

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

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

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

T No. 6987 of 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

T No. 6991 of 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

T No. 6993 of 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, 6 June 1997
continued from 5/6/97

TRANSCRIPT OF PROCEEDINGS

Unedited

PRESIDENT: Are there any changes in appearances? No.

MR EDWARDS: In which matters, sir?

PRESIDENT: No changes.

MS L. FITZGERALD: Yes, there are changes in appearances.

5 PRESIDENT: Yes, Ms Fitzgerald.

MS FITZGERALD: In terms of the Tasmanian Trades and Labor Council, **PAULINE SHELLEY** replacing Rod Hunt.

10 PRESIDENT: Yes. Very good. Thank you. Well, we were to commence this report back hearing at 9:30 this morning. It's now 12:25. Can you give me a report back, Ms Fitzgerald?

MS FITZGERALD: Just to say that at this stage we have agreement; agreement on the package that we were recommending and agreement to the changes - or the changes to the Wage Fixing Principles.

PRESIDENT: Very good. And is that the general consensus?

15 MR COOPER: Mr President, for the record, the first comment we'd like to make is we appreciate the patience exhibited by the bench today in delaying these proceedings to allow the parties to reach agreement. As a result of the adjournment yesterday and the direction into conference by the parties, we have negotiated a set of Wage Fixing Principles that - that we are happy with in terms of clauses. We must
20 say that that process wasn't without some pain, and while - while the documents that will be put to you are consent documents, it wasn't entirely without - without some discomfort and I think that's reflected in the time the parties have taken to each agreement. But notwithstanding that, for several hours we have discussed them in earnest to achieve the outcome. If the commission pleases.

25 PRESIDENT: Very good. Thank you, Mr Cooper. Mr Lyons.

MR LYONS: Yes, sir, I can confirm what has been put on the record that the organisations I represent also support the consent position which I believe will be outlined to you by the TTLIC. We would also thank the bench for both its assistance and indulgence in relation to the negotiations that have occurred and I will endorse
30 Mr Cooper's remarks insofar as the proposed consent settlement does represent a compromise and accordingly contains within it certain discomforts and compromises which may not otherwise have been acceptable. But certainly we do support the consent position.

PRESIDENT: Yes. Very good. Thanks, Mr Lyons. Mr Edwards.

35 MR EDWARDS: President, for the record, the organisations I represent have participated fully in the conferences that have taken place and we would support generally the report that's been given. In that context we thank the bench for the short 15 minute adjournment that I did ask for yesterday which in fact I think may have facilitated this process. In that regard I can only echo the remarks made by
40 some others that there always some discomfort in reaching compromise positions but nevertheless I think the agreement that's reached that we will present to the commission through the Labor Council and other speakers is a matter that's very much in the public interest and we will set about convincing the bench of that. Thank you for the bench's indulgence and assistance, sir.

PRESIDENT: Yes, very good. Thanks, Mr Edwards. Mr Pearce, have you any submission?

MR PEARCE: Nothing to add to the remarks made by the preceding speakers, Mr President, on behalf of the minister, but the minister similarly participated in those discussions. Certainly 15 minutes is a long time in industrial relations and we congratulate the parties for the minister on their patience and their preparedness to compromise their positions in the betterment of industrial relations in this state. If it please the commission.

PRESIDENT: Yes, very good. Thank you, Mr Pearce. Well, that's good news to us. I'm echoing, I think, the views of the other members of the bench. We're very happy that you've reached this position and we're very anxious to hear about it.

Now in terms of the process, Ms Fitzgerald, you may wish to do something with your application.

MS FITZGERALD: Thank you very much. I am foreshadowing that I intend to amend my application and I shall submit copies to the bench of an amended application to take account of the agreement that has been reached.

PRESIDENT: Yes.

MS FITZGERALD: As you can see from Attachment A, what we are seeking to do is to vary the Wage Fixing Principles in accordance with agreement reached by the industrial parties and that includes, and while these don't entirely reflect the wording in the principles at the moment, the intent is quite clear, and the last point there you will see I have deleted, which the intention of this application was also to seek to establish a state minimum wage, what I shall do is make a separate application to the commission for determination of a minimum adult wage for Tasmania.

PRESIDENT: Yes, I see. Can I have any reaction from the parties to that application to amend.

MR EDWARDS: From the point of view of the organisations I'm representing, president, we would support the TTLC's application to amend their application to the commission. It more accurately reflects the purpose of the proceedings which is to establish principles as well as to deal with certain monetary related matters which will be presented to the bench. So we would support the change.

PRESIDENT: Yes. Very good.

MR PEARCE: Both ministers support the change, Mr President.

PRESIDENT: Yes. All right. Thank you. It's just been drawn to my attention that it - your amendment seeks only to vary private sector awards.

MS FITZGERALD: Oh, yes, sorry - I should explain that as well. What we are seeking at this stage is to set aside public sector awards. If it is considered that a public sector award is not a safety net award then there can be application made to access the decision of the commission. There has been some variation of public sector awards to reflect the State Service Wages Agreement. Some have been varied, some parts of awards have not. So what we do at this stage is seek to set those aside.

PRESIDENT: So in terms of public sector awards, how would - and if there was a public sector award that had not picked up State Service Wages Arrangement Agreement how would they access -

MS FITZGERALD: They have actually picked up -

5 PRESIDENT: - something like 10 - \$10?

MS FITZGERALD: Well that's not the case; they actually have -

PRESIDENT: They all have. I thought you said -

MS FITZGERALD: They would - no -

PRESIDENT: - some hadn't.

10 MS FITZGERALD: It's the way in which the awards in fact have been varied. Some awards have been varied to reflect the State Service Wages Agreement - the increases through that.

PRESIDENT: Yes. I don't - I hesitate to ask such a particular question at this stage but what, for example, would be the circumstance with the Miscellaneous
15 Workers (Public Sector) Award?

MS FITZGERALD: That was one we were discussing earlier.

PRESIDENT: Yes, Ms Shelley.

MS SHELLEY: Well the situation with Miscellaneous Workers (Public Sector) Award is that it has not - the award itself has not been varied, but everybody who is
20 covered by that award has an increase through a section 55 agreement accessing the State Service Wages Agreement. So we will be making - I've already had some discussions with Mr Pearce. I would think that the procedure would be that we would make application once we'd reached some agreements with the Department of Premier and Cabinet as to how to deal with that award.

25 PRESIDENT: Yes. So - all right - thank you - but, Ms Fitzgerald, does that mean that the principles will be amended to encompass public sector award changes?

MS FITZGERALD: Well the principles as they stand infer it's all awards, so there's not -

PRESIDENT: Right. Okay.

