



TASMANIA

Tasmanian Industrial Commission

Industrial Relations Act 1984

T No. 9062 of 2000

IN THE MATTER OF an application of the Tasmanian Trades and Labour Council to vary awards of the Tasmanian Industrial Commission to reflect the decision of the Australian Industrial Relations Commission in May 2000, contained in Print S500 Safety Net Review - and amend a consequence, any Arbitrated Safety Adjustment Principle, Allowance Principle and Form of Orders Principle determined by the Commission

FULL BENCH:
DEPUTY PRESIDENT WATLING
COMMISSIONER LEARY
COMMISSIONER IMLACH

HOBART, 24 July 2000

TRANSCRIPT OF PROCEEDINGS

Unedited

(WOULD PARTIES PLEASE READ THIS TRANSCRIPT CAREFULLY)
(ANY QUERIES SHOULD BE DIRECTED TO THE COMMISSION WITHIN 14 DAYS)

HEARING COMMENCED 9.34am

DEPUTY PRESIDENT: I'll take appearances in this matter please. Ms Fitzgerald?

5 **MS L. FITZGERALD:** LYNNE FITZGERALD representing the Tasmanian Trades and Labor Council. Thank you.

MR P. TULLGREN: If the commission please, my name is TULLGREN and I appear for the Australian Liquor, Hospitality and Miscellaneous Workers' Union.

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

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

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

MR R.J. MILLER: If it pleases the commission, MILLER R.J. appearing on behalf of the CPSU(SPSFT).

20 **MR M. WATSON:** May it please the commission, MARK WATSON. I appear on behalf of the Tasmanian Chamber of Commerce and Industry; the Tasmanian Farmers and Graziers Employers Association; the Master Builders' Association of Tasmania; the Metal Industry Association of Tasmania, and the Hop Producers' Association of Tasmania.

25 **MR W.J. FITZGERALD:** If it pleases, I appear on behalf of Australian Mines and Metals Association Inc. - FITZGERALD W.J.

30 **MR C. WILLINGHAM:** Good morning Mr Acting President and members of the bench, CLIVE WILLINGHAM. I appear pursuant to section 27 of the Act for the Minister for Justice and Industrial Relations.

DEPUTY PRESIDENT: Good. Thank you. Ms Fitzgerald, we've got some procedural matters to deal with first up?

35 **MS FITZGERALD:** Yes I have, thank you very much. Our application was made on 22 June to vary private sector awards to reflect the decision of the Australian Industrial Relations Commission Safety Net Review Wages and with the leave of the commission I'd seek to amend my application. At the time of making application, a decision by the commission on the Wage Fixing Principles had not been handed down

and thus it was prudent to seek to amend as a consequence any relevant principles determined by the commission.

5 Now having the benefit of the decision and the principles determined by the commission, it is apparent that no amendment is required as a consequence of this application, and further, it is noted that in the opinion of the commission the next review of the Wage Fixing Principles should not occur until the time of the first State Wage Case Safety Net Adjustment Review that commences on or after 1 July 2001. Thank you.

10 DEPUTY PRESIDENT: No objections to the - so you're wishing to delete that part of the review only?

MS FITZGERALD: Yes.

DEPUTY PRESIDENT: No objections? Leave is granted.

15 MS FITZGERALD: Thank you very much. Perhaps if I firstly table TTLC exhibit 1.

DEPUTY PRESIDENT: Good. We'll mark it **EXHIBIT TTLC.1.**

MS FITZGERALD: I'll commence my submission and starting with a brief overview of the ACTU's claim to the federal commission.

20 The Australian Council of Trade Unions sought a \$24 per week increase in award rates of pay up to and including the equivalent of skill level classification 7 in the Metal, Engineering and Associated Industries Award 1998 and a 4.5 per cent increase for classifications above that level; commensurate adjustment of allowances relating to work or conditions which have not changed, consistent with past safety net decisions.

25 No departure from the requirement for absorption of safety net adjustments into all existing above award payments, and any increase determined to be available on and from 29 April 2000, or, in the alternative, from a date 12 months after the increase provided for under the April 1999 decision took effect in the relevant award.

30 The federal commission received submissions supporting and opposing the ACTU's claim. Those generally opposing the claim, including those which submitted that the hearing of the ACTU's wage claim should be deferred, included the Australian Chamber of Commerce and Industry, the Australian Hotels Association, the National Farmers Federation, and the Joint Coalition Governments.

35 Submissions of support were made by the Australian Catholic Commission for Employment Relations, the Australian Council of Social Service and the State Labour Governments of New South Wales, Queensland, Tasmania and Victoria.

