PRESIDENT: Thank you Mr Edwards.

MR T PEARCE: If it please the commission, an additional appearance, PEARCE, T for the Minister for Public Sector Management.

PRESIDENT: Yes, that's simply for the Minister for Public Sector Management, or additional -

MR PEARCE: In addition to the earlier appearance on behalf of the Minister for Industrial Relations.

5 PRESIDENT: Yes, very good. Yes, thanks Mr Pearce.

MR K J RICE: If it please the commission, RICE, K J. I appear on behalf of the Tasmanian Farmers and Graziers Employers Association and The Retail Traders Association of Tasmania.

PRESIDENT: Thank you Mr Rice. No other?

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

PRESIDENT: Yes, thanks Mr Noonan.

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

15 PRESIDENT: Good. Thanks Mr Brown.

MR I PATERSON: If the commission pleases, IAN PATERSON for the Australian Municipal, Administrative, Clerical and Services Union.

PRESIDENT: Thank you Mr Paterson.

MS P SHELLEY: If the commission pleases, PAULINE SHELLEY appearing on behalf of the Australian Liquor, Hospitality and Miscellaneous Workers Union - Tasmanian Branch.

PRESIDENT: Thank you Ms Shelley.

MR C SMALLBANE: If it pleases the commission, CHRIS SMALLBANE appearing on behalf of the Tasmanian Catholic Education Employees' Association.

25 PRESIDENT: Very good Mr Smallbane. Good. All right, I think we'll look to you Ms Fitzgerald to report on the events of the last few weeks.

MS FITZGERALD: Thank you. You will recall that we reported back on the 20^{th} May on the status of discussions between ourselves and the employer representatives and at that time we sought an adjournment to allow the parties to further attempt to reach agreement on the application of the Federal Commission's decision.

These discussions unfortunately were prematurely curtailed and I understand you have a copy of a letter from Mr Edwards that he may wish to expand on. What we would now seek of the commission is that they direct the parties into conference to allow us to have further discussions in an attempt to reach agreement on this application.

PRESIDENT: Yes. Do you intend to attempt to define the parties?

MS FITZGERALD: I think there's - certainly between ourselves and the employer representatives, we have had some discussions recently - very recently - Mr Edwards would probably like to expand on that. But we will need to deal with the issue of who in fact would like to be involved in those discussions.

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PRESIDENT: Yes, well of course all the applicants, do doubt, would be involved and all the responding employers.

MS FITZGERALD: Yes.

PRESIDENT: Yes. All right. Now I'll hear from the other parties. Perhaps we ought to hear from the other union applicants on that point.

MR EDWARDS: It may perhaps be beneficial if I went first, president.

PRESIDENT: Might it?

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MR EDWARDS: You can determine your own procedure, obviously, but it just may help the other applicants if I do make a brief comment in light of the matters raised by Ms Fitzgerald in her report. And I will only be very brief.

We firstly indicate that we do agree with the contention that we proceed into a conference. The question of parties to that conference is a question that is important to my organisation in light of events that have transpired since this matter was last before the commission. But firstly let me expand upon the issue raised by Ms Fitzgerald about the more recent discussions that have taken place between the Labor Council and the Tasmanian Chamber of Commerce and Industry.

Very late yesterday afternoon I did make contact with Ms Fitzgerald in a last ditch effort to try and ensure that this matter came before the commission with discussions having been pursued on a reasonably fulsome basis, notwithstanding some of those issues that occur between the last day of hearing and today. And as part of that discussion with Ms Fitzgerald I did put a formal proposition, on behalf of the organisations I'm representing, designed to try and achieve a consent situation that could be brought before the commission today.

I am pleased to report, that at least from the Labor Council point of view, that that proposition has found a large measure of acceptance, and Ms Fitzgerald can speak more properly on behalf of the Labor Council than can I, but I do believe that there is at the very least `in principle' agreement to the proposition that was advanced between us yesterday, and that will be the subject of, I suspect, further discussions in the conference.

As Ms Fitzgerald has indicated to you, I have corresponded with yourself, president, as the head of this bench, indicating that the TCCI was withdrawing formally from all further forms of consultation in respect to the State Wage case because we perceived that the confidence of the conference environment had been deliberately broken by some union persons, which I won't name on the record at this stage - I am prepared to if it comes to that but I don't think it will add anything to this report -

PRESIDENT: Probably won't.