30 MS FITZGERALD: - a distinction being made between private and public sector.

PRESIDENT: So in terms of the principles the public sector would be covered.

MS FITZGERALD: That's right.

PRESIDENT: But in terms of specific money amounts that you seek to flow at this
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35 MS FITZGERALD: That's right.

PRESIDENT: - it's just private sector awards.

MS FITZGERALD: Yes - because this is - establishes an application and a common operative date and then unions - presumably - parties to the award can access that increase but through draft orders not having to make application.

5 PRESIDENT: Yes. All right. You've no objection to the application being amended? No? No, well your application is amended accordingly then, Ms Fitzgerald.

MS FITZGERALD: Thank you. Do I proceed?

PRESIDENT: Yes please.

MS FITZGERALD: I'd like to hand up copies of the Australian Industrial Relations Commission Safety Net Review wages for reference.

10 PRESIDENT: Yes, we'll mark this exhibit TTLC.1.

MS FITZGERALD: Thank you. I'd like to refer to page of that decision and that outlines the ACTU's Living Wage claim. There were two elements of that claim and three stages. The first element is described by the ACTU as 'percentage increases to the minimum award rates of pay' and the second element as 'a safety net adjustment expressed as a flat money amount'. The first element of the ACTU's Living Wage claim applied, for example, to the Metal Industry Award seeks in Stage 1 - an increase in the lowest rate - that was the C.14 rate - from \$9.19 to \$10 per hour; and in Stage 2 - an increase in the lowest rate - again the C.14 rate - from \$10 to \$11 - \$10 to \$11 an hour; and in Stage 3 an increase in the lowest rate from \$11 to 12 hours - \$12 an hour.

And the second element of the ACTU's Living Wage claim was for three safety net adjustments each of \$20 per week.

25 In terms of the commission's decision regarding that claim - that is on page 68 of that document - and very briefly the decision was to award an arbitrated safety net adjustment of \$10 per week to determine a minimum wage to be called "the federal minimum wage" for full-time adult employees of 359.40 per week and for junior part-time and casual employees, a proportionate amount. And the federal minimum wage was to be inclusive of the arbitrated safety net adjustment determined by this decision and/or previous safety net and national wage adjustments.

30 Both the increases - the \$10 per week and any increase under the 359.40 were to be fully absorbable against all award - above award payments.

The decision also provided for the variation of both minimum rates and paid rates award.

35 It provided that any outstanding \$8 per week arbitrated safety net adjustments available under their September '94 and October '95 decisions be available at the same time as the \$10 arbitrated safety net adjustment.

40 It provided for the commencement of the award variations to give effect to the decision to occur no earlier than the date on which the award is varied except that provision will be made for the phasing-in of increases where the circumstances justified it.

And it permitted the expression of award rates by consent of the parties where the minimum rates adjustment had been completed as hourly rates as well as weekly rates.

It provided that allowances which relate to work related - which relate to work or conditions which have not changed and service increments to be adjusted as a result of the \$10 per week arbitrated safety net.

And it adjourned the applications for a date to be fixed.

- 5 So that was simply the AIRC decision. In terms of very relevant aspects of that decision with the \$10 safety net adjustment, as I'd mentioned, the commission that that arbitrated safety net adjustment should be a flat money amount rather than a percentage increase and the reasons given - being given to limited - the reasons given being to limit additions to average weekly ordinary time earnings and to give a proportionately higher benefit to low paid workers.
- 10

We have not sought to deviate from this, and whilst not necessarily endorsing the quantum, support the application of a flat money amount increase. Other relevant matters - if you refer to page 78 of the decision. It deals with the matter of Absorption and states, at the top of the page, that the commission decided:

- 15 *1. - the \$10 per week arbitrated safety net adjustment and,*
- 2. the increase in wages to give effect to the federal minimum wage are to be fully absorbable against all above award payments.*

In terms of the phasing-in, if you refer to page 82, at the bottom of that page - again it makes provision for the phasing-in where circumstances are justified. Preceding that is the expansion of the decision regarding the \$8 - the previous \$8 arbitrated safety net increases that may well be outstanding.

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Page 83 - at the top of 83, deals with the issue, again, of the Hourly Rates - the expression of weekly wages as hourly rates.

As indicated by our application and reflected in the agreement that we have reached, there has been agreement between ourselves, the employer representatives and indeed the government - the minister, which provides for a notion for a federal minimum wage to be the subject of a separate application to be dealt with consequently by the commission.

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We consider that this is an issue of significance and will devote considerable energy and resources to developing a substantial submission. Additionally, we shall urge other relevant and interested parties to make submissions and I would like to tender a draft framework for the way in which we intend to address this matter.

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PRESIDENT: Yes, we'll mark this document TTLC -

MS FITZGERALD: It says exhibit 5 but it needs to be corrected.

35 PRESIDENT: Exhibit 2.

MS FITZGERALD: Thank you.

PRESIDENT: That is, TTLC.2, of course.

MS FITZGERALD: Okay. As it says - there is an outline - it's a draft outline of what our submission may well constitute and what we intend to present in arguing that case for the determination of a minimum adult wage rate in Tasmania.

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I don't intend to speak further to that at this time.

PRESIDENT: What sort of time frame do you have in mind?

MS FITZGERALD: Well, you did mention yesterday that in terms of - if we needed further dates to be set aside for the hearing of this matter that there were some dates - on July 7 and then subsequently towards the end of August. We think it may well be useful if there was direction into conference on July 7 to determine in fact - how in fact we might proceed and hearing scheduled for the end of August.

PRESIDENT: So you'd make application some time in the relatively near future - we schedule hearings commencing on 7th July -

MS FITZGERALD: Preliminary, yes.

10 PRESIDENT: - and take it from there.

MS FITZGERALD: Yes. We wouldn't certainly be proceeding to run the case on July 7. It would be about determining how in fact we would proceed.

PRESIDENT: Well, it would be your case so you'd be in a position to tell us what you propose and what your time frames might be.

15 All right. Okay. I understand that.

MS FITZGERALD: I'd now like to hand up a copy of the agreed position.

PRESIDENT: Yes, very good. You must have known something here. The exhibit number is correct.

MS FITZGERALD: I must have.

20 Okay. I shall walk through that. In terms of the agreement that has been reached between the TTLC and its affiliates, the employer representatives and other parties, the agreement is that the wage rate in all private sector awards will be increased by \$10, the arbitrated safety net rate as from the first full pay period on or after the 14th July.

25 The minimum wage in all private sector awards will also be increased by \$10 as from 14th July.

The common operative date of 14 July -

PRESIDENT: Sorry to interrupt you there. Is that minimum wage, first full pay period on or after?

30 MS FITZGERALD: Yes, it is.

PRESIDENT: Yes. Thank you.