In terms of the matters considered by the federal commission, the commission as in past safety net reviews considered the Australian economy, the economic effects of safety net adjustment, and the needs of low paid workers.

- 5 With regard to economic conditions, the ACTU submitted the Australian economy is clearly characterised by strong economic growth, low inflation, moderate wage growth and improved international competitiveness.

10 Unemployment over the past year has also declined markedly with the strength of Australia's labour market performance showing encouraging signs for the year ahead - and I'm referring to the decision of the federal commission Print S5000, page 10 at paragraph 14.

15 The ACTU also submitted that last year's adjustments have not jeopardised the continuing reduction in unemployment. That's at page 11, paragraph 16.

20 The Tasmanian Chamber of Commerce and Industry's national organisation, the Australian Chamber of Commerce and Industry, submitted that the Australian economy was generally characterised by solid economic growth which is, however, slowing, investment growth generally minimal with expectations negative, rural wages continuing to grow although nominal wages growth is low by historical standards, productivity growth in very sharp decline, and inflation in check. I'm referring to page 11, paragraph 18.

25 In its submissions on the economic impact of the ACTU's claim, the Australian Chamber of Commerce and Industry focused on firms with a high incidence of employees in receipt of award rates of pay only and submitted that average impacts on earnings, growth and employment were not to the point, and that it was necessary to focus on those employers and employees who would be subject to safety net increases. That's at page 12, paragraph 19.

The National Farmers Federation highlighted the position of the rural sector putting submissions as to the impact of safety net adjustments on piece rates in the horticultural sector. And again, page 13, paragraph 26.

35 The Joint Coalition Governments submitted that whilst the Australian economy had performed strongly there remained significant risks including anticipated moderation in economic growth and safety net increases coinciding with an increase in labour costs arising from the increase in the minimum employer superannuation contribution
40 which required a cautious approach to safety net adjustments.

The State Labour Governments submitted that the Australian economy performed strongly in 1998-99 and it appears that the general trend will continue. That is on page 14, paragraph 27.

Further, that wages growth is anticipated to remain moderate and unemployment is expected to continue to fall. Page 14, paragraph 28.

5 The federal treasury forecasts provided to the commission showed a continuing economic growth, a continuation of low inflation and moderate wages growth, strong employment growth and a continued reduction in the level of unemployment, high levels of private investment, further strong growth in corporate profits and the maintenance of historically high corporate profit shares. That's at page 16, paragraph 33.

10 The commission, from the material submitted, concluded that the moderate safety net adjustments awarded in the April 1998 and 1999 decisions have been compatible with the continuation of the positive economic conditions evident at the time of each decision, and further, that the immediate economic outlook remains positive with economic growth expected to continue at reasonable levels, employment growth expected to continue at levels in excess of 2 per cent bringing consequent further reductions in unemployment. That's at page 16, paragraphs 34 and 35.

20 As previously mentioned, ACCI and others requested the commission to focus on employers and employees who would be subject to the safety net increase and in particular the sectoral effects of a safety net increase.

25 The commission indicated that sectoral considerations are important ones to be balanced with a range of considerations and that such considerations led the commission in the April 1999 decision to amend the Economic Incapacity Principle.

30 That amendment was intended to recognise that the impact of an increase in labour costs on employment at the enterprise level is a significant factor to be taken into account in determining whether an employer is experiencing very serious or extreme economic adversity.

The commission also indicated that a factor in determining the level of a safety net adjustment to be awarded is the impact of a safety net increase on different sectors and firms. That is at page 19, paragraph 37.

35 With regard to the economic material put before it, the commission concluded that a further moderate safety net adjustment can be sustained in the present economic environment. That is at page 20, paragraph 41.

40 With regard to the economic effects of a safety net adjustment, the federal commission considered the economic effects of the ACTU's claim at two broad levels; the effects in aggregate terms on wages growth, inflation, employment and productivity, and the effects at the sectoral or enterprise level.

5 The federal commission stated that the additional material put before it in the 1999 proceedings did not establish a basis to depart from the conclusion of the commission in previous decisions that moderate wage increases in the wages of the low paid of themselves do little or nothing to diminish job prospects.

10 And further, the small contribution to aggregate wages growth resulting from the safety net adjustment decided upon will have a limited effect on economic activity, inflation, employment levels and productivity. The increase is compatible with a continuing downward trend in unemployment. The increase we have decided upon is economically sustainable in the current generally positive economic environment. That is at page 30, paragraph 82.

15 With regard to the needs of low paid workers, the Australian Council of Social Service submitted that the growing inequality within the workforce is of concern and opposed the argument that a relative decline in the wages of low paid workers would significantly reduce unemployment. That is page 31, paragraphs 84 and 86.