MR EDWARDS: - so I will leave it at that. What I will say is that we seriously have considered having no further discussions at all on the conference - in conference on this particular State Wage application because of what has occurred. We are frankly very angry with the events that occurred and we feel very strongly that our ability to talk to some unions, as a result of what has occurred, is substantially prejudiced. We don't feel that we could talk in an open and frank environment for fear that those discussions will be relayed to other persons outside the conference, which obviously makes the conference environment absolutely useless, sir. Certainly it does from our point of view.

I have indicated in the correspondence I forwarded to you, president, on the 29th May that the TCCI may be prepared to entertain further discussion with the TTLC but only if those discussions are chaired by a member of the commission, and that is something that we feel strongly about in light of what has occurred and we would ask that any conference that does occur does occur with a - under the chairmanship of a member of this bench to ensure that the discussions are carried out in a proper way, and perhaps we could set some ground rules as part of that conference as to the inconfidence nature of what will transpire in respect to those discussions. And it would be on that basis that we would be prepared to proceed into a conference on these applications.

PRESIDENT: Yes, well on that point, Mr Edwards, we might be in some difficulty. You may or may not be aware that we - I certainly, and I will defer to my colleagues shortly, don't particularly feel that it's appropriate for a single member of a full bench to be involved in chairing conferences of the nature you're suggesting.

MR EDWARDS: I'm more than happy for all three members of the bench to be involved.

PRESIDENT: And - all three - we might just as well have a formal hearing, or just -

MR EDWARDS: Well that would make it very difficult, sir, to have forthright discussions. There are a number of issues, I think, to be raised that one wouldn't wish to be raising at this stage on the record and they could probably be discussed and perhaps finalised, I would trust, in a conference environment, but I doubt very much that they could be discussed openly on the record -

PRESIDENT: Yes.

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MR EDWARDS: - and I might also add that I believe that what I am suggesting is not without precedent in this commission. In fact I -

PRESIDENT: No, I - no, it's not and it's for that precedent actually that we don't intend to become involved again.

MR EDWARDS: That could leave us in considerable difficulty.

PRESIDENT: Yes, it sounds so. Well can we hear from the other union applicants, please.

MR COOPER: Mr President, with respect to the application by the TCCI, they have made a submission that as I understand it says they don't wish to have further discussions unless those discussions are premised on some understanding about the rules and unless the bench is present. Now to that we say that effectively means you really can't have a discussion. I mean, if you want to have a 'without prejudice' discussion you have one.

In terms of parties, we say that those parties that should be able to attend those discussions should be all parties that have applications in, as you alluded to earlier. That would include ourselves and all other unions that are party to these proceedings. In terms of the process, we have been provided this morning with a working copy of a draft set of principles and if the TCCI wish to further develop those principles in conference we would agree to that, save and except the ground rules that they seek to set. I think we would like to have a clear understanding of what they mean by that. But in any event, we wouldn't object to having a discussion with the employers and the other unions with a view to reaching agreement, but if the parameters on that discussion are to be so constrictive as to not allowing a discussion to proceed then we may as well have the hearing.

PRESIDENT: Yes. Mr Cooper, Mr Edwards is mainly concerned about the release of in-confidence and 'without prejudice' discussions to, I presume to, the public.

MR COOPER: I understand his concerns.

PRESIDENT: What's your position on that?

MR COOPER: Our view is that there are industrial protocols that are set down for those types of meetings and they should be observed by all parties. They are well known and we don't countenance anyone walking away from those industrial principles.

PRESIDENT: So, so far as you're concerned your organisation would maintain the confidentiality of in-conference discussions?

MR COOPER: As we have always done, Mr President.

PRESIDENT: Yes. Mr Baker.

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MR BAKER: Thank you, sir. I can appreciate where Mr Edwards is coming from but I don't believe that it's possible to differentiate between one applicant and another as to who shall participate in the conference.

I believe that there ought to be some ground rules, perhaps, which he may like to spell out as to what he believes - where we ought to be going, but I think at the end of the day there are applications rightly put before the commission and those organisations who have made those applications have a right to not only put submissions but certainly to participate in the conference or conferences which may or may not have been raised by both the TTLC and the TCCI.