35 MS FITZGERALD: That common operative date, as it says, of 14 July will not be applied to any award where the draft orders are not completed and agreed to by the 14th July and the operative date in those cases shall be the date that the commission approves the draft orders. Any other award wage increases such as any structural efficiency increases, minimum rates adjustments and any outstanding \$8 arbitrated safety net adjustments will be available on application and the spacing of any outstanding increases to awards shall be determined by agreement of the parties or failing agreement, by decision of the commission.

Other increases flowing after the \$10 safety net adjustment will not be available prior to the 14th September or otherwise, with the consent of the parties to the award.

5 In terms of allowances, which relate to work or conditions of service, service increments - they will be adjusted as a result of the \$10 per week arbitrated safety net adjustment and that in fact is determined, or detailed more specifically in the principles.

10 As I've said, the minimum wage component of the federal commission's decision shall be dealt with by a separate application to establish a state minimum wage and we were seeking that the application be dealt with by the state full bench and that a schedule of hearings in fact be determined.

Finally, that the current wage fixing principles of the commission are amended to reflect the agreement that we've reached and that last sentence is irrelevant - that final noting - just delete that.

15 PRESIDENT: So, we delete from the word 'noting'?

MS FITZGERALD: Delete from 'noting' to 'strengthened'.

20 In terms of the principles that - the wage fixing principles of the commission, we have all had the opportunity to consider these, make comment and vary them and we all have a draft in front of us, as I understand the bench has and has had the opportunity to consider these and also make some useful comment.

PRESIDENT: Glance at them, is probably a better description.

MS FITZGERALD: Glance, have you.

All right. I can assure you, we've had more than a glance at them, although I don't know that they're substantially different than they were initially.

25 Given that the TCCI has prepared this draft, it might be more appropriate if the employer representative, Terry Edwards, actually walked the bench through the various components of those principles.

30 I'd assert that given that the agreement that we have reached, the agreement in fact has tripartite support, so employer, union and government support, that the agreement does not offend the public interest.

35 Just finally, I'd like to make some comments that may or may not be appropriate. Given the agreement - I just seek to place on transcript an acknowledgment and a degree of pride in the way in which unions affiliated with the Labor Council have proceeded in this matter. The way in which they assessed the decision of the federal commission, the way in which they clearly determined what our primary objective was and the way in which they negotiated and proceeded.

40 Unequivocally, their objective has been to secure the best outcome for all workers as quickly as possible and I'd say that such a truly collective approach appears rather unusual in contemporary industrial relations and indeed perhaps a federal industrial relations framework could be considered to positively discourage cooperative and collective behaviour. I think that they are to be applauded on their commitment to seek the best outcome for all union members and particularly low paid workers. Thank you.

PRESIDENT: Yes. All right. Thanks very much, Ms Fitzgerald. The thought crossed my mind as you were making those last comments, whether you were going to propose that the principles should contain something about the requirement for a single bargaining unit to be developed?

5 MS FITZGERALD: I think we may well have some difficulty.

PRESIDENT: It's worth thinking about. All right. Yes, Mr Cooper?

MR COOPER: Mr President, in terms of the submissions of Labor Council, we did have originally intended to make our own submissions in respect to that but given the considerable time that we've spent on negotiating the draft - the set of principles
10 that - did that actually receive an exhibit number, Mr President?

PRESIDENT: No, it hasn't and it was tendered by TTLC, so it'll be TTLC.4. Yes, Mr Cooper.

MR COOPER: Mr President, in terms of our submissions the crux of them do go to the principles and I think it is important that we do advise the bench, as we did in
15 the report-back, that those principles although not arrived at without some discomfort are agreed. I think it is important that we do understand that in the course of those discussions which were, for the main, very positive, the parties have agreed between now and when we're obviously back before you again in terms of another wage claim, to positively review these principles with a view to making them
20 more simplified and obviously there will be some things here that we need to deal with as a consequence of other matters that have arisen and I would like to just touch on those, without taking up too much time.

The main one that we think we need to deal with in due course is in these principles that we agree to though and probably may need to be part of a separate application,
25 is clause 11 of those principles and that relates to the superannuation. There has been a number of developments with superannuation per se, both federally and in courts - high courts, and we think it would be appropriate to perhaps consider, even in a conference situation with the commission, the ramifications of those developments as it relates to that superannuation provision in the principles.

30 At this point in time that principle is appropriate but it may very well be that the parties should consider that in the broader context with a view to making sure that the superannuation principle remains relevant and indeed something that you can actually enforce in this jurisdiction.

35 In terms of the other matters, I don't intend to labour them with the bench, other than to say the parties have identified several provisions in this document that they will attempt to simplify before the next wage case and hopefully we will do that well before the matters proceed in this commission.

In terms of - there are some other changes to that document that have been written in by hand-writing. I understand Mr Edwards is going to have carriage of taking the
40 bench through that so we won't labour that. We won't outline the wage case because - of the ACTU, that has been done, as with the history of the safety nets. But we do say in terms of principle 16 Award Review Process, we do commend that principle to the bench and we do recognise that in the previous wage case in fact the AWU did suggest such a process but it wasn't followed through and one of the reasons that
45 we had some difficulty today is that because there hasn't been an actual mechanism where a responsible person or a party, or whatever, can actually get that process under way and we think this principle clearly spells out now what will happen in terms of the award review process and that will be that the commission will play a

positive role in assisting and we think, in terms of facilitating that process, that will be very useful.

We would like to participate in that, especially as it relates to the award formatting, because depending on which commissioner you have, they have their views and we have ours and obviously if we have some general principles on award formatting, it will be a simpler matter for us to proceed with. Those submissions were made in 6248 of 1996 and they were made at several points by my union as well as the TCCI where we said then that we think the process should involve a conference before the bench to at least establish that formatting principle. So we think that will be useful and we think that will assist the parties in making the transition from some outdated awards to a modern award with some relevance, especially with the emphasis being on the user. We don't wish to continue in an environment when people are being penalised because they can't understand what's written in an award.

In terms of - one point that we do wish to make, in terms of the process though, I think it does again need to be stated that the principles of the federal commission do have significant links to the federal legislation which is at variance to our own. In a lot of ways that is a difficulty that we have to continually deal with in terms of rights that are exercised by that commission - the federal commission in terms of Work Place Relations Act and the difficulties that we have in this jurisdiction in trying to facilitate federal wage case decisions as they relate to the Tasmanian jurisdiction and I just wish to make that submission again because every time we come to the commission we have a set of principles federally we seek to flow and a lot of variances and a lot of difficulties we encounter are because of the legislation.

