

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. Nos 665 and 691 of 1987

IN THE MATTER OF applications by the Tasmanian Public Service Association and the Tasmanian Teachers' Federation to vary nominated public sector awards and to vary the Teaching Service (Teaching Staff) Award respectively to increase salaries to reflect movement in Consumer Price Index for Hobart for March, June, September and December quarters of 1987

and

T. No 675 of 1987

IN THE MATTER OF an application by the Association of Professional Engineers, Australia (Tasmanian Branch) to vary the Professional Engineers Award to increase salaries to reflect movement in Consumer Price Index for Hobart for March, June, September and December quarters of 1987

and

T. No 712 of 1987

IN THE MATTER OF an application by the Tasmanian Trades and Labor Council for variation of all public and private sector awards and agreements to increase all wages, salaries (and allowances) by 6.7% and to vary the Principles to conform with the decision of the Australian Conciliation and Arbitration Commission.

FULL BENCH

PRESIDENT
DEPUTY PRESIDENT
COMMISSIONER KING

HOBART, 7 May 1987

TRANSCRIPT OF PROCEEDINGS

(RESUMPTION)

PRESIDENT: I think we may take further appearances this morning, notwithstanding the fact that this is a continuation of the earlier case.

Appearances.

MR LENNON: LENNON P.A., for the Tasmanian Trades and Labor Council.

PRESIDENT: Thank you, Mr Lennon.

MR VINES: VINES G.J., for the Tasmanian Public Service Association.

PRESIDENT: Thank you, Mr Vines.

MR JARMAN: JARMAN M., for the Minister for Industrial Relations.

PRESIDENT: Thank you, Mr Jarman.

MR WESTWOOD: WESTWOOD F.D., for the Minister for Public Administration, and other authorities which I referred to in this previously.

PRESIDENT: Thank you, Mr Westwood.

MR ABEY: ABEY T.J., for the Tasmanian Confederation of Industries, and a number of other employer organizations previously listed.

PRESIDENT: Tasmanian Confederation of Industries, Mr Abey?

MR ABEY: Yes, Confederation of Industries, Mr President, as of a week or so ago.

MR IMLACH: Changed the rules? Do you have provisional registration?

PRESIDENT: Is that why you registered with this Commission, Mr Abey?

MR ABEY: I hope so. I think there is a theme. They may have read something into the drafting of the Act, because from memory there is something about changing our name.

PRESIDENT: Section 90 of the Act says, the Governor may amend the Act in the event the T.T.L.C. or the T.C.I.

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APPEARANCES

PRESIDENT: changes its name.

Has he amended the Act?

MR ABEY: No, he conceivably hasn't.

PRESIDENT: Perhaps, we might hear you anyway, this morning, if there's no objection, of course.

MR LENNON: Is he seeking to intervene, Mr President?

PRESIDENT: Further appearances?

MS MONCRIEFF: **DIANE MONCRIEFF**, for the Federated Engine Drivers and Firemen's Association.

PRESIDENT: Thank you.

MR HALE: **ROSS HALE**, for the Federated Clerks' Union of Australia.

PRESIDENT: Thank you.

MISS BACKHOUSE: **MAY BACKHOUSE**, for the Tasmanian Teachers' Federation.

PRESIDENT: Thank you, Miss Backhouse.

MR CAPSTICK: **DESMOND CAPSTICK**, the Amalgamated Footwear and Textile Workers' Union of Australia.

And I need to draw the attention of the Commission to the fact that we are not provisionally registered at this time.

PRESIDENT: If you're not provisionally registered, how do you hope to be heard in these proceedings?

MR CAPSTICK: Well, I'd like some clarification. Am I heard at this proceeding, or not, sir?

PRESIDENT: Well, if you're not provisionally registered, I'm afraid you will not, you will not be heard. You may remain as a spectator.

MR CAPSTICK: Thank you.

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APPEARANCES

MR HOLDEN: **HOLDEN D.**, H.E.F. Tasmania No. 2 Branch.

