



Tasmanian Industrial Commission
Industrial Relations Act 1984

T No. **7906 of 1998**

IN THE MATTER OF an application by
the Australian Municipal,
Administrative, Clerical and Services
Union to vary the Produce Award

Re: to vary all the clauses of the award to
reflect:

1. Principle 2 - Structural Efficiency - of the
1999 State Wage Case decision;
2. Principle 5 - Minimum Rates Adjustment
- of the 1999 State Wage Case decision;
3. Principle 16 - Award Review Process - of
the 1998 and 1999 State Wage Case
decisions

DEPUTY PRESIDENT WATLING

HOBART, 5 September 2000
Continued from 16 December 1999

TRANSCRIPT OF PROCEEDINGS

Unedited

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

HEARING RECOMMENCED 2.14pm

DEPUTY PRESIDENT: Any alteration to appearances.

MR A. CAMERON: If the commission pleases, ANDREW CAMERON, from the Tasmanian Chamber of Commerce and Industry.

5 DEPUTY PRESIDENT: Thank you.

MR R. FLANAGAN: If it pleases the commission, I appear for the National Union of Workers in addition to the AWU this afternoon.

DEPUTY PRESIDENT: Have you got some authority from them to do that?

10 MR FLANAGAN: No. Verbal instructions on that, Mr Deputy President, but they've indicated they will forward that in writing to the commission.

DEPUTY PRESIDENT: Right. Mr Paterson is here and he was here on every other occasion. Where are we at?

15 MR PATERSON: Mr Deputy President, this matter, I believe, we were in fact at a substantially agreed position at the end of last year in terms of most of the substantive matters. The last time we were before you - I don't have that date in front of me but there were a number of matters that you raised that have been addressed in a draft order that was
20 circulated to the parties by Mr Flood. In fact my copy covering that copy is dated 15 February in which Mr Flood indicated that this was the most recent draft. He believed that he included all those matters which you yourself had raised that ought to be amended or added.

25 Were you provided with a copy of that draft?

DEPUTY PRESIDENT: No.

MR PATERSON: The parties that were provided by the e-mail that I have were myself, Mr Flanagan, Mr Benson, Mr Strickland and Mr Griffin. I have that before me. I also have before me, which I believe
30 remains unchanged, four wages schedules that include the minimum rates adjustments as supplementary payment A column. Of course that order doesn't include the \$15 order.

Subsequent to those proceedings, I was of the understanding that some matters had been raised by the National Union of Workers in
35 discussions with the TCCI but I also am not aware of any progress on those discussions, other than except for the way in which some of those matters were dealt with this morning.

My understanding is that we are now in a position to set aside those new matters that were raised by the NUW and to proceed on the draft

order as circulated to the parties in February. However, I don't have copies of that draft order to provide to the commission and I'd like to hear the views of the other parties before we decide on how to progress that matter. It may be that we can have an in-principle proceeding here today with a commitment for a final draft order to be circulated to the parties and signed off on and forwarded to you, subject to your agreement of course to that process.

I'd certainly like to hear from the other parties before I commit to any outcome from these proceedings today.

MR FLANAGAN: If I can perhaps put the position of the AWU first, Mr Deputy President. On the last occasion the matter was before you all of the parties to the proceedings had indicated their consent to the proposed new award including the minimum rates adjustment process.

DEPUTY PRESIDENT: It's only the reformatted award, isn't it?

MR FLANAGAN: Reformatted, yes, sorry.

DEPUTY PRESIDENT: Picking up any things in accordance with the principle?

MR FLANAGAN: That's correct and also applying the minimum rates adjustment process and there had in fact been agreement with the exception of the NUW. If I can take my AWU hat off and discuss the NUW position. The NUW raised two questions. One was in relation to the proposed relativities and the second was in relation to the way in which this proposal deals with commercial travellers. My understanding is that both of those matters have been resolved, that the relativities will remain the same and that the question of commercial travellers will remain as proposed, however, the NUW may at some stage in the future make a separate application to deal with those two issues.

Having said that, the NUW position therefore is also consent to the proposed award. That proposed award was in fact circulated by Mr Paterson to the parties on Tuesday -

MR CAMERON: Mr Flood.

MR FLANAGAN: I beg your pardon, from Mr Flood, on Tuesday 15 February 2000 and that is the document I believe Mr Paterson was referring to and that in fact represents the agreed position upon which we should be addressing the commission. If it pleases the commission.

DEPUTY PRESIDENT: Good. Mr Cameron?

MR CAMERON: Thank you, Mr Deputy President. In relation to that, Mr Flood has had carriage of this matter and if he hasn't forwarded a

copy of that draft order to the commission, we apologise. I have a copy that I can leave with you this afternoon and get another one when I get back to the office.

5 As I understand it, on the last occasion, apart from the requirement of the NUW to review those matters referred to by Mr Flanagan, there has been consent between the other parties to the approval of the redrafted award. In that regard we understand also that the MRA process has been agreed upon with the provision of what would have been two MRA increases incorporated initially and then the subsequent increases be
10 made upon application to vary the award accordingly.

In other regards, as I understand it, there is a consent in relation to this draft document. Mr Flood, in that draft, has highlighted those alterations that were made from the previous order which will make it easier for the commission to compare the documents.

15 DEPUTY PRESIDENT: So there's an appendix showing all the variations in the restructuring process, is there?

MR CAMERON: I'm not sure that there's a copy of that attached to this as such.

20 DEPUTY PRESIDENT: Because there may be a need to amend the application to reflect the appendix which deals with all of the variations.

MR CAMERON: I'm not sure if that was handed up on the last occasion with the draft because there's not one attached to the copy that I had in the file.

25 DEPUTY PRESIDENT: I haven't seen it ever before for this award.

MR CAMERON: Right.

30 MR PATERSON: I don't believe that that has been done. There is the schedules for the classification translations attached but I don't believe the - although, I think that at the time that these were being drafted, those matters weren't as rigorously dealt with as they have been more recently, in terms of an appendix scheduling the old to new changes.

35 DEPUTY PRESIDENT: I've always requested it from day one and I think you'll find every other member of the commission requires that as well, for obvious reasons, that we are amending the award and we've got to clearly have the subject matters before us.

MR CAMERON: That being the case, commissioner, it may be appropriate just to adjourn into conference, just to resolve how we finalise the formalities.

The only other points I wanted to make on record were that the draft that we all have before us didn't incorporate the \$15 pay rise, which will need to be adjusted now and the other aspect was, there are provisions in this agreement for trainees and bearing in mind that there is an application before this commission to be heard on Thursday for the removal of those provisions from most of the awards of the commission and I think the Produce Award, as it currently stands, is one of those awards referred to, it's on record that if the application is successful in relation to the Produce Award that the clause that's now in this revamped, redrafted award will be deleted as well. I don't think there's any dissent from that at all.

Commissioner, if we then perhaps adjourn into conference, we can discuss the procedures just to get the final document to you with that amended, showing the appendix with the alterations to the award.

DEPUTY PRESIDENT: Good. Thank you. Off the record, thanks.

OFF RECORD 2.19pm

ON RECORD 2.38pm

DEPUTY PRESIDENT: This matter will stand adjourned until the commission is advised by the applicant when finalisation of the draft order is ready. It's quite obvious from the submissions presented thus far that there is agreement on the draft document circulated between the parties. However, there's just a couple of things that need to be finalised, especially the schedule showing the amendments from the old award to the new award, or the new draft award that's been presented by the parties.

Once that's been done, I'll relist the matter early one morning to finalise this application.

The matter now stands adjourned.

HEARING ADJOURNED 2.39pm