20 The Australian Catholic Commission for Employment Relations submission was put in the context, first, of the Catholic Church being an institution promoting certain teachings and principles concerning employment which are applicable to all employment situations, and second, of the Catholic Church being an employer of labour through its various organisations including church-run hospitals and schools.

25 The Catholic Commission submitted that whilst it is the primary duty of employers to pay just wages, the state has an obligation to establish and maintain a statutory minimum wage to ensure just wages are paid to all. It supported a comprehensive safety net of minimum wages and conditions for the low paid and those in vulnerable employment.

30 It also expressed concern at the apparent widening gap between those on award wages and those able to bargain. That is page 31, paragraph 88.

35 The ACTU in its submission regarding low paid workers relied on statements from employees in a range of occupations. The evidence revealed that these workers find it difficult to afford basic necessities including some medical expenses, clothing purchases, work-related travel costs and insurance. Other less essential matters which still impact on a reasonable quality of life, such as entertainment and holidays away from home, are even less attainable.

40 Workers on low wages have difficulty affording what are regarded as necessities by the broader community and are dependent on the commission to adjust the safety net to assist them. That is page 32, paragraph 91.

The State Labour Governments submitted that because of change in the nature of employment, including reduced full-time employment in higher paid manufacturing jobs and increased full-time employment in the service sector, more employees in full-time jobs may now be poor. The working poor are becoming an increasing proportion of the labour force. That is page 33, paragraph 95.

With regard to the decision on the ACTU claim, the commission decided that despite the Australian Chamber of Commerce and Industry and others urging the commission to defer consideration of an increase in the level of the award safety net, and arguing that economic uncertainties inherent in the introduction of the new tax system in July 2000 and expected moderation in business investment, recent increases in interest rates, an increase in the minimum employer superannuation contribution to operate from 1 July 2000, and a number of other matters, the commission decided, despite this, an increase in the safety net was appropriate.

The commission stated that whilst ACCI submitted that the commission should give greater stimulus to bargaining by adjourning the ACTU claim, the evidence suggests that the last three safety net increases awarded by the commission have not tended to detract from the incentive to bargain and that they were satisfied a further adjustment will not constrain the development of bargaining at the enterprise level. That's at page 37, paragraph 112.

Further, the commission in response to the Joint Coalition Governments' arguments concluded that growth in enterprise bargaining has not been materially inhibited by the application of safety net increases to all award rates. Page 40, paragraph 119.

Additionally, the commission stated that it had decided to maintain the approach of granting flat dollar increases, however, on the next occasion that award rates are reviewed they expect to be addressed on whether a return to percentage adjustment is appropriate to ensure that the award system provides fair wages for employees paid at the middle and upper award classification levels. Page 40, paragraph 118.

The commission awarded an increase of \$15 per week in all award rates and stated that the increase represents an appropriate balance between the requirement to provide fair minimum standards having regard to living standards generally prevailing in the community, the needs of the low paid and the relevant economic considerations including the desirability of attaining a high level of employment. Page 41, paragraph 121.

As in past years implementation will be subject to the following: the increases will be fully absorbable against all above award payments; the increases will be available from a date no later than 12 months after the increases provided for in the April 1999 decision in the award in question; the commencement of award variations to give effect to

5 this decision will be no earlier than the date on which the award is varied, with phasing-in of increases permissible where circumstances justify it; by consent of the parties and where the minimum rates adjustment has been completed award rates may be expressed as hourly rates as well as weekly rates; in the absence of consent a claim that award rates be so expressed may be determined by arbitration; and allowances which relate to work or conditions which have not changed and service increments are to be varied; the method for adjustment is to be consistent with the *Furnishing and Glass Industries Allowances* decision. That is pages 41 and 42.

In terms of why the Tasmanian Industrial Commission should flow on the increase, there are a number of strong arguments as to why the Tasmanian commission should flow on the decision of the AIRC.

15 In terms of practice and precedent, as stated in the 1999 State Wage Case decision, on no previous occasion since this commission's introduction of the current regime of Wage Fixing Principles in 1985 has the commission declined to flow on the quantum wage increases awarded by the federal national wage case or safety net adjustment decisions. That is on page 32 of the decision with the last State Wage Case - that's T8413 and T8483 of 1999.

25 With regard to economic matters, I submit, as we did last year, that the federal commission not only examined the likely effects of the ACTU claim with regard to the national economy in aggregate terms on wages growth, inflation, employment and productivity, but also examined the effect of the claim at the sectoral and enterprise level.