PRESIDENT: Thank you, Mr Holden.

MR IMLACH: **PETER IMLACH**, for the Hospital Employees' Federation of Australia, Tasmania No. 1 Branch.

PRESIDENT: Thank you, Mr Imlach.

MR BROWN: Mr President, **L. BROWN**, for the Federated Miscellaneous Workers' Union of Australia.

PRESIDENT: Thank you, Mr Brown.

MRS HERBERT: Mr President, **MRS S. HERBERT**, for the Tasmanian Prison Officers' Association.

PRESIDENT: Thank you, Mrs Herbert.

DR SENATOR: **GORDON SENATOR**, for the Salaried and Medical Practitioners' Society.

PRESIDENT: Thank you, doctor.

MR BAKER: **P. BAKER**, for the Association of Draughting, Supervisory and Technical Employees.

PRESIDENT: Thank you, Mr Baker.

MR WALSH: **STEVE WALSH**, for the Printing and Kindred Industries' Union, Tasmanian Branch.

PRESIDENT: Thank you, Mr Walsh.

MR ALLEN: **ALLEN R.J.**, for the Association of Professional Engineers of Australia, Tasmanian Branch.

PRESIDENT: Thank you, Mr Allen.

MR HANSCH: **HANSCH B.J.**, Transport Workers' Union of Australia, Tasmanian Branch.

PRESIDENT: Thank you, Mr Hansch.

MR HORNE: **PAUL HORNE**, for Heads of Tasmanian Government Organizations, Mr President.

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APPEARANCES

PRESIDENT: Thank you, Mr Horne.

MR RICE: Mr President, **RICE, K.J.**, for the Tasmanian Farmers' and Graziers' Employers' Association.

PRESIDENT: Thank you, Mr Rice.

MR PHILP: If the Commission pleases, **GREG PHILP**, for the Police Association of Tasmania.

PRESIDENT: Thank you, Mr Philp.

MR ELLIOTT: **DAVID ELLIOTT**, for the Secondary Colleges Staff Association.

PRESIDENT: Thank you, Mr Elliott.

MR TARGETT: **TARGETT P.E.**, for the Shop Distributive and Allied Employees' Association, United Sales Representatives' and Commercial Travellers' Guild, and the Australian Hairdressers, Wigmakers and Hairworkers Federation.

PRESIDENT: Thank you, Mr Targett.

MR BEVILACQUA: **BEVILACQUA, P.**, for the T.C.E.E.A.

PRESIDENT: Thank you, Mr Bevilacqua.

MR HARPER: **HARPER, A.**, appearing on behalf of the Federated Ironworkers' of Australia, Tasmanian Branch.

PRESIDENT: Thank you, Mr Harper.

MR NIELSEN: Mr President, **NIELSEN, P.L.**, appearing for the Ambulance Employees' Association of Tasmania, Bakery Employees and Salesmen's Federation of Australia, and the Federated Millers and Mill Employees' Association, Australasia.

PRESIDENT: Thank you, Mr Nielsen.

The Commission, in its decision of 24 April, indicated that it was a condition precedent to putting into place the new set of wage-fixing guidelines that it would require commitments from all organizations

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APPEARANCES - PRESIDENT

PRESIDENT: having business before this Commission.

We are assembled here today for that purpose, and we will now invite those who have come along for that purpose, to give the necessary commitments.

Mr Lennon.

MR LENNON: Thank you, Mr President, can I say from the outset that the Trades and Labor Council and the trade union movement extends its deepest sympathy to Commissioner King on the passing away of his mother-in-law early in the week. And please extend our condolences to your wife and family as well.

COMMISSIONER KING: Thank you.

MR LENNON: First of all, Mr President, can I say that the trade union movement is prepared to give the necessary commitment to work within the system, and we would hope, that in the giving of that commitment, that we could also hear from the employers and the Government that they too are prepared to operate within the system.