It's not our fault, it's not the parties', the employers' and it's definitely not the bench's fault but it does need to be said again and obviously those people that are in the position to do something about that might take that on board one day and recognise the difficulties that we in Tasmania experience as a result of the variances in the legislation, trying to have similar principles in place. And, I mean, a fundamental part of the federal decision is, just what is meant by a safety net, and obviously we will deal with that as a separate application.

In terms of the economic framework in which this decision is handed down, the Labor Council have not touched on that but the federal decision did deal with that at significant length and I think the agreement of the parties does recognise that there will be no impediment to the flow-on of the wage increase, given the state of the Tasmanian economy at this point in time.

The comments that were made by the Labor Council in terms of low paid workers do need to be restated by my union and our intention in terms of this process was to enter into this process in good faith and to participate actively in that and unfortunately, for whatever reasons, I can put it no higher than a misunderstanding, there was some delays and frustrations in that but the intention of the AWU has and remains to effect an increase in wages for those people that are not subject to bargains and do need to rely on safety nets to achieve and maintain a reasonable wage in this community and we do not deviate from that and if in trying to achieve that objective we express views different to the others, then that is a democratic right that we have and we will not resile from that and if we have presented some difficulties to the parties, we apologise for that but we don't resile from the fact that we will continue to exercise that right.

Our objectives stated on this record is that we are seeking, as was the Labor Council, to achieve a reasonable outcome in the shortest time frame possible to those people that most deserve it and that is the low paid workers in our community.

In terms of those submissions, Mr President, I won't make any more, other than to say that the principles as put up in TTLC.4 are agreed by the AWU. If the commission pleases.

5 PRESIDENT: Yes. All right. Look, I don't want to cause you any concern, but I take it you don't intend to vary your application or applications, that in fact the application of the TTLC as varied, will accommodate all requirements.

10 MR COOPER: Mr President, in terms of that, we didn't make any comment on that. The Labour Council application is very specific now and it does pick up what we were seeking to do in terms of the \$10 and allowances and we agree with the application to set the minimum wage to one side. In that case, we can prepare draft orders on the assumption that you will support the application and they can be submitted under the T number that is the Labor Council's.

PRESIDENT: That's correct. That's the way I would see it. Yes.

15 MR COOPER: So we understand that we can now provide, if you agree to this situation - we can provide draft orders subject to T.6941 for the variation to the awards.

PRESIDENT: And your applications are virtually dismissed?

MR COOPER: Virtually. It becomes superfluous.

PRESIDENT: Yes. All right. Yes, thanks. Mr Lyons.

20 MR LYONS: Yes, thank you, sir. Mostly my remarks would be to endorse the positions put by Mr Cooper and also by Ms Fitzgerald in respect of the draft principles. I can indicate that we support their implementation. They are not - we are not without our problems with some elements of them, however as I said earlier, they do reflect a compromise.

25 We are extremely happy that the parties have raised a number of issues in conference which will be dealt with over the course of the next 12 months. In particular, we believe there are a number of matters contained within the draft principles which could be well simplified or amended and we believe in particular that those issues may be more appropriately dealt with in the environment where
30 the parties, if you like, do not have a due safety net adjustment hanging over their head. In particular, those matters which are, if I might say, non-wage related matters, they can be the subject of consultation and possibly agreement between the parties outside any application to flow on a particular wage based decision of the commission. So we would very strongly support that process.

35 In respect of the foreshadowed minimum wage application by the Labor Council, I can indicate that we strongly support an application in those terms and foreshadow our full participation in that process. We would be intending to make full submissions as to the level of the state minimum wage and we also would support the suggestion made that some utilisation could be made of the dates which the
40 bench had previously advised the parties they had available in the near future.

In respect of the awarding of the quantum of \$10, we would share the TTLC's view that a larger quantum ought have been awarded by the federal commission, however we note that the bench can - or this bench can, with some confidence, award a \$10 allowance in respect of economic circumstances given the very wide ranging
45 economic submissions put to the federal bench and in particular noting that a safety net increase of \$10 is within the range of that proposed by state and commonwealth

governments and the Reserve Bank of Australia. So we say that the economic grounds for the granting of the \$10 are extremely strong.

5 In respect of the specific applications my organisations have lodged we are, if the bench is minded to accept the submissions of the parties, happy to have the Labor Council application determined in lieu of those applications -

PRESIDENT: Yes.

MR LYONS: - and as you stated to Mr Cooper, that has a net effect of essentially dismissing those applications.

10 In respect of the process that has been followed to get to this point, the aim of our organisations has been no different to that of the other union parties, in that it was to secure the highest possible increase from the earliest possible date. We do not
15 resile from the fact that we will strenuously prosecute that objective in the manner in which we see fit but we would share the regrets of some parties, that negotiations about these matters became derailed and certainly that was not helpful and led to the rather lengthy conciliation processes in the last two days which ought really, we would submit, have been completed earlier.

Sir, that would be the extent of my submissions. If the commission pleases.

PRESIDENT: Yes. Thank you, Mr Lyons.

20 I might ask Mr Baker, what's your position in relation to your applications? Do you have the same - or do you object to the process that I've suggested both to the AWU and to Mr Lyons' people?

MR BAKER: No, not at all, sir. I think that would extremely appropriate, given the fact that we have now at last secured an agreement, that I would believe that the process outlined by yourself would be the appropriate way to go.

25 PRESIDENT: Yes. Very good. I won't look at Mr Brown or Mr Paterson. Should I?

MR EDWARDS: They're not here, are they?

MR BROWN: HSU application, Mr President, we have no problems with that being withdrawn, set aside or dismissed.

PRESIDENT: Yes.

30 MR PATERSON: And similarly for my union. I think we in fact foreshadowed that with a covering note to our application in any event.

PRESIDENT: Very good. Thanks, Mr Paterson. Mr Edwards.

35 MR EDWARDS: Thanks, Mr President. Given the hour and the nature of events that have preceded this point in time today, I will be reasonably brief in the way that I address this. Certainly, far briefer than I may have been otherwise.

40 Briefly, president, the TCCI in respect of this particular series of applications has conducted a far more wide ranging consultation process than has ever been undertaken by employer organisations in this state in the past. We've done that not simply because we've got time on our hands and nothing to do, but because we felt that the nature of this application, particularly that component of the application that goes to the increase in a minimum wage to \$359.40 was of such fundamental

importance to the economy of this state that we ought to give a very wide ranging right of representation to employer organisations.

5 To that extent, we've held three separate and distinct meetings of all registered employer organisations that are registered in this commission with a view to ensuring that the views that we put to this bench are in fact those of all organisations and I can assure the bench that that is the case.

PRESIDENT: Could I just stop you there and pose a brief question.

MR EDWARDS: Yes, sir.