30 I've already drawn the commission's attention to the submissions of the Australian Chamber of Commerce and Industry and the National Farmers Federation and another who also made such submission was the retail motor industry. They made submissions regarding sectoral variations and presumably because of these variations the federal commission decided upon a safety net adjustment of \$15 rather than the ACTU claim of \$24.

35 The Tasmanian Industrial Commission is required, pursuant to section 36 of the *Industrial Relations Act 1984*, to consider the economy of Tasmania and the likely effect of the proposed award or proposed agreement on the economy of Tasmania with particular reference to the level of employment.

40 Last year the commission noted that in broad terms there is no significant distinction to be drawn between the position of each of the parties regarding the state of the Tasmanian economy. In considering the effect on the Tasmanian economy of a flow-on of the federal safety net adjustment, the commission preferred the views expressed by the Tasmanian Government over those expressed by the Tasmanian Chamber of Commerce and Industry.

Given the evidence of numerous public statements this year, the views of the Tasmanian Chamber of Commerce and Industry and the government should align. And I refer to documents that I've presented in that exhibit - or extracts from print media releases.

5 On 1 March this year, the TCCI Chief Executive, Tim Abey, stated: *The economic recovery in Tasmania, whilst fragile, is real and most of the key indicators remain in positive territory. And further, that the outlook for the economy in the next 12 months was the strongest of any state. And that is taken from an article in the 'Mercury' of 1 March, page 25.*

10 On 30 March this year, Mr Abey, in an article written by him, said: *Employment growth over the past 12 months has been particularly strong and Tasmania has in fact done better than the national economy. There has also been a solid lift in business investment, and according to our latest business expectations survey, the medium term outlook for the*
15 *Tasmanian economy is the strongest for at least five years. And that, as I mentioned, was in the 'Advocate' on 30 March and the article was entitled, Economy on the Improve.*

On 5 April, the Premier, Jim Bacon, said on release of the
20 TCCI/Colonial Trust Bank Survey of Business Expectations: *Tasmania is now genuinely sharing in the economic boom experienced by the rest of the Nation for almost a decade. Business is responding well to the very positive local economy. The latest ANZ Job Vacancy Survey recorded the highest number of job ads in a decade. At the same time, ABS recorded job vacancies up 90% on the same time last year. Job*
25 *numbers are up 5,600 on the same time last year. For the first time in a decade, job growth in Tasmania is stronger than the nation as a whole. And that was the government media statement dated 5 April 2000.*

On 11 May, the Treasurer, David Crean, stated that whilst there has
30 *been a slight drop in the number of jobs in Tasmania in April, following 13 months of consecutive job growth in the state, job growth may remain steady for a few months but will then increase again. All the fundamental ingredients for continued job growth are evident in the economy.*

On 18 June, the Treasurer stated that an: *Access Economics report*
35 *shows that in per capita terms, the Tasmanian economy matched the strong growth in the Australian economy in 1998-99, and enjoys good prospects of achieving a similar outcome in 1999-00.*

On 5 July 2000, the Deputy Premier, when commenting on the TCCI's
40 *survey of business expectations, said: The TCCI Survey shows a record result for the June quarter - the best in six years and follows two previous record quarterly performances. The Government's confidence about the future is based on sound economic facts, and today's TCCI Survey shows that the business community is riding on a buoyant economy.*

My final reference is to the state Budget Papers wherein it is stated that: *While there was a deterioration in aggregate economic performance over the 1998 calendar year, partial economic indicators show that Tasmania rebounded strongly in 1999 and Treasury considers the outlook for the coming financial year is for continued improvement. On current trends, Treasury expects that Tasmania's economic growth will be around 2.7 per cent in 2000-01. This compares with the Commonwealth Treasury's estimate of national GDP growth of 3.75 per cent over the period.*

And further: *Treasury expects the anticipated rebound in employment growth in 1999-00 to continue in 2000-01, in the order of 2.0 per cent. Nationally, the Commonwealth Treasury expects employment growth of 2.25 per cent. Growth in average weekly earnings (of all employees) has been fairly modest in recent years and is expected to average 2.3 per cent in 2000-01. The State's economic performance during 2000-01 is expected to remain relatively positive with a solid improvement relative to 1999-00 anticipated.*

With regard to equity issues, in its decision last year the commission in a synopsis of the arguments supporting the application to flow-on the safety net adjustment stated that: *it would be wrong in terms of consistency, comity, equity and equal treatment for all Tasmanian workers to refuse to flow-on the federal decision in the circumstances where (i) State awards cover less than 37 per cent - perhaps as few as 25 per cent - of award covered workers in Tasmania and (ii) there has been no employer objection to flow-on of the increase in federal awards that apply in Tasmania.*

Clearly, these arguments remain contemporary. I'm advised by a number of unions including the Transport Workers' Union, the Australian Services Union, the Association of Professional Engineers, Scientists and Managers, Australia, that federal awards, having application in Tasmania have been varied to incorporate the safety net adjustment without any opposition from the employer organisation.