I notice in your decision, Mr President, that the Commission has described the system as a 'fragile one'. Well, it will only be fragile if the commitment to it is not proper from the employers and Government, and tribunals, as well as ourselves. And we've made this point a number of times.

But we, as a trade union movement, are prepared to work within the system, and for the purposes of clarifying that even further to the Commission, I have an exhibit which I'd like to hand up to the Commission now. And all the unions, at some stage, are prepared to give the commitment in the following terms in this exhibit.

PRESIDENT: I'm unsure of the next exhibit

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PRESIDENT - COMMISSIONER KING -
LENNON

PRESIDENT:

number, Mr Lennon, suffice to say we'll number it in due course. We'll check out the appropriate number.

MR LENNON:

For the purposes of the record, Mr President, it may be appropriate if I read it into the transcript. It says:

"The decision of March represents a framework for negotiation and arbitration of claims and as such is substantially different from the wage indexation decisions to which the Trade Union Movement has been asked to give a commitment to in the past.

The Unions believe that the decision has the capacity to deliver a workable wages system. There are positive aspects of the decision such as the objective to protect low income workers, supplementary payments and superannuation, however, there are also some negative aspects - the duration of the system, and the illogical provision regarding wage related allowances, but most importantly the capacity for others to frustrate the objective of genuine negotiations.

From the unions' side we are prepared to work within the system and to make the necessary commitment. However, for the system to work it requires more than our commitment. It also requires governments, employers and indeed the Commission itself to act in a positive and constructive manner. As the Commission said in the National Wage Decision of 1983:

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PRESIDENT - LENNON

MR LENNON:

There should be no doubt whatsoever that the success of the course we have embarked upon does not depend only on the Commission and other wage fixing tribunals. We agree with the A.C.T.U. that "the challenge which we confront is enormous" and it "will certainly not be capable of being met without the necessary consensus and co-operation of all groups ... the task ahead requires a commitment from all. No one group, unions, governments or employers can act in isolation from other groups." We have set out the requirements of the new centralised system in some detail. These impose obligations and responsibilities on unions, employers, governments and tribunals. They must all accept commitment to these requirements for the system to work.

The wage system itself cannot be isolated from the impact of prices. The system outlined by the Commission will only survive if the rate of inflation is reduced and the potential gains of the system are realised progressively through the duration of the system."

MR LENNON:

... our terms, Mr President, that I notify that the unions will be prepared to give the commitment. I'm certainly not aware of any union that isn't prepared to give the commitment at some stage.

PRESIDENT:

Yes, thank you.

MR LENNON:

The only other matter that I wanted to raise, Mr President, was with respect of nurses. And certainly this Commission would be aware that nurses have been undertaking a campaign for some time and I simply want to notify this Commission officially, that the Federal Commission has recognized that nurses are a special and isolated case.

The Trades and Labor Council, at its last meeting, carried a resolution recognizing that nurses were a special and isolated case, and therefore should be able to continue their claim under the pre-existing Principles and be exempt from the 4% second-tier ceiling. And that at the appropriate time and in the appropriate place we probably will be seeking to put that in more detail. But at this stage the nurses are prepared to give the commitment.

PRESIDENT:

Yes. Well, I take it you're simply putting the Commission on notice that ...

MR LENNON:

Yes.

PRESIDENT:

... the nurses would be putting that position ...

MR LENNON:

We would be seeking to get to a position within this Commission not dissimilar to that which the Federal Commission has placed itself in and that is that (as I'm sure you're aware, Mr President) the president of the Australian Conciliation and Arbitration Commission, Mr Justice Maddern, has informed the A.C.T.U. that that organization will regard nurses as a special, extraordinary case and therefore will be able to

MR LENNON: proceed with the balance of their claim, which is well-known to the public and to industrial tribunals around the country, and that they will be exempt from the 4% second-tier ceiling and will be dealt with under the pre-existing Principles.

PRESIDENT: Well, I again say to you, I take it you are simply putting the Commission on notice ...