PRESIDENT: TACC -

10 MR EDWARDS: Sorry?

PRESIDENT: The Tasmanian -

MR EDWARDS: They have been involved in the consultations. I was going to come to the written document that Ms Yilmaz has forwarded to the commission and I will deal with it now if I might, president, now that you've raised the subject.

15 PRESIDENT: Thank you.

MR EDWARDS: I have in fact spoken to the TACC by telephone, and unfortunately I don't have a piece of paper to justify what I'm about to say, so I'm asking the bench to take me at my word. I have spoken with Mr Jerry Pells who is the TACC's director of industrial relations from a national level and advised him of the format of the
20 agreement that we had initially reached with the TTLC and subsequently with other unions and they have indicated that they are quite satisfied with that agreement and happy to be party to it.

To that extent and to the extent that the agreement reached is inconsistent with the written document they forwarded to the commission, I can advise that they now are
25 in agreement with the agreed position of the parties.

PRESIDENT: Can you do something about arranging for them to inform us accordingly?

MR EDWARDS: I can, president, yes.

PRESIDENT: Yes, thanks.

30 MR EDWARDS: The position of employers in respect to this particular application is that whilst we note the outcome of the decision of the Australian Commission in P.1997, we believe the circumstances within which that particular decision was taken were not identical to those circumstances in which the parties find themselves before this tribunal.

35 We had an initial belief that the \$10 increase is beyond the capacity of Tasmanian industry to accommodate without some adverse reaction and it's that view that we took to the negotiations process with the TTLC and others. We had in fact intended to come before this bench and put very significant economic argument which we believe would have demonstrated that the economy in this state is seriously under-
40 performing the economy nationally and in other states and as a consequence what may have been considered to be appropriate by a full bench of the federal commission only looking at national indicators may not have been a decision

reasonably available to this commission if proper pursuit of section 36 was undertaken.

5 To that end, we approached particularly the Labor Council and put a proposition which sought to, some extent, soften the impact of the \$10 safety net adjustment and in particular in that context I will take the commission to the principles that we have developed between the parties and indicate some areas in which we are at variance with the outcome at a national level.

10 It is the variances from that national decision which enables us to stand before the bench today and say that there is agreement between the parties to a \$10 per week arbitrated safety net adjustment to all private sector awards of this commission.

PRESIDENT: Which won't impact on the economy of the state?

15 MR EDWARDS: Well, I think there will be an impact obviously, president, but we're saying that the impact is not one that would give rise to serious difficulties in accordance with section 36 of the act and we don't raise that subject. What we say is, that the package arrangement that has been reached between the parties provides a range of benefits to employers and to employees which when taken in combination is an appropriate resolution of the claim that's before the commission and would not therefore bring about adverse reaction pursuant to section 36.

20 In respect to the minimum wage, if I might briefly dispose of that, president - obviously we are prepared to participate fully in a process which will lead to the determination of a minimum wage. We don't have much choice in that obviously but we have a particular view which we will put, that the \$359.40 figure determined by the Australian Commission is not appropriate to Tasmanian circumstances and in doing that we will present a very detailed and comprehensive argument based
25 around economics and other factors.

I say that, only from the point of view of indicating that we acknowledge the contents of exhibit TTLC.2 but indicate that our argument would be travelling along similar lines but perhaps in a divergent direction but that'll be a matter for future argument on another application.

30 I would like to turn, president, if I might to the principles that have been developed by the parties. I think that is probably the appropriate way to indicate to the bench the basis of the agreement reached between the parties which has been summarised in exhibit TTLC.3. I might add that there have been some last minute changes, even above those that I've been able to advise the bench of in conference, which I'll
35 explain as we go.

What I'd like to do, if I might, president, and I'm in the hands of the bench, would be to indicate the areas of major change embodied in exhibit TTLC.4 above that that was previously the set of principles established by this commission in the July 1996 State Wage Case. So unless there's any objection to that, that's the way I would
40 prefer to proceed and in that regard I would take the bench initially to page 5 of exhibit TTLC.4.

We have incorporated into the set of principles a new Principle 7 which is called Previous State Wage Case Increases which is reasonably straightforward. It says basically that increases available under previous State Wage Case decisions such as
45 structural efficiency increases, minimum rates adjustments, the three previous \$8 arbitrated safety net adjustments will, on application, continue to be accessible.

I pause there to say we're not saying they are the only types of increase; we've said such as. So it's clear that there are other applications that are possibly available

arising out of previous State Wage Case decisions that may be able to be pursued. So it's not meant to be definitive.

5 We have reached agreement that - at Principle 7.2 - that the spacing of increases to awards in accordance with Principle 7.1 should be determined by agreement between the parties to any particular award, or failing agreement, by a decision of the commission. That's to ensure that the increases don't coincide too closely one to the other and this is one of the areas where we have diverged from the decision of the Australian Commission which took the prima facie view that the previous \$8 safety net adjustments would be bracketed with the \$10 safety net adjustment and applied to awards at the same time.

Given the comments I made a moment ago about the economy of this state and the impact of that sort of decision, we felt that inappropriate and as a consequence we have negotiated an alternative position with the union parties to this application and that is the subject of specific consent.

15 At Principle 7.3, we've also indicated that there a be two month lag period between the application to an award of the \$10 arbitrated safety net adjustment and any other increase. That again is designed to cushion the impact of the \$10 and any other increases that may otherwise be available. For example, the parties may already have in train a process of minimum rates adjustments which may have seen an increase otherwise due shortly after the \$10 was applied to the award. So in order to cushion the impact, we've put a two month period in there, but there is a specific provision there that two month period could be varied by the consent of the parties to a particular award application.

25 Now this is where we - my document starts to get very messy at this point in terms of a few squiggles and wriggles all over the page. So if the bench could bear with me a little bit - and it largely arises from the debate between the bench and Ms Fitzgerald in the context of public versus private sector awards which I very hastily tried to accommodate within the set of principles in a way that the commission might find satisfactory.

30 So what I'd like to do is read this principle in full. I'll do it reasonably quickly first and then do it slowly to the extent that's necessary.

At 8.1 it would commence now: subject to Principle 8.3 all wage rates, minimum rates and private sector minimum rates and paid rates awards will be varied to include a \$10 per week arbitrated safety net adjustment from the beginning of the first full pay period to commence on or after 14 July, 1997 subject to the presentation of completed and agreed draft orders on or prior to this date.

Junior and apprentice - junior apprentice and trainee wage rates will be adjusted on a proportionate basis.

40 Where draft orders - so the word 'agreed' is taken out from the version that the bench have in front of them - so where draft orders are not completed and agreed by 14 July, 1997 the operative date will be the date that the commission approves the draft orders.

