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 1986

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 1986

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, 26 March 1987

TRANSCRIPT OF PROCEEDINGS

(CONTINUATION)

MR IMLACH: Now I am not advocating that the Commission do that. All I am saying is the time is imminent; it may be at this time. Certainly I put it to the Commission that it ought to think about this matter, that it is going to become impossible to operate a system where you have clamps in areas that were previously, despite the faults that we are all aware of, previously was a pretty good wage-fixing system. I am talking about the Wage Fixing Principles, not the indexation.

The indexation, the C.P.I. aspect, has always been a semi-political type of arrangement. In other words, factors out in the community, decisions of Government and so on affected that amount and we all know that it is affecting the decision in this case. In other words, the $10 is a semi-political item. What has happened is that clamp has been transferred over into the other area and that is why I am making a point seeking to put our view, Mr President and members of the Bench.

So I would indicate that we support the T.T.L.C. application. I indicate that all things being equal - in other words we are not going to be left like a shag on a rock. But if our confreres eventually decide that they will give a commitment, our union, both branches, will be giving the commitment, but we have a little bit further to go.

I must again come back to this point that I believe this Commission should look carefully at that clamp in the wage-fixing guidelines area. If the Commission pleases.

PRESIDENT: Thank you. Then are you suggesting, having regard for your latest qualification, that perhaps this Commission, after hearing what all the parties wish to say, bring down a decision or an interim decision that tests the water, as it were? In other

PRESIDENT: words, should the Commission say, `We'll do this if you do that, and if you don't we won't do anything'?

MR IMLACH: No, Mr President. I believe Mr Lennon said it was up to you to make the decision and I support that. Of course, that is what has actually happened in practice to date. The decisions have been taken, the commitments have been required and most, if not all, unions have given the commitment. We don't know what would have happened if a number of unions had not given the commitment and gone out into the field seeking more than what was granted.

But all I am saying is that it seems to me that if we are not careful with the guidelines that that situation is getting closer.

PRESIDENT: Yes, but where would it leave this Commission, Mr Imlach, were we to simply bring down a decision saying, `Yes, we will follow the Australian Commission package modified only to put it in the Tasmanian context' and then find that no one was prepared to give a commitment? What should we do then? Having taken our decision subject to commitments being given and then not having received any commitments, are we left in the wilderness?

MR IMLACH: I understand the question you put, Mr President. You would have to go back through the system, deny the $10 and everything else and then we would all have to come back and go through the system again and you would have to make a decision complying exactly with this situation, the Federal...

PRESIDENT: Change the Principles, in other words?

MR IMLACH: ... the Federal decision. But as I said, I am not advocating that; I am just saying that the time is getting closer and someone is going to have to do that and it may be opportune.

MR IMLACH: I want to make it clear, Mr President, in my view that if - if - that does not happen, we will all go down with the ship. I am not a pessimistic person but I make the point that it is $10 this time which ... I can appreciate the problem of the T.P.S.A. and the T.T.F. A lot of our members get $15,000 a year. If they were to get full indexation they would be getting a lot more than this decision gives. In other words, they are being well and truly clamped.

But on the other side the Government, the Federal Government, and other governments, and local governments, are spending record amounts of money. What I am saying is it is all very well for the union members to be tightened and clamped while others are profligate in their spending. So that is why I am saying the time is imminent when the thing will break down and so therefore someone has to make a decision to cope with that situation.

That is all I am bringing to this Commission's attention. I am not asking you to go outside the Federal decision but of course if that Federal decision collapses we will all collapse with it. If the Commission pleases.

PRESIDENT: Thank you, Mr Imlach. Would anyone like a break before they collapse; 5-minute adjournment, 10-minute adjournment?

...

COMMISSIONER KING: Mr Lennon, before the next union advocate speaks, if in fact there is going to be a next union advocate speaking, I would ask you the question, from all that has been said this morning by yourself and certainly by other advocates following you, it seems to me that there is considerable doubt about the outcome of the discussion at the union conference scheduled for next

COMMISSIONER KING: Thursday.

That being the case, would it not be appropriate to adjourn these proceedings until after that meeting so that this Commission can then consider the decision of the unions on that day?

MR LENNON: Are you suggesting, Mr Commissioner, that this Commission regulates affairs in accordance with decisions taken by the trade union movement from here on?