MR LENNON: Yes, that is all that I'm doing at this stage, Mr President.

PRESIDENT: Very well. Well now, who's going to open the batting?

MR LENNON: Mr President, perhaps I should have added that we were probably before ... I have a number of letters here giving the commitment in the terms of the exhibit. I would be prepared to hand them to the Commission immediately at the conclusion of these proceedings if we had some indications that that form was acceptable to the Commission.

PRESIDENT: Yes, Mr Lennon. Our decision indicated that if satisfactory commitments were given, the awards in question would be varied (apart from the addition of \$10.00 to the wage rates) by the inclusion of a provision relating to commitment.

Now I take it from your statement that in the event the Commission is prepared to accept a commitment in this form, that the organizations will not object to the awards being varied to include the provision relating to commitments in the form outlined by the Federal Commission and picked up by this Commission.

MR LENNON: Yes, that's the case.

PRESIDENT: Yes, well just bear with me for a moment.

...

PRESIDENT: Mr Lennon, on the assumption that the

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PRESIDENT - LENNON

PRESIDENT: commitment will be that the unions undertake that for the period of the package it will not pursue any claims, award or over-award, except where consistent with the National Wage Case Principles, you have said in the statement that you're prepared to give the necessary commitment.

MR LENNON: Yes, that's our understanding. That's no different to what unions will be doing nationally.

PRESIDENT: Then we are prepared to accept that form of commitment.

MS MONCRIEFF: Sir, perhaps I should rise to my feet to place the F.E.D.'s position at this point.

Sir, my instructions are that the position of the Federated Engine Drivers' and Firemen's Association at this time is that we are presently unable to give a written commitment, qualified or unqualified, to the Commission with respect to the Wage Fixing Principles until such time as the outcome of the wages negotiations at the national level, which are currently taking place, are known.

I should ... in fact I would like to make it quite clear that our position is not to be seen as one of rejecting the national wage-fixing guidelines, but we believe that we are unable to give a partial undertaking for a section of our membership in this State at this time. As soon as the F.E.D. is in a position to advise the Commission and to give an undertaking we would, I anticipate, be proceeding along that line, sir.

PRESIDENT: Yes. Well, Ms Moncrieff, you realize that if that commitment is not forthcoming today any award to which your organization has a registered interest will not be varied, notwithstanding the fact that other organizations here present may give a commitment to that award.

MS MONCRIEFF: Sir, my union is aware of that

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PRESIDENT - LENNON - MONCRIEFF

MS MONCRIEFF: position. We are taking that into consideration and ...

PRESIDENT: Unless you would have us make an order excluding members of the F.E.D.F.A. from the operation of that award?

MS MONCRIEFF: Sir, that's a possibility that I would have to take on board. I certainly would hope that it wasn't an eventuality.

PRESIDENT: How long do you suppose it would be before the F.E.D.F.A. would be able to give the necessary commitment?

MS MONCRIEFF: My current advice is that the national position is close to resolution. I can't qualify it in time.

PRESIDENT: Yes. Well, I can only say that it's unfortunate from the point of view of other employees subject to an award to which your organization has an interest, to think that they will not receive the \$10.00.

MS MONCRIEFF: Sir, I would hope ...

PRESIDENT: For the time being at least.

MS MONCRIEFF: ... indeed that everyone shall be receiving the \$10.00 and perhaps I should place on record as well that I would hope that the operative date will not be of the \$10.00 being flowed on, would not be affected by these delays which unfortunately affect my organization. And that it won't affect all workers in all awards in which we are involved.

PRESIDENT: Well, that may necessitate a special hearing in the event there is some challenge to the operative date at the time your organization's prepared to give the necessary commitment.

MS MONCRIEFF: Yes, sir.

PRESIDENT: Thank you.

MR HARPER: If the Commission pleases.

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PRESIDENT - MONCRIEFF - HARPER

PRESIDENT:

Yes, Mr Harper.