The commission's view last year was that to not flow-on the safety net adjustment to employees covered by state awards that would have lacked equity, remain valid.

With regard to the Economic Incapacity Principle, the commission adopted the 1999 amendment to the Economic Incapacity Principle of the federal commission, an amendment which was intended to recognise that the impact of an increase in labour costs on employment at the enterprise level is a significant factor to be taken into account in determining when an employer is experiencing very serious or extreme economic adversity.

To my knowledge and despite the TCCI's dire predictions regarding the negative impact on employment of business of a flow-on of the 1999 safety net adjustment, no application to reduce, postpone or phase any

increase has been made. Despite employers providing no evidence of economic incapacity this principle remains. It gives employers the avenue to challenge an increase affecting their business or industry and is the only safety valve required in the circumstances.

5 With regard to the public interest test, as I've mentioned section 36 of the *Industrial Relations Act* is a general test which requires the commission to have regard to the economy in general, the level of employment, the economic position of any industry likely to be affected by a proposed award or agreement, and any other matter which the
10 commission considers to be relevant to the public interest.

We submitted last year that the needs of the low paid is a matter which the commission should take into account in considering this public interest test, an argument which was not disputed by other parties.

15 Widening income disparity and the inability of a proportion of the members of society to participate in that society because of low incomes remain issues that are important to the economy in general.

As the safety net adjustment is primarily about adjusting wages for the low paid, the Labor Council submits that under section 36(2)(c) the
20 commission should take the needs of the low paid into account in determining that the Labor Council's application is in the public interest.

We submitted last year that the safety net is particularly relevant to the Tasmanian economy and society. The only published relevant
25 material - the 1995 Australian Workplace Industrial Relations Survey - shows that Tasmania has the highest percentage of employees who received safety net adjustments. In 42 per cent of all workplaces, employees received safety net adjustments, whereas the Australian average is 24 per cent. This means that the safety net is more crucial
30 to the Tasmanian situation as the safety net is relevant to more employees than in any other state or territory.

And one matter I should address in concluding, is the Labor Council's application seeks for the application of the increase from a common operative date of 1 August 2000.

35 A common operative date of 1 August 2000 is substantiated on the grounds that 12 months will have elapsed since awards were last varied for the safety net adjustment. It is equitable, if the increase is awarded, to ensure that all eligible workers receive the increase not later than 12 months after the last adjustment and that matters
40 outside their control do not delay the application of the increase and it is administratively effective and efficient. The common operative date with orders being issued by the commission is a sensible process.

5 The ACTU claim was for \$24. The federal commission received extensive submissions including detailed economic material. The impact of previous safety net adjustments and the effect on the economy generally and on employment particularly of further safety net adjustments was examined. The federal commission heard that the Australian economy was in good shape. The Tasmanian commission has heard that the Tasmanian economy is in better shape than it was last year and that the outlook is extremely positive.

10 The Tasmanian Commission should endorse the decision regarding the quantum for the reasons that the Tasmanian economy is in better shape than last year, employers have not opposed the increase in wages in federal awards, and for equity reasons and because of precedents.

15 Additionally, it is submitted that the commission endorse a common operative date of 1 August 2000.

20 Discussions have occurred between the employer organisation, the Tasmanian Chamber of Commerce and Industry and the Tasmanian Trades and Labor Council on this matter, and we have an understanding that I'd like to read into transcript, and I will hand up copies.

DEPUTY PRESIDENT: We'll mark this **EXHIBIT TTLC.2**.

MS FITZGERALD: This statement confirms the understanding between the TCCI and the TTLC for the 2000 State Wage Case.

25 The TCCI does not oppose the flow-on of the \$15 safety net adjustment subject to the following:

1. Wage rates in private sector awards to be increased by the safety net adjustment of \$15.00, including junior, apprentice and trainee rates (on a proportionate basis) as from the first full pay period on or after 1 August 2000.

30 The \$15.00 safety net adjustment is to be reduced to the extent of any over award payment currently being paid by the employer.

2. Wage rates in private sector awards will only increase by the \$15.00 safety net adjustment as from the first full pay period on or after 1 August 2000 where:

35 • existing wage rates have been varied to include the arbitrated safety net adjustment arising out of the July 1999 State Wage Case, and

40 • a period of 12 months has elapsed since the wage rates in the award were increased to reflect the safety net adjustment arising out of the July 1999 State Wage Case.