COMMISSIONER KING: Certainly not but there is, as I see it, some very qualified commitment to the new Principles and there is some opposition to those Principles. It would seem to me to be a pointless exercise for this Commission to reserve a decision now and perhaps pick up the package and then find that within a week or so the package has been torpedoed, if you like, by a decision of the trade union movement generally.

MR LENNON: With respect, Mr Commissioner, I'm not sure whether it was the last decision or the decision before the last one we were in very much a similar situation to what we are in today. At this stage a decision hasn't been made and it is therefore unrealistic to expect unions to give a commitment to some decision that has not yet been handed down.

In that previous occasion it wasn't until the A.C.T.U. wages committee met and determined the commitment that indeed there was any commitment to that package either.

If the Commission decides to adjourn these proceedings because it doesn't know what the decision of the A.C.T.U. special unions' conference is going to be, I think that you will set for yourselves a very dangerous precedent for the future. You will be admitting, if you like, that this Commission will in future regulate its affairs in accordance with

MR LENNON: decisions taken at union conferences.

COMMISSIONER KING: Certainly not, I think all my question does is ask you whether or not it would be more appropriate for this Commission to consider any decision in this matter given an indication from the trade union movement generally following that meeting.

I would accept your comments about earlier National Wage Case proceedings both nationally and before this Commission. But it certainly seems to me that on this occasion there is considerably more doubt about what the future might be and particularly in relation to commitments to any new package than there has been in the past.

MR LENNON: The doubt that exists in this case certainly didn't deter the New South Wales State tribunal from pursuing to grant the flow-on in that jurisdiction and that jurisdiction represents 40-odd percent of the work-force. So it certainly didn't deter them and in fact the flow-on has been granted into State awards in New South Wales. I believe that is the case in Queensland as well. I am not a hundred percent certain of that but I know that the case is proceeding there, it hasn't been adjourned. And I think upon checking you would probably find that is the case in Western Australia and South Australia.

I don't agree with you. I believe that this Commission is autonomous, it has a claim before it, and I think you should proceed to hear it. Once a decision is made, whether or not it proceeds into awards will depend upon unions complying with any qualifications that you might seek from them, which is the same as happened in previous cases.

The special unions' conference to be held this time has been convened as a result of a decision taken in

MR LENNON: November, not necessarily singularly because of the decision that has been handed down. There has been some speculation in the media, I agree, as to the money amounts contained in the decision but I again refer you to, as I did earlier, the decision of the A.C.T.U. wages committee of 12 March where they said:

> "The A.C.T.U. remains committed to the processes of conciliation and arbitration and the need for a workable wages policy through that system."

Now, that implies nothing more or less than the fact that we would opt by preference for working through the system. There are some 160 affiliates of the A.C.T.U. who are all entitled to express their opinion and that is the reason that the special unions' conference is being heard.

I simply wanted to make the point before this Commission that we are part of the Australian trade union movement. Most of the organizations operate within the system of State branches of federally registered organizations, but not all of them are. The comments that you have heard today from organizations represented, doesn't represent a great majority of the unions in this State and I think that most of them have all indicated to you that their preference is for a system within the conciliation and arbitration process. I believe that you should proceed.

COMMISSIONER KING: I am not suggesting for one minute that we should adjourn now. I was perhaps putting to you that at the end of the proceedings today, assuming that the respective positions of the parties have been put and concluded, that rather than reserve a decision at that point, the Commission simply adjourns sine die to allow the matter to be re-listed.

PRESIDENT: In case, as a consequence of the special union conference you, Mr Lennon, and other interested people, felt that there was something else you would like to put on record for our benefit before bringing down our final decision.

MR LENNON: Mr President, I guess it's a case of ... we've had discussions with the employers and discussions with the Government representatives and they have agreed to support what we've put forward this morning. And that ... I've certainly not had discussions about them - about the trade union movement - reserving its position to have another grab later on.

And I believe that if there is anything else that we want to add, with respect to our claim, then we will have that opportunity, no doubt, at the stage when commitments would be sought - if indeed they are to be sought - or at our request, if the Full Bench of the Conciliation and Arbitration Commission reconvenes. Then, pursuant to section 35(7) of our Act, we would be entitled to reconvene and consider that position.

But I believe that at this stage the thing ought to proceed. I don't know what the outcome of the special unions' conference is going to be. But a meeting of unions down at the T.T.L.C. yesterday was overwhelmingly in favour of the position of us proceeding to do exactly what was done today.