MR HARPER:

Where does that leave members of my organization, where the F.E.D.F.A. have got an interest, as a result of their not being prepared to give the commitment, us being prepared to give the commitment in writing, for example, the Electrolytic Zinc? I would be suggesting that if organizations who indicate that they're prepared to give the commitments, those classifications should be excluded from a situation where the wage rises could be held up as a result of the F.E.D.F.A.'s action.

I guess I require from the Full Bench some instruction in relation to that, because I think quite honestly all hell will be let loose.

PRESIDENT:

Well, Mr Harper, the Commission's decision was clear. I take it there's no doubt in anyone's mind (we hope) that all parties (I'm using that term for convenience) to an award would need to give the necessary commitment.

I take your point that, I guess your saying, that where there appears a classification, say, an ironworker classification as distinct from, say, an engine driving classification, you're saying why can't the ironworker classification be increased.

MR HARPER:

That's right.

PRESIDENT:

Yes, well perhaps we might have to consider that, Mr Harper.

MR WALCH:

Mr President.

PRESIDENT:

Yes, Mr Walsh.

MR WALSH:

I don't know whether you're going to continue with the matter that's just been raised, but I have another matter at 11 o'clock, and I would just like to indicate that, on behalf of my organization, that we're prepared to give the commitment in the form in which the Secretary of the Labour Council has submitted, and we have a written letter that the Secretary will hand up to you on the completion of this hearing.

PRESIDENT:

Thank you, Mr Walsh.

MR WALSH:

If I might be excused?

PRESIDENT:

You're excused.

Yes, we will take on board what you've said, Mr Harper, but we are not prepared to indicate our decision on that at this stage.

MR BROWN:

Mr President.

PRESIDENT:

Yes, Mr Brown.

MR BROWN:

Obviously, the matter raised by Mr Harper is in reference to a particular industry. This industry where there is probably a great number of F.E.D.F.A. members, but there are industries where the bulk of employees are not F.E.D.F.A. members.

I cite the Laundry Award, for instance, in which there may only be one F.E.D.F.A. in that award.

Now, there could not be logistic complications of any internal trouble in that industry because of the non-commitment by the F.E.D.F.A. in this instance.

So, I'm just putting that it may be that the awards should be looked at in isolation in this instance.

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PRESIDENT - WALSH - BROWN

PRESIDENT: In any particular award?

MR BROWN: Well, I instance the Laundry Award.

PRESIDENT: Yes.

MR BROWN: Yes, where the employees are all laundry workers, except for an isolated case of a F.E.D.F.A. member attending a boiler.

So, the bulk of workers in the industry would be affected by the decision of the F.E.D.F.A. It may only apply to workers in that industry.

PRESIDENT: And, in most circumstances, Mr Brown, are you telling us that there's no joint coverage for that class of employee covered by the F.E.D.F.A. In other words, they're not also members of the Miscellaneous Workers' Union?

MR BROWN: No, they would be members of the F.E.D.F.A., but I'm pointing out, that it's not an industry which would be greatly affected by the F.E.D.F.A. The participation in that industry would not greatly affect that industry, and certainly, it would be wrong for the bulk of employees in that industry, not to receive the National Wage rise, because the F.E.D.F.A. is not giving a commitment at this stage.

I do note that the representative from the F.E.D.F.A. did suggest that there ought not be a change of operative date, and I don't know the Commission's view on that, but certainly, it would be our view, that as far as our members are concerned in the various industries, in which the F.E.D.F.A. has members, that at least their operative date should not be altered as a result of any decisions of the F.E.D.F.A.

PRESIDENT: Yes, we note that submission, Mr Brown.

MR LENNON: Mr President, if you're still taking

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MR LENNON:

comments with respect to the submission put by the F.E.D.F.A., can I just support the comments made by the Ironworkers' and the Miscellaneous Workers' Union? I think it's important to note in the submission put by the F.E.D.F.A. that at no stage do they give any indication that they wouldn't be prepared to work within the system.