8.2 is unaltered simply as the amount of the arbitrated safety net adjustment is to be reduced to the extent of over award payment currently being paid by an employer.

45 And then a 8.3 which would read: In the event of a public sector award not having been varied to incorporate increases for enterprise bargaining, applications may be made to incorporate the \$10 safety net adjustment. And I think that opens up the prospect of dealing with the - for example, the Miscellaneous Workers Award

situation that was cited by the bench. I have put that form of words before the Labor Council and Mr Pearce, for the minister, both of whom have signified their general consent to the intention of the words. I wouldn't say the exact words because it's done fairly hastily.

5 PRESIDENT: So the 10 - this only applies to the \$10.

MR EDWARDS: Yes, the previous \$8 increases are dealt with, I think, under Principle 7. They are still available on application and I'm sure that the bench will guard against any contrived circumstance where an award could be varied to incorporate safety net adjustments on top of enterprise bargaining related
10 adjustments such as the State Service Wages Arrangements Agreement or anything similar.

Now does the bench want me to go through those changes slowly or is the record of the -

COMMISSIONER WATLING: No.

15 DEPUTY PRESIDENT JOHNSON: No.

PRESIDENT: No.

MR EDWARDS: I'm happy to meet with anyone after the hearing to give them the form of words I've used anyway.

COMMISSIONER WATLING: We'll end up with a clean copy of this anyway will we?

20 MR EDWARDS: You will indeed, commissioner, and I apologise. We had an unrecoverable disc error in the commission's computer as a result of trying to change this and therefore we couldn't accommodate that. But we will do that.

The form of orders hasn't changed. The next major change is found at Principle 9.4 at the top of page 6. Incidentally, the copy that does come back to the commission
25 will not be titled 'Draft Without Prejudice'. I perhaps -

PRESIDENT: Okay.

MR EDWARDS: - should indicate that that can be removed -

PRESIDENT: Good.

MR EDWARDS: - from this document. I apologise for not doing that earlier in light
30 of some of the other discussions that have occurred.

COMMISSIONER WATLING: I was going to say, in light of what's passed should we be even discussing it.

MR EDWARDS: Yes - particularly me of all people.

COMMISSIONER IMLACH: At 9.4 we have indicated that, as did the federal
35 commission, that by consent of all parties to an award where the minimum rates adjustment process has been completed, there is a small change to the document here: the weekly award rate may be expressed as hourly rates as well as weekly rates and in the absence of consent the commission may determine that question by arbitration.

We've marginally varied the existing allowances principle at 10.1; the previous 10.1.2 has been removed and has been replaced by a new set of words which is taken directly from Print P1997, and I'll just read it through because it has been amended since I gave the commission their copy.

5 PRESIDENT: Where is it at -

MR EDWARDS: 10.1.2 it is.

PRESIDENT: - in the print - can you tell me?

MR EDWARDS: Not off the cuff; it should only take but a moment.

PRESIDENT: Around page 127 or something is it?

10 MR EDWARDS: Yes, it's at (c) of 3.2.3 - except they say the method of adjustment is to be consistent with - and it refers to a particular decision of the commission in Print M9675. We've taken it a step further and actually extrapolated the content of Print M9675 and then in subclause (d) of 3.2.3 you find very similar words to that we've just used where it says after the italics: Such allowances and service
15 increments should be increased by a percentage derived as follows: divide the monetary safety net increase by the rate of pay for the key classification.

We've sought to in fact make a key classification for all awards rather than the general statement of key classification which could give rise to disputation of what the key classification is and particularly whether it is above or below the hundred
20 per cent level in the relevant award immediately prior to the application of the safety net increase to an award rate and multiplied by 100. Now we've simplified it a fraction so ours now reads: such allowances and service increments shall be derived as follows: divide the monetary safety net increase by the rate - the weekly wage rate for Level 7 of the Metal and Engineering Industry Award immediately prior to the
25 application of the safety net increase to the award and multiplied by 100. I think that's extremely specific and should give rise to no capacity for disputation - we hope.

MR BAKER: I'm about to change the level number.

MR EDWARDS: Sorry?

30 MR BAKER: I'm about to change the level number.

MR EDWARDS: Yes, well unless we change the level number - thanks, Mr Baker.

COMMISSIONER WATLING: Which results in 2.26 per cent.

MR EDWARDS: I believe that to be the case, commissioner, yes. The next change - firstly perhaps I can acknowledge some comments made by Mr Cooper about the
35 existing Principle 11 - Superannuation. We agree that that is need of revision but I think in the context of trying to do it in the atmosphere that's prevailed over the last couple of days may have been difficult and the parties, as Ms Fitzgerald has indicated, have agreed to meet in about January of next year to commence a process of looking at the principles in an atmosphere where there is no wage increase
40 hanging off that review which will give us time to do in a way where won't be constrained to have it finished within a day or two which has been the case now. So we will try and conduct those meetings in about January of next year and it could well be that we seek to involve the commission in whole or in part in those discussions. That will remain to be seen.

The next major change is at page 12 - it's the last page of the principles - of document TTLC.4 We have created a new principle called Award Review Process. This was previously encompassed in part within the safety net principle and we've relocated it so it will stand alone as a discrete provision and we've sought to continue the commitment previously given to review awards - and that's a change in wording obviously - but the points - the seven points listed are identical to those that were previously in the July 1996 State Wage Case principles, but 16.2, 3 and 4 are new provisions. The reality of the situation is that the parties, whilst in many instances have endeavoured to progress the award review process, it's fair to say, I think that it probably hasn't been a high priority of the parties to awards on either side.

What we've sought to do in this variation to the principles is to make it a higher priority than it has in the past and to try and make sure that the provisions are framed in a way that will require people to actively pursue the award review process. In that regard 16.2 indicates that to facilitate the review process the commission will hold a conference of registered organisations with a view to finalising a consistent award format, and there are many, many things that will go into that conference no doubt. But we think if the commission actually convenes and holds a conference it will focus the attention of the parties and it is probably the only way that we will get a consistent award formatting approach anyway, otherwise the parties to individual awards will try and determine their own formats and the word 'consistent' would be a waste of time in that context.

PRESIDENT: Of course we can't require people to attend.

MR EDWARDS: No. And it's not intended at 16.2 that people be required to attend. Those that wish to be heard and have an input to the way our awards are formatted will - will be there and they will have themselves heard. Those that choose not to will miss the boat - and tough from my point of view. I can assure you we will be there.