PRESIDENT: If we could hypothesize a little further. Let's assume then, Mr Lennon, that all parties put before us today what they would wish to have us take into account and we reserve our decision. But, between the time of the reservation or the conclusion of this case and the time our decision is prepared, we become aware, through media reports or other means, that the special union conference has rejected - out of hand if you wish - the

PRESIDENT: package of Principles that we've been considering this morning.

Is that a factor we could, with propriety, take into consideration before handing down our decision, or should we put our heads in the sand and say well, we'll ignore all that, we'll bring down a decision requiring a commitment to the Principles - knowing full well at that stage, that the A.C.T.U. has decided that it won't adopt a more ... will give some qualified support or something?

I think that's all we're really trying to bounce off you.

MR LENNON: Respectfully, I would indicate at this stage, Mr President, it's all hypothetical.

PRESIDENT: Admittedly. Yes, granted.

MR LENNON: And we must operate in a climate of what is known and what is not the unknown - or what is known at the moment is that the C. and A. Commission have handed down a decision and that an application has been put forward to you with an indication of tripartite support for that position and that what we've indicated to you is that we recognize the fact that a commitment may be required before that is flowed through to awards, and that we certainly understand that if all organizations who have an interest in those particular awards don't give a commitment that's satisfactory to this Commission, then those awards won't receive the increase.

And, in addition to that, we have the circumstance where, not only has the Full Bench of the national Commission handed down the increase, that the larger State tribunal has passed it onto its work-force as well, so ...

PRESIDENT: Without a commitment being given, or simply handed down a decision ... ?

MR LENNON: Just handed down its decision as I

MR LENNON: understand it. That is what we are seeking here. I mean what we were putting to you today, Mr President, was that unions who are State branches of Federal unions who operate within this jurisdiction, would not be in a position to give you a commitment until after the special unions' conference.

That is all that we were putting to you, which is no different to the position we were in - I am just not sure off hand whether it was the last case or the one before it - when it wasn't until after the wages committee of the A.C.T.U. had met that the commitment was given. Now at that stage we weren't suggesting that we delay the decision until the A.C.T.U. meeting. The C.A.I. are meeting regularly on this too, I imagine. Do we wait until they have all their meetings as well?

I think that this Commission must operate within its own autonomy and should not regulate its affairs according to meetings going on elsewhere. Respectfully, I believe that is a very dangerous precedent for this Commission to be adopting.

PRESIDENT: Thank you, Mr Lennon. Now, should we hear from the statutory intervener if there are no other unions wishing to speak?

MR ELLIOTT: Just very briefly, Mr President, this union is concerned about the effect of the two-tiered system on the living standards of public servants. Last year with a wage inflation rate of around 10% our members received approximately 2.3% salary increase.

If we take Mr Gray's statements at face value it seems that over the next 22 months he expects our members, our State public servants, to receive salary increases of $10 per week and nothing under the second tier. That $10 per week represents less than 2% wage increase for a teacher and it seems that the

MR ELLIOTT: Government would be happy with a situation where over a three-year period virtually, with inflation of around 30%, he would expect the State's public servants to receive increases totalling something like 4.1%.

Quite clearly in that situation union acceptance of a central wage fixation system would be pointless and I believe that the Government's position would lead to widespread industrial activity.

PRESIDENT: Yes. I guess a number of other unions, if I could use that broad term, would be equally concerned at the likely attitude of their respective employers to the second tier. Are you in any different situation really to other unions?

MR ELLIOTT: I believe that given the Government's record in industrial relations in dealing with its public servants in recent years, and given statements which our employer has already made, then I believe that State public servants are entitled to be more anxious than most about its future living standards.

PRESIDENT: Yes, but look, you may be more familiar with the Federal Commission's decision than we are ...

MR ELLIOTT: I doubt that, Mr President.

PRESIDENT: ... but I have an idea that somewhere within the 43 pages of that decision there was a statement to the effect that in the event there was no agreement in any of these areas, the Federal Commission was prepared to arbitrate anyway.

MR ELLIOTT: I guess I am doing two things, Mr President. I am pointing out the relative disadvantage of a public service union compared to, say, a manufacturing union; and secondly I guess I am pointing out, in the event that we do bring a case to you, what our attitude would be if what I see

MR ELLIOTT: as the Government's position were to prevail. I do not believe that central wage fixation could remain if the Government were successful before this Commission in limiting salary increases for public servants to one $10-a-week increase, which it has said is its intention.