In fact, I think that you will find that they are prepared to work within the system. In fact, I'm sure of it, like all other unions, and in those circumstances, I think that that great weight should be placed upon that when the Commission considers whether or not it's prepared to meet other classifications within the award because, clearly, the F.E.D.F.A. is prepared to work within the system.

It's seeking to get a clarification from its employers on the negotiations of the package, which a number of organizations are in the process of doing.

And that, in so far as the trade union movement is concerned, is a legitimate approach for them to make.

But the important thing, I think, for the Commission to remember, is that all organizations in the union movement are prepared to work within the system.

And in those circumstances, there's no suggestion that the F.E.D.F.A., or any other organization, are going to take their own path. And, in those circumstances, one would hope that the submissions of the Ironworkers and the Miscellaneous Workers' Union is taken on board, and the classifications which don't affect the F.E.D.F.A. are moved in line with the commitments, when they're given.

PRESIDENT:

Yes, thank you, Mr Lennon. But I'm sure you and everyone else realizes that the Commission's decision of the

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PRESIDENT - LENNON

PRESIDENT:

24 April was not in the nature of an offer. It was a decision, and that decision made it quite clear that, if commitments are not given, the \$10.00 won't be given.

Yes, what I'm trying to say is ... yes, Mr ... just a moment, Mr Targett.

MR LENNON:

Again, Mr Koerbin, I'm well aware of what your decision says, but I simply, without harping on a point, repeat that so far as we're concerned, the system will not work unless there is a commitment to it from all sides, and the reality of the situation is, that the organization has not said that they're not prepared to work within the system, they are.

You're seeking to get an understanding. I think that if the Commission is going to take that approach, well then, the Commission of itself could endanger the operation of this package.

PRESIDENT:

We're not putting the package at risk, Mr Lennon, we've made our position quite clear.

MR LENNON:

Well, Mr President, all I say is that, so far as we are concerned, that the submission that's put by the Ironworkers' and the Miscellaneous Workers' Union is justified ...

PRESIDENT:

Yes, we'd said we'd take it on board, Mr Lennon.

MR LENNON:

Well, it doesn't marry with what you're saying with respect to the decision, I think, Mr President.

PRESIDENT:

Well, we haven't given our decision on what the Ironworkers' and the Miscellaneous Workers' have said. We said we'd take it on board. We're not prepared to give a decision from

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PRESIDENT - LENNON - TARGETT

PRESIDENT:

the Bench. We take it on board, and we take on board what you've said.

Mr Targett.

MR TARGETT:

Mr President, if ... well, depending on what sort of decision the Full Bench makes on matters raised by the Ironworkers' and Miscellaneous Workers' Union, if it turns out that the decision continues on the lines that if one party that has an interest in an award, doesn't give the commitment, that then stops the whole award from receiving the wage rises, I request that the Commission at least advise those parties (that are the other parties to the award) that have given a commitment as a matter of urgency.

The effects of the flow-on period, because the potential problems that arise for those parties that have given a commitment, and in return, they've received the wage rise. The problems are quite significant, and I think it's a fairly urgent matter from our point of view.

PRESIDENT:

Yes, Mr Targett.

Mr Imlach.

MR IMLACH:

If the Commission pleases, if the Bench is taking commitments, I'd like to proceed.

PRESIDENT:

That's what we're here for, Mr Imlach.

MR IMLACH:

Thank you, Mr President. I have a commitment here, which I'll hand to Mr Lennon to be put forward, in the terms that Mr Lennon outlined.

Our union is prepared to support the system. But, in so doing, I'd like to make a couple of points.

We repeat that insofar as the C.P.I. factor has now been moved over into the Principles, per se, we don't think it's a very good system. But, nevertheless, we'll give our

MR IMLACH:

commitment.

Secondly, I put the Commission on notice that at the previous ... the initial hearing of this case, I said that there was a case we were running at that time, which in no way could be considered to be substantially part-heard.