At 16.3 we've indicated that the commission will convene conferences of parties to each award to receive reports on the award review process and to assist in the development of timetables including, where relevant, a timetable to finalise the review by conciliation and/or arbitration. And it's specifically at this point that we seek to really put the acid on the parties where the commission will now be driving the process. Previously it was left to the parties themselves to drive the process without significant input from the commission. We say that hasn't worked effectively in a lot of cases and therefore we think the parties will be more encouraged to pursue this process if the commission can take a little bit of ownership and drive the process to some extent or other and ensure that the parties are getting on with the job because the awards really do need this review.

At 16.4 we've said that at the time of an application for a future arbitrated safety net adjustment however described, the commission must take account of the extent to which the parties to the award have actively pursued the award review process.

Now that's not definitive about what the commission may or may not do at that time. What it simply says, it's a relevant consideration when the parties come back before the commission. And that's a slightly softened version of what was in the existing Wage Fixing Principles.

And Principle 17 - Economic Incapacity - has not been altered.

PRESIDENT: Can I be a little pedantic in respect of -

MR EDWARDS: Yes, you certainly may.

PRESIDENT: - 16.1 - and it's at the end of the introduction to the seven items: to review the award in the context of; that should really be to review awards, shouldn't it.

MR EDWARDS: Yes.

5 PRESIDENT: Because there's no -

MR EDWARDS: You're probably right, president -

PRESIDENT: - what's - what's the award?

MR EDWARDS: - because previously it asked the parties to make a commitment to review the award as a precondition.

10 PRESIDENT: Yes.

MR EDWARDS: And I think it's that form of words -

PRESIDENT: Yes -

MR EDWARDS: that's -

PRESIDENT: - that's been taken out of somewhere else and -

15 MR EDWARDS: - that we've them - so to review the awards is -

PRESIDENT: Just to review awards.

MR EDWARDS: Yes.

PRESIDENT: Okay.

20 MR EDWARDS: And again, I repeat my undertaking of before, that I will provide the commission with a clean copy of that document at the earliest possible opportunity and hopefully before the end of today. I'm just protecting my back there for the knives that I thought were coming.

I'd like to turn briefly, if I might, to exhibit TT -

25 PRESIDENT: And before you - before you do, you say there are some other variations but they're not -

MR EDWARDS: No, they're all - I've gone through - there are minor changes that were made by the parties that I haven't drawn your attention to - pardon me -

PRESIDENT: Yes.

MR EDWARDS: - for example, at the -

30 PRESIDENT: Can they be highlighted to us in some way.

MR EDWARDS: Yes, yes. That's not a problem. We've in fact used a process all the way through of using a strike out and underline technique in the revisions component of the Word 6 package so it's easy enough to regurgitate a copy that shows all of the changes made.

PRESIDENT: Okay. Well are there any of those that you think we ought to know about now?

MR EDWARDS: No, I've taken the commission to the major ones. I'll give you an example of the type of change that's been made to which I refer. At the fourth paragraph of the introduction after the word 'commission' we've added the words
5 'and that the award review process is effectively implemented' - again, to provide a focus and impetus for that process. The rest of them are very, very minor things in verbiage; for example, at 3.2.2 on page 3, we've marginally reworded the last line of 3.2.2 really where it now reads: must be based on the actual implementation of
10 agreed efficiency measures designed to promote productivity and efficiency.

The previous verbiage, which I'm trying to get in front of me as we talk - a bit of soft shoe shuffle - previously reads - read: must be based on the actual implementation of efficiency measures designed to effect real gains in productivity.

PRESIDENT: Yes.

MR EDWARDS: Many people may ask, well what's the change - I'm perhaps one of those - but it really was part and parcel of reaching a package agreement that everyone could be comfortable with, president, that sort of change. And there's a couple of other minor ones like that and they really are minor. I can only ask you to take me at my word on that at the moment.

PRESIDENT: Oh well, we'll reconvene if we don't like it - yes.

MR EDWARDS: Yes, well that's an appropriate course. Of course the bench isn't bound to pick up the revised principles determined by the parties anyway. I mean they will be the commission's principles, not the parties' principles, but I would have thought -

PRESIDENT: Formally anyway.

MR EDWARDS: - that tripartite agreement is - is significant agreement. At exhibit TTLC.3, which I'd like to just briefly deal with, president, Ms Fitzgerald has set out the basis of the agreement between the parties and I put a bit of emphasis on the term 'basis'. For example, at Item 1 where it says 'wage rates for all private sector
30 awards will be increased by \$10 from 14 July', that doesn't go on and talk about juniors, apprentices, trainees and things like that, but that's clearly the intention of the parties as is now incorporated into the principles. It's just to ensure that that isn't misunderstood and as you've already picked up yourself, president, at 2, it's the first pay period on after the 14th July. So I simply make the comment that that
35 document is a summary of the agreement of the parties and shouldn't be read too literally. That's all the comment I'd make in respect of that.

Mr President and members of the bench, it is the submission of the employer organisations that I appear for that the package of agreement reached between the parties, which has taken considerable time, considerable effort and a lot of resources
40 and considerable patience by all people, is an appropriate way in which to consider the flow-on to some extent or other of the decision of the Australian Commission in P1997. It is not a precise flow-on by any means but we believe we have been able through our negotiations to 'Tasmanianise' the Australian Commission decision - perhaps put its second head on it, if you like.

PRESIDENT: Really the only person who is laughing is Mr Lyons, Mr Edwards.

MR EDWARDS: The only foreigner amongst us perhaps, sir.

MR LYONS: Now we all are.

PRESIDENT: Sorry.

MR EDWARDS: We - none of us think it's funny. You have to believe it is appropriate to 'Tasmanianise' this. The commission may well hear more of the
5 'Tasmanianisation' of things as part of the minimum wage case, I suspect.

Having said that, I'd like to indicate that whilst these proceedings got off on what I'll describe as the wrong foot, for reasons which are already on the record and I don't intend to labour, I think the subsequent negotiations between the parties whilst difficult have indicated that we are capable of resolving our differences in a
10 reasonably mature and adult way providing no persons or parties are seeking to play games or are trying to in any way frustrate the process. So providing we are all committed to the same objective, we seem to be able to resolve our differences and I think there's a lesson in that for all of us and I don't make that comment to anyone in particular when I say to all of us; there is a need for us to consider our
15 constituencies and what is in the best interests of those people we represent without a lot of personal commentary. And whilst I will never apologise for withdrawing from the negotiation process when I did or why I did, I sincerely hope that should never be necessary again in the future.

President, in our submission the package that has been agreed between the parties
20 which is now before you both by way of a summary in TTLC.3 and by way of the principles in TTLC.4, is an adequate, in our view, representation of the public interest and in that context we believe section 36 of the act is well served by the commission reacting favourably to this compromise agreement between the parties.