PRESIDENT: Wouldn't it have to then face up to an arbitration in response to a claim that would no doubt be lodged by your organization?

MR ELLIOTT: That's true, Mr President. I guess I am voicing our fears about the next 22 months and asking you to take those fears into account when you arrive at your decision.

PRESIDENT: Yes. Thank you. Yes, Mr Jarman.

MR JARMAN: Thank you, Mr President. Before I commence my submission proper perhaps it is appropriate to make some comment on a couple of matters that have just been raised before the Bench.

I don't know whether this will help the Commission but during the running of the National Wage Case, His Honour Justice Ludeke, had an exchange with the A.C.T.U. advocate regarding the requirement that the Federal Commission make a decision on the claims before it and that that decision would be subject to a later union conference which would in effect decide whether or not the trade union movement would accept the package as brought down by the Commission.

In making those comments to the A.C.T.U. advocate, His Honour Justice Ludeke, also indicated that the Bench was in a very difficult position because under its statutory requirements it was obliged to give a decision on the claims before it.

I don't know where that puts this Bench, but I do know this: That

MR JARMAN: because of the way the trade union movement conducts its business - and we don't necessarily believe that it is an appropriate way to conduct its business but nevertheless that's the way it is - this Commission could very well be making a `Clayton's' decision.

The other matter, if I may mention it now, Mr President, was that the unions have some concern about what may or may not happen in the second tier and they have mentioned statements which supposedly have been made by the Premier. I am not in a position to speak to those statements because I am not aware of them.

But I would say this: That to my knowledge there has never been a refusal on the part of the Government to listen to a union who wishes to lodge a claim regarding improvements on paying conditions for its members.

MR JARMAN: There's never been a refusal, to my knowledge, to sit down with the union and discuss the merits of the particular claim. I would, however, stress at this point, that there seems to be some impression on the union's part that the Government is expected to indicate, here and now, that it will guarantee 4% in the second tier. Well we say that's a load of rubbish. There has to be a claim before this Commission seeking such an amount, and there has to be a basis for such a claim.

At the moment, we've heard nothing from the unions as to how they wish to pursue second-tier claims, and if the package as adopted by the Federal Commission is adopted by this Commission, then there will be a number of Principles to be adhered to in the pursuance of such claims.

PRESIDENT: Isn't that then an open invitation to the unions here present to immediately lodge claims for 4%?

MR JARMAN: Definitely not, sir, this Commission is yet to make a decision on whether or not it will accept a two-tier package. And if the decision is that the two-tiered package will be accepted, then of course it is the right of every trade union in this State to lodge whatever claims they like as long as they accord with the Principles.

May it please the Commission, we've heard various comments on and selective quotations from the Tasmanian Government's submissions in the most recent National Wage Case. Such comments have been made in submissions recently put by the T.P.S.A. in pursuit of a 10% salary increase for its membership.

Let us be quite clear. The Government is capable of putting its own position without having its submissions doctored by applicants because of their vested interests.

MR JARMAN: This Commission would be aware, I am sure, even if others are not, that the Tasmanian Government has exercised its rights as an intervener before the national wage Bench for many years and, since 1983, has at every opportunity before that Bench, expressed its views on the claims being considered; the centralized wage fixing system with its attendant Principles and the health of the economy in national and local terms.

What this Commission would also realize is that the Tasmanian Government's position, as presented at those hearings, can often differ to those positions and attitudes finally incorporated within the Conciliation and Arbitration Commission's decisions.

However, since September 23 of 1983 up until this date, the Tasmanian Government, regardless of its position at National Wage Case hearings, has accepted the decisions handed down in the Federal jurisdiction, and has not opposed the adoption of those decisions by this tribunal.

During our submissions we will comment on our position as put by the national wage Bench. We will also comment on the national wage decision; the Wage Fixing Principles; the state of the Tasmanian economy and on the claims before us.

Finally, we'll put our views on whether or not the national wage decision should be adopted by this tribunal.

On 2 December 1986, Tasmania summarized its attitude to the claims before the national wage Bench. On this occasion a full, written submission had been forwarded to the Federal Commission on 25 November 1986. And if I could, Mr President, I'll hand up a copy of that submission as an exhibit.

PRESIDENT: We'll mark this `G' for Government. G.1.

MR JARMAN: If it please the Commission, it was evident from submissions put by the A.C.T.U., the Commonwealth Government and other parties present at the National Wage Case, that there was little if any disagreement over the poor economic conditions prevailing.