Where an award does not meet this requirement, it may be varied, subject to a separate application, to incorporate the safety net adjustment. However the operative date of any such adjustment will be determined by the Commission on the basis of the parties' submissions.

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3. Existing allowances relating to work or conditions to be increased by 3.14% as from the first full pay period on or after 1 August 2000.

4. The parties request the Commission to issue orders to give effect to its decision without receiving draft orders from the parties.

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5. The parties note the Full Bench Decision - Review of Wage Fixing Principles of 6 July 2000 (T8413, T8483) that the next review of the Wage Fixing Principles should not occur until the time of the first State Wage Case Safety Net Adjustment Review that commences on or after 1 July 2001.

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It is further noted that if an application were made for a flow on of any Federal wage decision before 1 July 2001, then either party would be at liberty to seek a review of the Wage Fixing Principles.

6. The parties request the Commission to give an indication of its acceptance or otherwise of the position outlined above today (24 July 2000) in order for arrangements to be made for payment of the increase and to avoid retrospectivity.

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Thank you.

DEPUTY PRESIDENT: Thank you. Any further submissions from the employee side? No further submissions. Mr Watson?

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MR WATSON: Thank you, Mr Deputy President. I guess I probably just need to make a couple of comments about document TTLC.1 and in relation to the comments or the quotes made by Ms Fitzgerald in relation to that particular decision. Certainly the quotes that she made from the decision are actual quotes, so they are facts if you like, but I guess the comments that we would make is that they were made on the base of the national economy and that was the national decision and we're here today to deal with the decision in the context of Tasmania for a Tasmanian State Wage Case and in that context I would make the following comments.

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Our decision not to oppose the flow-on of the \$15 safety net adjustment has not been achieved without considerable soul searching.

Our decision not to oppose the TTLC's application has had to be weighed against a variety of competing considerations including the economy, the imperative of employment growth, the other employment

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cost factors such as the 1 per cent increase in superannuation contributions and increasing workers' compensation premiums.

On balance we've elected not to oppose the increase but in so advising we wish to sound a few cautionary notes.

5 There can be no doubt that the Tasmanian economy on aggregate has experienced considerable growth over the last 12 months. There has been a solid increase in most indicators of economic health and this growth has been matched by business sentiment which we've measured through the TCCI Colonial Bank Survey of Business
10 Expectations which has remained buoyant for the last three quarters to June 2000.

15 Amid the rosy picture are a number of trends that are not as positive, including an apparent plateauing in employment growth, a sharp decline in business investment since September 1999, and our population remains in decline.

Of concern is that the latest survey of business expectations shows that Tasmanian businesses expect a significant deterioration in business activity and business environment for the next quarter and indeed for the next 12 months.

20 It must also be said that whilst the current resurgence in the economy is warmly welcomed by business, it has occurred from an extremely low base and still leaves the Tasmanian economy under-performing in aggregate terms comparative to the economies of the other states and the national economy.

25 In this context we say that considerable caution is required as the recovery to date remains fragile and a significant increase in labour costs could exacerbate the already skittishness of the business community.

30 To avoid the predictable response from the unions, the government and the commission, that wages are not the sole cause of this situation, we say that that is self evident. What should be considered here, however, is what the impact of \$15 per week across the board wage increase might have if it coincides with generally unfavourable economic expectations.

35 We strongly believe that there are some sectors of the Tasmanian economy that will be unable to afford the impact of this increase and it will therefore impact adversely but in an unequal manner between various sectors. Those areas relying on government funding will continue to struggle to survive if appropriate recompense is not made
40 to fund the increase.

We say the \$15 per week wage increase awarded by the federal commission and which is sought to be flowed on into state awards - but is very much at the upper end of an affordable increase.

5 Whilst we have chosen on balance not to oppose the flow-on on this occasion, we believe the need for restraint remains as acute as ever and we urge the commission to remain vigilant to sectoral claims that exceed the existing safety net and which may have the capacity either directly or through flow-on to seriously damage the slowly recovering economy.

10 This vigilance will especially be required to avoid the potential of double dipping in the context of a sharp rise in the CPI occasioned by the GST but for which compensation has already been provided by significant taxation breaks.

15 Claims for wage increases deferred to compensate this adjustment, in our view, would constitute double dipping.

In relation to the agreed statement that has been provided to the commission, I just want to make a couple of comments about that particular statement.