As has been indicated by all other speakers, this agreement has not been easily
25 reached. The very amount of time we've spent over the last day and a half is testimony to that and we believe therefore that it's something that's been considered at great length by the parties, and we know the commission hasn't had the benefit of the content of the agreement for very long but we do commend it to you and ask that the bench react favourably in looking at this tripartite agreement that we present to
30 you, and in particular in that regard the contents of exhibit TTLC.4 which is the principles of wage fixation that we've developed and asked the bench to adopt as our own.

I think that's as far as I'd like to take the submissions this afternoon. If we go any further we may well end up getting off the rails and I don't think that would be
35 appropriate. If it please the commission.

PRESIDENT: Yes. Thank you, Mr Edwards. Mr Pearce.

MR PEARCE: Thank you, Mr President and members of the bench, subject to whatever questioning there may be from the bench I'll be about five minutes.

Firstly, Mr President, in relation to a view of the Minister for Public Sector
40 Management - and it relates to the new Principle 16 - and what I would wish to say that, as is well known to this commission, the minister has been most active in relation to award reform in the public sector and inarguably has led the way all award reform in the jurisdiction of this commission. Having said that, we would hopefully wish to see further progress in relation to those awards both
45 predominantly private sector; there may be a couple of public sector which still need analysis and reform but we wish the parties well in their endeavours into this revised principle.

The position of the minister -

PRESIDENT: Will you - will you be taking part in the conference when convened, Mr Pearce?

MR PEARCE: If it meant attendance by way of assistance to the parties, I think the minister would always be available for that purpose.

5 PRESIDENT: No, I was really interested in the - those public sector awards which have not yet been affected.

MR PEARCE: Oh, look, I think there may well be a need for the - or it may assist, the minister's attendance, to identify where some awards are within the public sector - and I think one has been mentioned here today -

10 PRESIDENT: Yes.

MR PEARCE: - the Miscellaneous Workers.

PRESIDENT: Yes, that's why I asked the question really.

MR PEARCE: Yes. But certainly it's - it would be the exception rather than the rule in relation to the - regarding public sector awards.

15 Members of the bench, the Tasmanian Government appeared in the Australian Industrial Relations Commission's proceedings by way of a joint government submission joining the Commonwealth and Territories and all other states with the exception of New South Wales in a response to the ACTU dual claims. The initial position of the joint governments was one of opposition to any increase. Secondly, a
20 supplementary position of an increase of \$8 with a cut off at the average weekly ordinary time earnings and any increase to be fully absorbable against any over award payments.

PRESIDENT: What was the AW TE cut-off?

MR PEARCE: About \$676.

25 PRESIDENT: Yes.

MR PEARCE: The commission's decision of course was in two part dealing with the issue of \$10 safety net increase and the federal minimum wage. The TTLIC application, as amended, seeks amongst other things to have the safety net of \$10 applied to awards of this commission, the adopting of relevant principles to underpin
30 and regulate applications in this commission and further contemplate, sir, an application for a state minimum wage.

In the Australian Commission, that commission considered diverse and wide-ranging material in the national context of economic data. The \$8 position advocated by the joint governments, including as it did, a view of the Tasmanian Government was a
35 position in the public interest.

The Australian Commission's decision noted that in exercising its arbitral functions they were constrained by legislative direction explicit in the act to balance the requirement of ensuring awards act as a safety net of minimum wages and conditions and whilst performing that arbitral function in a way that encourages the making of agreements between employers and employees at the workplace. The
40 economic debate was heard and considered by the bench against the three key economic factors of employment, inflation and productivity but also with regard to other objectives and criteria being agreement making and the need to

The circumstances where the consideration of all relevant criteria - economic and other - points to different outcomes, then that commission is required to determine priorities. In this particular matter, the bench identified attention between the responsibilities to the economy and the responsibilities to those dependent on award protection.

In balancing that criteria, they were moved toward the \$10 safety net. In the context of relating that element of this - that decision to the matters before this commission, the minister indicates his support for the flow-on of the \$10 in the manner articulated in the submissions of both Ms Fitzgerald for the TTLC, Mr Edwards for the TCCI and other parties.

In similar vein, the minister also supports the adoption of the principles as developed by the parties in these proceedings and contained in exhibit TTLC.4 as amended.

An essential element of the positions adopted by the parties today is that it truly represents a tripartite agreement, a position that in the past, desirably on this occasion and optimistically into the future, will continue to carry significant weight with this commission.

The benefits to the employers and employees as a consequence of a decision of this commission to endorse the terms of that agreed position does not, in the words of Mr Edwards, or similar, create undue, adverse outcomes with regard to the relevant criteria to which this commission may have regard by principle - by section 36.

The minister concluded by complimenting the parties, particularly the peak union and employer bodies and also other organisations who have enjoined themselves to that agreement and we commend that agreed outcome for the bench's endorsement. If it please the commission.

PRESIDENT: Yes. Very good. Thank you, Mr Pearce.

MR EDWARDS: Mr President, it just occurred to me, one minor comment, if I might - I know it's completely out of turn and out of order, but I will try and do it anyway - our submission in respect to the question of other applications outside of T.6941 would be that, I believe, all of those applications ought to be set aside - struck out would be my term - I don't know if that's a term the bench uses, but certainly one I would use. And in that regard we would include T.6928 to 34 inclusive from the AMWU, 6947 from the AWU, 6946 from the TWU, 6977 from the NUWU, 6979 from the AMIEU, and regrettably I don't have the T number for the TCFUA - their application - T.6991 from the AMACSU, and T.6993 from HACSU, that they should all be dismissed as part of the commission's decision in respect to this matter leaving only T.6941 as being the appropriate vehicle to vary the principles and the - to provide for the \$10 00 wage increase. If it please the commission.

PRESIDENT: Yes. All right. Thank you. Is there anything you wish to add in -

MS FITZGERALD: No thank you -

PRESIDENT: - reply? No.

MS FITZGERALD: - Mr President.

PRESIDENT: No. Well, thank you for very much for your contributions and endeavours over the last few days, it's been quite a stressful time for you all, I'm absolutely positive, but I think it would appear, without giving any indication as to

what our decision might be, to have been a very worthwhile and productive period. And I think I can speak for members of the bench -

5 MR EDWARDS: Just on that point, president, I don't by any means endeavour to try and put any pressure on the bench; given the agreed operative date between the parties, I wonder if I might just enjoin the commission to have a decision available at the earliest possible opportunity. I don't put it any higher than that but -

PRESIDENT: Yes.

MR EDWARDS: - it is important -

PRESIDENT: Yes, we are well aware of -

10 MR EDWARDS: - for the purposes of advising constituents

PRESIDENT: - we are well aware of that need and that's been part of the reason why we've allowed the parties so much time to negotiate their way through.

All right the matter is concluded; our decision reserved.

HEARING CONCLUDED

15