On the first page of our submission, (that is Exhibit G.1.) in the last part of the first paragraph, we had this to say:

> "There is however, one argument which supports changes to the existing system and which is common to all parties. The Australian economy is not healthy and the parties have realised that a wage fixation system which awards automatic wage increases in line with C.P.I. movements, can no longer be accommodated."

Let us be quite categorical at this stage so there can be no doubt in anyone's mind as to the intentions of the Tasmanian Government when it made that statement.

We, along with other parties at the National Wage Case, were of the view that the system as adopted in September of 1983 could no longer be justified in economic terms. We believed, and still do, that a system which confers, automatically, wage increases equating to percentage movements in the C.P.I., cannot be tolerated.

Such increases can feed into a wage/price spiral that in turn feeds our inflation rate and destroys our international competitiveness, thereby severely diminishing job opportunities and the level of employment in Tasmania.

MR JARMAN: We will have further comment to make on the inflation rate later in our submission.

Whilst noting that the existing system could no longer be afforded, our submissions differed from those made by the A.C.T.U., the Commonwealth and others.

The A.C.T.U.'s primary submission called for a wage increase of 6.7% to compensate for the movement in the 8-capitals consumer price index for the nine months ended September 1986. This claim was based on Principle 1 of the then current Wage Fixing Principles.

In making the claim, the A.C.T.U. recognized the poor state of the nation's economy and had adopted, it said, a fall back or secondary position in order that the centralized wage-fixing system did not self-destruct. This position is outlined in the Conciliation and Arbitration Commission's Decision, Print G.6400 at pages 4 and 5.

The secondary position, as put by the A.C.T.U., evisaged a two-tiered system which allowed for general wage adjustments, such adjustments being processed through national wage cases.

In this particular National Wage Case, the general adjustments called for two flat rate increases in the first tier.

The A.C.T.U. also sought additional adjustments to wages and conditions through specific Principles. These additional adjustments were to be processed through the second tier which may, as a result of a Commission decision, restrict the quantum for any increase awarded.

The Commonwealth also proposed a package under which national wage cases would determine general increases for all wage and salary

MR JARMAN: earners. The package ... that package would also provide for other adjustments subject to a maximum aggregate labour cost being determined through specific Principles catering for a second-tier operation.

These positions, along with those of other parties and interveners, may be found on page 5, Print G.6400. And, if I may, also on that page between placita j and k, we find that the Federal Commission reports on the Tasmanian position, and I quote:

> "Only Tasmania and the Australian Coal Association (ACA) supported continuation of the present system: Tasmania in particular expressed the view that the system promoted by the ACTU and the Commonwealth is `too flexible for today´s economic climate´ and proposed the retention of the current system with some minor adjustments to the principles."

I there end the quote.

We find, if the Commission pleases, that it is necessary for us to explain in some detail our submissions put to the national wage Bench in December 1986. It has become necessary because of selective quotes made from our submission by the T.P.S.A. in its pursuit of a 10% wage and salary increase for its members.

It is also, we believe, important for this Commission to be advised of the Government´s views on the centralized wage fixing.

Returning to Exhibit G.1., I would refer the Commission to page 12. And reading from the top of that page, I quote:

MR JARMAN: "For some time, the Commission has determined the level of National wage increases by reference to the percentage increase of the Consumer Price Index over the preceding half year. It is now generally accepted, and explicitly stated by the A.C.T.U., that this is no longer appropriate. The A.C.T.U. proposes instead that wages shall be adjusted to take account of living standards and the capacity of the economy.

The Tasmanian Government does not disagree with that general sentiment. However, present circumstances demand that the capacity of the economy be determined by reference to an appropriate external benchmark."

Mr President, I'm being reminded by my colleagues on my right that it's `nosebag' time. I wonder if now would be an appropriate time to adjourn.

PRESIDENT: It seems like a good idea, Mr Jarman.

MR LENNON: You'd know all about `nose bagging' wouldn't you, Mr President.

PRESIDENT: Could you give us some indication as to how long you feel that you might wish to address us?

MR JARMAN: Well, without any questions from the Bench, Mr President, I would say about another 15 to 20 minutes.

PRESIDENT: Yes, thank you.

Then I take it that we'll conclude this matter today. That being the case, we'll adjourn for `nose bag' time.

...

PRESIDENT: Thank you, Mr Jarman.

MR JARMAN: Thank you, sir.