20 First of all, in relation to point 4, in relation to the orders, it would not normally be our position that we would ask the commission to issue the orders without receiving draft orders from the parties because we believe there would be a normal situation for the union to provide the order to us, we would check it and then provide it to the commission as an agreed statement.

25 Bearing in mind the short time frame between now and 1 August and the fact that - obviously if this application is approved we would like to put the wheels in motion to advise employers of the increase, then we believe on this occasion that it would be appropriate for the commission to issue the order without receiving orders from the parties.

30 The other clarification, I guess, that we seek is that in relation to point 5, the parties have obviously agreed that it would be open to other parties to apply for a review of the Wage Fixing Principles, if there is an application to flow-on a national wage case increase before 1 July 2001, so I guess we just seek clarification from the bench that the parties would be at liberty to be able to do that.

40 In the context of the remaining issues, we would say that the application conforms with the current Wage Fixing Principles of the commission and subject to the comments that we have made, particularly relating to the economy, we would say that the public interest test of the Act has been served. If it pleases.

DEPUTY PRESIDENT: Thanks, Mr Watson. Any other employer representatives?

MR FITZGERALD: We simply support the submissions made by Mr Watson, members of the bench.

5 DEPUTY PRESIDENT: Thanks, Mr FitzGerald. Mr Willingham?

MR WILLINGHAM: Thank you, Mr Acting President and members of the bench. The position of the Tasmanian government is that it supports the application before you made by the Trades and Labor Council and warmly endorses the agreement that has been reached
10 between the Council and the TTCI currently appearing before you as exhibit TTLC.2.

That said, members of the bench, there's very little more for the Tasmanian government to put on the record, other than to say that our position is heartily in accordance with the commentary made by
15 the full bench in the national case in print S5000 at page 41 at paragraphs 121 and 122 and if I may I will echo those by reading them into the transcript, and I quote:

*In all the circumstances we have concluded that a larger increase is warranted this year than last. We have decided to award an
20 increase of \$15.00 per week in all award rates. In money terms the increase is of a similar order at the lowest award levels as the increase awarded at those levels in 1998. In real terms the increase is less than awarded in recent safety net adjustments. Because of our concern about compression of relativities the
25 increase will be the same at all levels and it follows that the weighting of the adjustment in favour of the low paid, although still considerable, is not as significant as it was in the 1998 and 1999 adjustments.*

If I could just interrupt that quote, Mr Acting President and members
30 of the bench, this is the concern that was expressed to the State Wage Case last year and we reiterate it again this year, that the major concern in the Tasmanian government's respectful view, is to ensure equity for the low paid and those who have not been able to gain access to increases by other means other than award variations
35 reflecting the safety net. And we would again make the very strong point, which is echoed in the decision of the 1999 State Wage Case, that perhaps as little as a quarter of Tasmanian employees in total will receive the benefits of any decision issued by this State Wage Case full bench.

40 That is, to put it in another way, probably 75 per cent of the Tasmanian workforce has either received the increase via federal awards or would have received a comparable or greater increase through the processes of workplace bargaining.

DEPUTY PRESIDENT: Is that your best guesstimate, is it?

MR WILLINGHAM: It was the estimate that we made, Mr Acting President, last year and I noted that the full bench of last year tended to endorse that figure but it's not an exact size.

5 DEPUTY PRESIDENT: I was just wondering how it came out so accurate again.

MR WILLINGHAM: I think, Mr Acting President, from perhaps faulty memory, the general estimate is that perhaps 40 to 45 per cent of employees are covered by the state jurisdiction's awards and that
10 taking a line through the statistics provided by the commonwealth, approximately half of those or up to half of those may now be covered by some form of workplace bargaining agreement, therefore the figure - you pays your money takes your choice - but somewhere between 25 and 30 per cent seems to be about right and I note that no one has
15 produced any anecdotal or indeed empirical evidence to suggest those figures are not more or less correct and I am comforted of course, that the 1999 State Wage Case full bench seemingly gave its imprimatur of acquiescence to those figures.

DEPUTY PRESIDENT: I remember it.

20 MR WILLINGHAM: Me too, Mr Acting President. Can I just continue the quote now at paragraph 122 of print S5000 and I think, Mr Acting President and members of the bench, this is probably most appropriate both in the national context and especially in the state context and has very much been borne out by the submissions of Ms
25 Fitzgerald and to a large extent I think by those of Mr Watson, and I quote:

*Although the adjustment will entail costs the strength of the economy in recent years suggests that safety net adjustments of this order are compatible with continued strong economic growth
30 and reduction in unemployment. In addition, material adduced by the Joint Coalition Governments to which we were referred earlier suggest that safety net adjustments affect significantly fewer employees than they did five years ago. We also intend to maintain the requirement introduced in the April 1999 decision that at least twelve months must have elapsed since the rates in
35 the award were increased in accordance with the last safety net adjustment before the award is varied as provided for in this decision.*

*The purpose of this requirement is to avoid the cost pressures
40 which might arise if more than one safety net adjustment is implemented within a twelve month period.*

Again, Mr Acting President and members of the bench, if I can, can I echo the sentiments we expressed this time last year, roughly, that the \$15 increase which is sought to be applied to private sector awards of this commission is the only increase that the employees are likely to receive in a 12 month period.