It is unfortunate that we come today before you not having the package, and unfortunately the issue falling off the rails, so as to speak, but I think that now is water under the bridge and we should be looking forward to trying to wrap the package up as quickly as possible in order that people in Tasmania can share in the national decision, and to that end I would encourage Mr Edwards to think again about his position and I would recommend to the commission that we indeed do have a conference, that those people enter into that conference, as my colleague has pointed out, accept the protocol that's associated with that, and as far as our organisation is concerned that protocol will be honoured, as indeed I am sure Mr Edwards would know from previous experience

So, having said that, it would be my recommendation that the conference proceed; that perhaps Mr Edwards may like to make some - some comments into those which have been put before the commission and I would simply urge the parties, let's get on with it and wrap the principles up this morning and get an outcome which is acceptable to both the employers and the trade union movement and let's have the money flowing into the pockets of the people that we represent.

PRESIDENT: Yes, thanks, Mr Baker. Mr Lyons.

MR LYONS: Yes, thank you, sir. The organisations I represent would submit in the strongest possible terms that all parties to these matters should be involved in conference in whatever form that it takes and in that respect we would endorse what Mr Cooper and Mr Baker have put to you.

We are certainly happy for the commission to be involved in those proceedings - and bearing in mind the way in which negotiations did become derailed for whatever reason. We believe there is some merit in Mr Edwards' suggestion that a member of the commission be involved. However, bearing in mind your earlier comments, sir, we would of course be quite willing to participate in a conference without the presence of the commission as in fact we have been throughout this process.

In respect of the matter of respecting the contents of what is said in a private conference, the organisations I represent give an unreserved commitment that any discussions that occurred in that conference would be on an entirely without prejudice basis and not repeated outside these four walls so to speak.

If I might add, sir, that in respect of the foreshadowed position of agreement which was noted by Mr Edwards, that the organisations that I represent have not formally had that position put to them, Mr Fitzgerald was good enough just before these proceedings to inform us of the basic outline of that. However, we would certainly need some time to consider our position as to any measure of agreement that exists between the organisations Mr Edwards and Mr Fitzgerald represent. If the commission pleases.

PRESIDENT: Yes, just before you sit down, Mr Lyons, if - if for example the conference was able to get under way this morning and there was some goodwill shown on all sides to participate in such a conference, when - what sort of time frame do you think your organisations would need in order to respond in a formal sense in the conference to - to whatever is being put?

MR LYONS: Sir, we have come fully prepared in terms of - to put a position to the bench, however we are - we are quite able to, in a very short period of time, establish a position as to any period of agreement that exists between other parties. So certainly we would not -

PRESIDENT: So it shouldn't delay the matter.

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MR LYONS: No, sir, that would certainly not be our intention.

PRESIDENT: No. All right, thank you. Any other union applicants wishing to speak to the position put by Mr Edwards? Yes, Mr Paterson.

MR PATERSON: If the commission pleases, I think the difference here is that all the parties - all the applicants are here and present and that's something that the conference held here and now would be distinctly different to the processes that have led to the previous kerfuffle. Everyone is here with two days committed to these proceedings; I think we should proceed. The goodwill, I think, needs to be recreated. The confidentiality is an assurance that I give for my union and I believe that further progress on the working draft of the principles is highly desirable.

PRESIDENT: Yes. All right. Thanks, Mr Paterson. Ms Fitzgerald, do you want to say - oh, sorry - Ms Shelley.

MS SHELLEY: Thank you, Mr President. Various references have been made to the parties to the conference comprising of the applicants only. I believe that our organisation should also be party to the conference given that we - we have an interest in a number of the awards that are listed under the Trades and Labor Council application and also we have been participating in the discussions with the - with the TCCI up to date. So I would request that we also be part of the conference.

PRESIDENT: Yes. Yes, all right, I understand what you're saying, Ms Shelley. Do you want to add anything at this point, Ms Fitzgerald?

MS FITZGERALD: Only to reiterate that I think there is some merit in the parties being able to come together, and certainly the parties that haven't had the opportunity

to respond to what, as Mr Edwards indicated, has 'in principle' agreement between the TCCI and the TTLC and its affiliates.