May it please the Commission, on page 13 of Exhibit G.1, our submission expands on what we believe is the appropriate bench-mark and I quote:

> "The Tasmanian Government submits that the Commission might usefully have regard to the weighted average inflation rate of Australia's major O.E.C.D. trading partners in determining the overall ceiling for wage increases."

And if I may at this point, sir, hand up an exhibit.

PRESIDENT: Exhibit G.2.

MR JARMAN: If I could just draw your attention to Exhibit G.2, and I apologize for the quality of the reproduction. If we have a look towards the bottom of the exhibit, there is a line in about the middle of the page which says `Percentage change on a year earlier' and then go to the outside column on the left-hand side and look at `1986 - December' and you will see, if you look across at the `Australian' column that the inflation rate is noted as 9.8%.

The average inflation rate for the total O.E.C.D. is 2.2% and if you have a look at`Japan' and `West Germany', they are in fact minus - minus 0.4% for Japan and minus 1.1% for West Germany. So, you can see that Australia, compared to its major O.E.C.D. trading partners, is in a poor predicament when we take Consumer Price Index into consideration.

If I could return now to page 13 of Exhibit G.1 and continue the quote:

> "Ultimately, Australia's international competitiveness

MR JARMAN:

depends upon the relativity which exists between the prices of goods and services produced in Australia and the prices of comparable goods and services produced overseas. With Australia's inflation rate significantly higher than that of our trading partners, our international competitiveness must decline or the exchange rate must depreciate further to compensate. Use of the average inflation rate of our trading partners as a point of reference for determining the level of National Wage increases for the foreseeable future will:-

avoid the possibility of a depreciation - inflation - wage increase cycle and ensure that the improved competitiveness arising from the depreciation of the past two years is maintained; and

assist in rapidly reducing the domestic inflation rate to a level from which maintenance of real wages and incomes will again become achievable."

We pause here in quoting from our submission to indicate to the Commission, that had the national wage Bench been disposed towards our suggestions for an external bench-mark, the amount in question would have been considerably less than the 6.7% claimed.

At the time of compiling our submission, the weighted average inflation rate of Australia's major O.E.C.D. trading partners was running at around 2.2% per annum.

The Commission will see in reading this submission, that Tasmania was strongly opposed to the proposed two-tier system and for your information,

MR JARMAN: we refer you to pages 14, 15 and 16 of Exhibit G.1.

If the Commission pleases, our submission now takes us to page 25 of Exhibit G.1, where Tasmania summarizes its position on the claims before the national wage Bench, and I quote:

> "In summary the Tasmanian Government:-
>
> . supports the retention of the current wage fixing system;
>
> . opposes the concept of a two-tier wage system;
>
> . supports the existing wage fixing principles with the adjustments outlined in this submission;"

And we refer the Commission to pages 18 to 22 of the submission, for our comments on the Principles.

> ". submits that wage increases should be determined with reference to an external benchmark such as the average inflation rate of Australia´s major trading partners;
>
> . opposes flat rate wage adjustments; and
>
> . supports the abolition of the 17.1/2 percent leave loading."

And before I´m asked the obvious question, Mr President, as that matter is not subject to a claim before this Commission, it becomes irrelevant for the purposes of this exercise.

PRESIDENT: Well, thank you for that, Mr Jarman.

DEPUTY PRESIDENT: I didn´t have time to get my mouth open.

MR JARMAN: In other words, they don't mean what they said.

May it please the Commission, you've heard excerpts from the submission. You have the entire submission before you. It is evident that Tasmania in December of 1986 advocated an adherence to the existing centralized wage fixing system. That adherence, however, was conditional on certain directional and administrative changes taking place.

We say to you that the hokus pokus emanating from the T.P.S.A. submission, should be given the treatment it deserves - that is, it should be ignored.

Be advised that at no time during our submissions to the national wage Bench, did we advocate the retention of a centralized wage fixing system which confers automatic wage and salary increases based on quarterly percentage movements in the Consumer Price Index.

MR VINES: Point 1 of your summary.

MR JARMAN: You still have difficulty accepting the fact, do you, Mr Vines?

MR VINES: It's there in black and white.

MR JARMAN: Yes. Well, that's your construction of it. If you're capable of not getting it right in the first place, then we have to go through this saga of a submission to get there, don't we?

PRESIDENT: I think if you could address us, Mr Jarman, please.