Now, depending on when it's taken as to the operative date for the implementation of the guidelines, I put it, and as I say, Mr President, I put the Commission on notice unless it makes a ruling now, that that particular case could, if the new guidelines operate from the date of our commitment, could now be said to be substantially part-heard. And I think I'm not out of order in, at least, making that point.

PRESIDENT:

No, except, Mr Imlach, if you rely on that, then presumably, if the guidelines operate from the date of your commitment, then presumably, the \$10.00 would.

MR IMLACH:

Would necessarily ...

PRESIDENT:

Operate from the same date.

MR IMLACH:

Well, in the decision it may be so, Mr President, but in the decision the operative for the \$10.00 was specified.

I'm just saying, I'm taking the point for testing it - I acknowledge that - but, nevertheless, I have considered that particular situation, and as I'm saying, I will be ... if there's no ruling at this stage - but I'm not necessarily seeking it now - but I'm saying that, in that context, we will be raising it.

PRESIDENT:

Yes, you're putting the Commission on notice the same as Mr Lennon did with respect to nurses, I take it?

MR IMLACH:

That's correct, Mr President.

PRESIDENT:

Thank you, Mr Imlach.

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PRESIDENT - IMLACH

MR IMLACH:

And, finally to assist the Bench in it's deliberations on the matters raised by the Ironworkers' and the other unions here this morning, I would suggest - and I'm sure the members of the Bench will give the matter 100% consideration in any case - but I would suggest that, if by some date in the future (not too soon as Mr Targett said) but if by some date a union participating in an award in which there are a number of parties which have not given a commitment, well the matter of back pay for the members of that union ought to be considered.

But those who give their commitment today, should be entitled to receive the \$10.00 back-dated, if the Commission pleases.

PRESIDENT:

Thank you, Mr Imlach.

PRESIDENT:

Miss Backhouse.

MISS BACKHOUSE:

Like the F.E.D.F.A., I find myself in some problem. The Tasmanian Teachers' Federation is not in a position to give its commitment to the Principles today. We believe that the proposed two-tier system is of such importance, that significant consultation with our members must take place. And we have almost completed that exercise.

The problem we are finding is that while we would be prepared to work within the system, it appears from the evidence we are getting that the Government may not be prepared to enter into proper negotiations with us, and we instance a comment in the press on 11 March when the Premier said that 'The proposed 4% increase for public sector workers would be totally inappropriate.'

We have also tried to have discussions with the Minister for Industrial Relations and the Minister for Public Administration - without success.

However, we are aware that there would be Government representatives here today, and that this would give us the opportunity to hear from them.

Under those circumstances, we intend to refer the matter to our executive meeting on Tuesday, and we will be in a position to advise the Commission on Tuesday of our decision on this matter.

We're conscious of the effect on other awards, and I have had this morning discussions with Mr Elliott from the S.C.S.A., and assured him that our decision in this matter will not be long delayed - it will only be until next Tuesday.

PRESIDENT:

Yes, well of course, the Physiotherapists, Occupational Therapists and Speech Pathologists Award would similarly be affected,

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PRESIDENT - BACKHOUSE

PRESIDENT: wouldn't it, Miss Backhouse?

MISS BACKHOUSE: Yes, but we would give our decision on all these matters on Tuesday.

MR ELLIOTT: It has certainly caused some ...

PRESIDENT: I think you came a draw.

MR ELLIOTT: ... I just thought it logical that I have followed Miss Backhouse, Mr President, since we are part of the same award.

We share the Federation's worries about the second-tier. We are prepared to give the commitment in the form that Mr Lennon outlined (and I have a copy for you here).

But we would approach it this way: we feel that the Government is not participating in meaningful negotiations over the second-tier. We would regard the Government as having broken its commitment.

As to the matters raised by Mr Harper, and others, since we are giving our commitment today, we would strongly urge that our members, at least, are entitled to the \$10 increase from the operative date, and that it should not be delayed.