I would like those discussions to occur as soon as possible and certainly in this province. I think there is a likelihood that we can reach agreement and as one of my colleagues indicated do what we're here about, and that is, about getting the increase as quickly as possible for the workers out there.

PRESIDENT: Mr Edwards is shaking his head there.

MR EDWARDS: I'm not here for that.

PRESIDENT: Yes, do you have a point of view from the - your minister's position?

MR PEARCE: The Minister for Public Sector Management would endorse the notion of a conference with regard to specific interest in relation to public sector awards or whatever might flow from that and the Minister for Industrial Relations I'm sure would support the calling of a conference with the relevant parties in the interest of the orderly - continued orderly conduct in industrial relations. If it please the commission.

15 PRESIDENT: Yes, thanks, Mr Pearce. Mr Edwards.

MR EDWARDS: President, I'm somewhat heartened by some of the observations that have been made by some of the union parties that have spoken. I must admit I am still very, very concerned about what has occurred and very reluctant to proceed into a conference of the type that's been discussed. Perhaps in order to try and break the impasse somewhat, might I suggest that perhaps initially a conference be held of union parties - and I'm sure at that conference Ms Fitzgerald will be able to outline the basis of what I have put to the Labor Council which I understand has been acceptable to the Labor Council and its affiliates and subsequent to that, should it become necessary then I will consider whether or not I would participate in a broader conference. But I certainly would still be reluctant at this stage to attend a conference with all unions in light of what has occurred and I think what I have suggested will provide a way forward and will enable the unions to do what they're here for. It isn't exactly my charter in life, but nevertheless I am here to facilitate the expeditious finalisation of these proceedings and I think what I've suggested may provide that opportunity, sir.

PRESIDENT: Before we adjourn to have - give consideration to the proposition put by Mr Edwards, Ms Fitzgerald, how do you feel about the idea of a conference amongst the union - the unions first?

MS FITZGERALD: Well I think there's value in doing that for some of the reasons that have been outlined that some of the parties haven't had the opportunity to consider that, so I think there's merit in us being able to consider it and then -

PRESIDENT: Okay.

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MS FITZGERALD: - subsequently Mr Edwards.

PRESIDENT: All right, well I'll quickly go around the other unions on that point and particular Mr Cooper, Mr Baker and Mr Lyons.

MR COOPER: Mr President, in terms of the conference with just the Labor Council, we don't have any problem with

PRESIDENT: Right. Okay.

MR BAKER: We support the position put forward by Ms Fitzgerald.

PRESIDENT: Yes, thanks.

MR LYONS: We'd support that, sir.

PRESIDENT: Very good. All right. Thank you. We'll adjourn briefly.

5 INTO CONFERENCE

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PRESIDENT: Well I must let you know that the bench is most concerned about the way in which things have developed over the past few weeks. We do though appreciate the comments of the various parties which lead us to believe that there is some light at the end of the tunnel and the opportunity to reach agreement on new principles could well be there.

We want to say to all parties, fairly forcefully, that we will be looking to the peak organisations to have principal carriage of this - of these matters in the event that the matter goes to arbitration. That leads us to the conclusion that there needs to be some focal point between the parties for the negotiations to proceed efficiently. We have some sympathy for the point of view expressed by Mr Edwards this morning and it must be difficult to deal with a number of organisations all seeking a different objective. To that end we urge the union parties to resolve as quickly as possible their differences and produce a common approach, if it is at all possible, to these claims. Accordingly we accept the application by all parties that the unions be directed into conference for the purpose of considering what has been put by the employers to the TLC and to report back to us by 2:15 this afternoon as to whether or not it is possible for a united approach to be taken by the union movement. Failing that we'll of course listen to suggestions that we move straight to arbitration.

I think that sums up the bench's opinion so we'll adjourn till 2:15.

25 INTO CONFERENCE

PRESIDENT: Ms Fitzgerald, do you have anything to report?

MS FITZGERALD: In terms of the position of the Trades and Labor Council?

PRESIDENT: In terms of the outcome of your discussions whether you're in a position to move ahead.

MS FITZGERALD: I can - no - I can report that there is not agreement between the unions and I can only report on behalf of the Trades and Labor Council that our position is that we still have agreement with the TCCI.