MR JARMAN: If the Commission pleases. I would now like to take the Commission to page 5, placita c of Print G6400:

> "The ACTU's primary position was opposed by the employers, by the Commonwealth and by all States and is rejected by the Commission because such

MR JARMAN:

> an increase is not sustainable in the current economic circumstances.
>
> Moreover, we are of the view that the state of the economy is unlikely to improve sufficiently in the immediate short-term so as to allow `adjustment of award wages every six months in relation to the relevant quarterly movements in the eight capitals´ CPI´ as provided by the current Principles."

We see from this part of the decision that the Bench was not disposed to a continuance of the existing system.

On page 7 print G.6400 at placita b we find the following statement:

> "On the basis of what has been put in these proceedings there would be insufficient commitment to the present package if it was to be continued. There is broad recognition of the need for change."

As we know, the Bench in its December decision, print G.6400, decided to reconvene at a later date in order that the parties may confer to address numerous issues requiring resolution prior to the adoption of any two-tiered package.

On 10 March 1987 the Tasmanian Government made further submissions to the national wage Bench. Those submissions may be found on page 1336 of transcript. At those proceedings the advocate, Mr Stevens, had this to say:

> "May it please the Commission. Tasmania´s position prior to the National Wage Case decision handed down on 23 December 1986 was that there should be no change to the current wage

MR JARMAN:

fixing system. Nothing has occurred since the Commission handed down its decision which would serve to influence our position. We however recognize that a decision has been taken and a new system is likely to be put into effect."

During the course of the submission the Bench was informed that Tasmania did not support a $10 or $20 increase in the first tier. The reasons given for this attitude were that the magnitude of such an increase would have an unacceptable effect on an already burgeoning inflation rate.

We also indicated that the second tier, as proposed, was being viewed by unions as a veritable supermarket. It was, we said, of great concern to us that the A.C.T.U. was submitting that any ceiling set for the second tier be capable of being waived in special circumstances. It seemed to us then as it does now that any claim lodged can be viewed as having special circumstances.

We advocated that any ceiling set for the second tier should be absolute and that there should be no exemptions. We also asked that a ceiling of 2% be set on the second tier.

As we are all aware the national wage Bench handed down its decision on 10 March 1987. The decision ratified the two-tier system and put in place a package to be administered by a set of Wage Fixing Principles. The decision has in effect created a new centralized wage fixing system to remain in operation until it is renewed or reviewed in May of 1988.

May it please the Commission, if the National Wage Case decision is to be seriously considered for adoption in this jurisdiction then there are a number of key issues for

MR JARMAN: determination.

Firstly, the state of the economy particularly as it relates to Tasmania must be considered. Secondly, is the type of package accepted by the National Wage Case Full Bench a suitable approach to centralized wage fixing? Thirdly, is the package as designed by the Conciliation and Arbitration Commission acceptable as a centralized wage fixing system; and fourthly, is the adoption of such a package in the public interest?

MR JARMAN: Our first issue concerns the state of the economy. Regardless of the type of package designed by the national wage Bench, the main reasons for the alterations to our existing centralized wage-fixing system have been labelled as economic.

For reference purposes our first exhibit contains a substantial component on the economy in general, and more particularly on the Tasmanian economy. And for your information, this commences on page 3 and concludes on page 13.

On 11 February 1987, Mr Stevens, in his submission to the National Wage Case Full Bench, on page 1336 of transcript, had this to say on the economy:

> "It should be apparent to all parties that the nation's economic health has not improved. Recently released figures on C.P.I. movements point to this.
>
> The inflation rate, the uncertainty surrounding the value of the Australian dollar, the current account deficit, are all symptoms of a delicately poised economy."

These signs are not new, they have been with us for the past 12 to 18 months, and in some cases longer.

During this period we have seen the Commonwealth and the A.C.T.U. negotiating wage and salary increases in ways that can only be viewed as reactive.

Our views on the economy have not changed to any great degree.

Although it may be reiterating the obvious the rationale behind the National Wage Case decision was the parlous state of the Australian economy.

MR JARMAN: The facts are inescapable. Despite the Government's (that is the Tasmanian Government's) determination to make Tasmania more self-reliant we can never fully isolate ourselves from a major economic downturn affecting the nation as a whole.

And despite the recognition by all parties to the National Wage Case, including the A.C.T.U., that the Australian economy must adjust to its current circumstances, it is patently clear that a re-statement of the cold, hard facts is necessary in light of the irresponsible demands of the applicants.