There's one final point, members of the bench, that I would like to make that perhaps hasn't received the attention that it should have done in perhaps earlier hearings. In the context of this case, it should also be borne in mind the restraint of employees and the forbearance that they've shown both in the more difficult economic times of a few years ago and even now when, by common acclamation, economic circumstances are improving.

ABS statistics demonstrate comprehensively that Tasmania's level of industrial disputation that is measured by time lost and disputes involving time lost are at an historically low level. For instance, the year 1999 was the lowest since ABS statistics commenced and the trends for the most recent data which is May of this year show that that is not only a continuing trend but it is also improving relative to 1999.

So, wage increases that are being achieved by Tasmanian workers are being achieved on that measurement alone and there are other measurements, I freely confess, are being achieved in a way that is conducive to the economic well being of the Tasmanian community at large and shows, I think, what should be warmly applauded for the way the Tasmanian workforce is going about the business of trying to achieve improvements in its wages and conditions.

Mr Acting President and members of the bench, in our view, the provisions of section 36 for which the bench is required to take into account are clearly not offended by this application. There is no doubt that predictions in years gone by about relatively modest increases of this nature have not affected the general economic indices in this state and certainly haven't affected the level of employment and/or unemployment.

And I note finally, Mr Acting President and members of the bench, that the employer group making representations today, itself said that the increases were affordable, in that it said, that it was at the upper end of the affordable scale but not the unaffordable scale.

If the commission pleases, those are the submissions of the minister.

DEPUTY PRESIDENT: Thanks, Mr Willingham. Ms Fitzgerald, have you any submissions in reply?

MS FITZGERALD: No, I haven't, but Mr Paterson would like to make some comment.

DEPUTY PRESIDENT: Good. Mr Paterson?

MR PATERSON: Just very briefly, deputy president and members of the bench, on the question of the funded community sector, I think it's important that the bench is aware that in this year's state budget for the first time there was a global allocation to the Department of Health and Human Services to cover increasing labour costs in the community sector. The budget allocation was, I believe, 1.99, close to \$2m.

The budget decision effectively passed on an amount equivalent to the State Service Wages Agreement to the \$80m of funding to the community sector. So whilst there may be organisations that may be able to claim economic incapacity and it's well open to them to do it, the community sector, I would submit, for the first time is in the best position it's ever been in to deal with the increase in labour costs that come out of a State Wage Case.

The second issue, which is more a process issue, is that the structures of the partnership between the community sector and the government, particularly the Department of Health and Human Services, are now developed to the stage where organisations that do find themselves under-funded have mechanisms and processes which are in place now to deal with these issues for a review of funding allocations.

Similarly, the tension in the air that has been created by the closure of Our Place on the north west has meant that organisations are probably more vigilant now than ever before about their liabilities and the necessity to have the capacity to meet the obligations. All these things remain to be tested but the submission that I make is that in response to Mr Watson's remark as to the capacity of the funded sector, that the sector is probably in the best position it's ever been in to deal with the State Wage Case impact.

DEPUTY PRESIDENT: Thank you. We'll adjourn for about five minutes.

SHORT ADJOURNMENT 10.28am

HEARING RESUMED 10.39am

DEPUTY PRESIDENT: Well I can indicate to the parties that the bench will hand down a written decision in due course but we indicate now that we endorse the memorandum of understanding that's been reached between the TCCI and the TTLC and endorsed by the government and we congratulate you on your endeavours to settle the matter this way. It's very rare, I think, that we can get some settlement in a State Wage Case, I don't think it's happened for quite a few years, so it's good. As I say, we'll hand down a written decision in due course.

5 I would expect the parties to notify the commission if there happens to be some error in the orders and I'd expect early notification, if we're going to take on this task. I have to say, that it does assist the commission if the parties do present agreed orders because we've got something then to check against and that's the beauty of it for us but on this occasion, we'll take the agreement on board and we'll go with your agreed position. That's all I have to say.

This matter is now concluded. Thank you.

HEARING CONCLUDED 10.40am