PRESIDENT: All right. Mr Cooper.

MR COOPER: Mr President, in terms of the process, we firstly acknowledge the efforts of the bench in allowing the adjournment to allow those unions, parties to these applications, to have discussions. Now those discussions were held with the Labor Council and my union and several other unions met separately and our report at this stage to the bench would be that we do not agree - we are at odds - with the 'in principle' position that's been reached between the peak organisations, being the TCCI and the TTLC. If the commission pleases.

PRESIDENT: All right. Thank you, Mr Cooper. Mr Lyons.

MR LYONS: Sir, the position of the organisations I represent is the same as Mr Cooper's. There was serious and very lengthy consideration to the consent position. However, we are unable to lend our support to that and accordingly we would seek some appropriate point to put a different view to that which I believe would expressed by the peak organisations. If the commission pleases.

PRESIDENT: Yes. Very good. Thanks, Mr Lyons. No other different positions? So can the bench be informed, Ms Fitzgerald, how many organisations you represent?

MS FITZGERALD: Well I'd have to give you a list of affiliated unions.

PRESIDENT: So it's all affiliated unions?

10 MS FITZGERALD: Yes, it is. Yes.

PRESIDENT: And I take it from that that organisations represented by Mr Lyons and by Mr Cooper are the ones that are not affiliated.

MS FITZGERALD: Well, yes, that's right, but there is one union that is not affiliated with the TTLC who I indicated this morning I am representing and that's the Transport Workers' Union.

PRESIDENT: Yes.

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MS FITZGERALD: So it's unions affiliated with the Trades and Labor Council and the Transport Workers' Union.

PRESIDENT: Yes. All right. Thank you. Any other submissions? Mr Edwards.

20 MR EDWARDS: I'm not quite sure what to say.

PRESIDENT: Well you don't have to say anything at this point.

MR EDWARDS: No, I possibly don't. What I do indicate, I suppose, is that I would like the opportunity to consider our position in light of that report as to where we proceed from here. Obviously it's a disappointing report from our point of view but nevertheless I would seek time now, as it were, to confer with other employer organisations that are here present so that we might hopefully at least have a common position from our side of these proceedings which I'm sure we will, but it would be presumptuous of me to assume that, so I would seek an opportunity to have a conference of employer organisations to see how we proceed from here in response to the report that's just been given. It's particularly important in light of the significant number of applications that are before the commission that we may need to just consider our position. If it please the commission.

PRESIDENT: What sort of - what - how much time are you looking for, Mr Edwards?

MR EDWARDS: Well if things the way I'd expect, we would wouldn't want more than about 10 minutes, but I've been proven wrong so many times in the past it's a bit dangerous to make those sort of suggestions. But perhaps if we said about a quarter of an hour, if we do get stuck for whatever reason I'm quite happy to allow the bench the courtesy of being advised of that, but I would think we'd want longer.

PRESIDENT: Yes. All right. And Ms Fitzgerald, are you in a position to proceed today?

MS FITZGERALD: Yes, I am.

PRESIDENT: Yes, all right., Okay. We'll adjourn for five minutes. We'll grant you an adjournment, Mr Edwards.

MR EDWARDS: Thank you, president.

SHORT ADJOURNMENT

PRESIDENT: Well as the result of a fairly extensive number of conferences and discussions with individual parties, the bench has come to the conclusion that it should direct a certain number of key players in this matter into conference. We therefore direct the TCCI, the Minister, the Trades and Labor Council, Mr Lyons on behalf of his group of organisations, and the AWU into conference immediately for the purpose of re-examining the possibility of reaching some agreement which might resolve these applications.

We would hope that we would be able to resume at 9:30 in the morning for the purpose of hearing the results of that conference and if necessary to program further hearing days if no agreement has been reached.

I should put on the record that the commission will be unable to sit, as currently constituted, again until the 7th July and there will be two days available at that time and we'll not be able to sit again, as constituted, until late in August.

I don't think there's any more to add in terms of the machinery. I, simply on behalf of the bench, wish you all well and I trust you'll be able to reach a mutually satisfactory conclusion to the matter.

Very good. We're adjourned till 9:30 in the morning.

HEARING ADJOURNED

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