PRESIDENT: Yes, it would be somewhat difficult in your case, I imagine, Mr Elliott. Short of making an order to the effect that members of your organization, to the exclusion of members of the T.T.F., should receive the \$10 from the March date, because we are talking about identical classifications, aren't we?

MR ELLIOTT: That's true, Mr President, but ...

PRESIDENT: I take on board what you are saying.

MR ELLIOTT: Yes. I can't see any other way, personally.

PRESIDENT: Thank you. Doctor.

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PRESIDENT - BACKHOUSE - ELLIOTT

DR SENATOR:

Mr Chairman, on behalf of the Salaried and Medical Practitioners' Society, we are prepared to give the undertaking in the terms suggested within the appendix to the decision.

We do, however, harbour some of the same concerns as have been put forward by the Tasmanian Teachers' Federation, but I am prepared at this point in time to proffer our commitment in the terms required by the Commission. And we provide copies.

PRESIDENT:

Thank you, doctor.

DR SENATOR:

And if I might be excused, also, sir?

PRESIDENT:

Yes, you may. You are excused, doctor. Mr Vines.

MR VINES:

The T.P.S.A. is prepared to give the commitment, as outlined by Mr Lennon, but that commitment is given with the proviso that the State Government, who is the employer of our members, will enter into meaningful negotiations as to the application of increases under the second-tier of the Principles.

A failure on the part of the Government to enter such negotiations, and to deal with them in a constructive, meaningful manner, will be a clear signal to us that they do not intend to see the Principles properly applied to its own employees.

Any such failure will cause us to consider whether or not we should remain committed to a centralized wage-fixing system, which in the above circumstances would only provide clear disadvantages to our members.

As an organization, we clearly believe in an orderly, centralized system of wage fixation. Such a system can only be maintained with a fair and equitable participation by all parties, including unions, employers and the Commission.

MR VINES:

A failure on the part of any of those parties to honour such a commitment, will only result in the demise of the system.

PRESIDENT:

Yes. Mr Vines, that would be acceptable - if you clarify one word. You said, 'with the proviso'. In other words, are you asking this Bench to direct the Government to enter into negotiations, or are you saying that you give the commitment in the expectation that the Government will negotiate?

MR VINES:

No. What I am saying, sir, is that both the decision of this Commission and also the decision of the Federal Commission indicates on several occasions that this whole system is going to rely on co-operation between both employers and unions.

We have our employer represented here today. We would be requesting that the Bench does determine whether the employer is also prepared to go along with these Principles. If the employer is not prepared to, there is nothing in it whatsoever for our members.

PRESIDENT:

I thought, Mr Vines, that we had indicated in the decision ... we have indicated a number of things, including an expectation that all employers - be they private or public - would responsibly consider any claims falling within the Principles.

We also indicated that in the event that negotiations break down, the Commission would be prepared to arbitrate.

That ought to have given you the comfort that you seek.

MR VINES:

Well, sir, it hasn't, because as you said, if 'negotiations break down'. What we are seeking is that negotiations at least commence.

As you indicated, you did state that expectation in your decision. That

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MR VINES:

decision was handed down some weeks ago. By now I am sure the Government and the Cabinet have had time to consider whether they will go along with your decision, and I think it is the responsibility of the Bench today - if it is going to introduce this new system as from today - that it should make sure that all parties to it are prepared to abide by that system; because quite clearly, if the State Government, as an employer, is not, the system will collapse tomorrow.

Also, sir, just as an extra point: in relation to the understandable reluctance of the Teachers' Federation and other organizations to give that commitment, we would also maintain that where the lack of those commitments will have an impact on awards to which we are a party, it would be our clear view that this system will break down if our members who have given that commitment are not awarded that \$10 increase in their next pays, effectively.

I believe that it is a decision the Commission has to make, but I would strongly encourage the Commission to award such increases to members of unions who are prepared to give that commitment.

What it does to employees who are not members of unions, is entirely up to the Commission, but those members who have given the commitment should receive the benefits of that commitment.

PRESIDENT:

Yes, thank you, Mr Vines.