The Australian economy is in a state of serious maladjustment. We are in the grip of a balance of payments problem of major proportions. The large current account deficit we have experienced during recent years, and the resultant burgeoning in our foreign debt, have become fundamental constraints on the growth of the Australian economy.

External factors beyond our control have been responsible for a major part of the current account difficulties. Slow economic growth in our major trading partners, world over-supply of those commodities we specialize in, and protectionism in the United States and European markets have led to dramatic reductions in export prices and export incomes.

In addition, and consequentially, interest rates are at historically high levels in nominal and real terms. Investment has been choked off by these high interest rates diminishing our ability to restructure our domestic industries and adjust to the changed economic circumstances we currently face.

Both the creation and continuation of job opportunities are diminished by high interest rates.

MR JARMAN:

Inflation continues unabated at a time when our major trading partners are experiencing negative or only slight growth in consumer prices.

In the year to September 1986, Australian consumer prices grew by 8.9%. For our major trading partners the comparable rate was 1.9%. In West Germany prices fell slightly over the same period.

The exchange rate has provided a mechanism for adjustment of the economy to our difficult economic circumstances.

Since the dollar was floated in 1983 it has declined in trade-weighted value terms by 40%.

This depreciation has enhanced our international competitiveness but these gains in competitiveness are only worthwhile if they can be sustained.

As we argued in the National Wage Case our domestic economic problems will remain and be exacerbated if the depreciation continues to result over time in an off-setting flow-on to domestic incomes. There must be a circuit breaker if the economy is to retain recent gains in competitiveness.

The Australian economy has suffered a severe external shock in the shape of a decline in terms of trade. Real incomes cannot be insulated from that shock.

We must avoid being locked into a depreciation/inflation wage increase spiral. To break the nexus wage increases must be strictly limited during the period of economic adjustment ahead.

The opportunity to implement this circuit breaker is facing this Commission now.

GM/JM - 26.03.87

JARMAN

MR JARMAN: The impact of these adverse economic circumstances looms even larger over the Tasmanian economy. Tasmania is a small economy which cannot fully insulate itself from events interstate or overseas.

As far as developments overseas are concerned it is especially vulnerable to the current scenario of falling world prices and over-supply of basic commodities.

Tasmania, as was brought to the Commission's attention in the recent T.P.S.A. wage claim, is heavily reliant on its export sector.

On a `per capita value of exports' basis Tasmania has historically performed better than other States. However, when external conditions deteriorate Tasmania is the first to feel the crunch.

Prices for the commodities Tasmania sells are determined in world markets over which Tasmanian producers have virtually no influence. As a consequence our industries have very little leeway to absorb unrealistic wage cost increases and must seek other ways to remain viable, such as reducing employment or investment programmes.

In the current climate of economic adversity the incapacity of the Tasmanian economy to cope with irresponsible wage demands currently before the Commission is unarguable.

It is essential that employees as well as employers and governments share the brunt of the burden imposed by the dramatic change in economic circumstances - those economic circumstances that the economy has experienced over the last 18 months or so.

The Tasmanian Government views the National Wage Case decision as an elaborate compromise between telling

MR JARMAN: economic argument, on the one hand, and unrealistic expectations of labour, on the other.

We submit the case for a wage rise was never strong in the light of the strength of the external and domestic factors forcing Australia to come to terms with the adjustments necessary to turn the economy around.

The situation has deteriorated since the National Wage Case hearings were wound up in early February. For example, the release of December quarter average weekly earnings statistics has indicated an 8% growth in earnings is in prospect for 1986/87. That is 67% to 78% greater than the increase expected for our O.E.C.D. trading partners.

The Federal Government has revealed that interest rates are not expected to fall until well into 1988, with all the consequent deleterious effects on investment and growth of the economy.

The Federal Government has acknowledged a looming blow-out in the public sector borrowing requirement. This is a key component of the budget deficit. And the Federal Government has confirmed the necessity of a May mini budget to enforce harsher measures on the Australian economy.

In light of this more recent evidence, and the economic arguments presented on the structure and economic disadvantages of the Tasmanian economy, it is the Government's view that accession of the Bench to claims based on C.P.I. movements would spell economic disaster for the Tasmanian economy.

PRESIDENT: How would salary and wage earners be expected to meet increases in statutory charges imposed by the Government that exceeded C.P.I. adjustments if they were not given any more disposable income with which

PRESIDENT: to meet those costs?

MR JARMAN: That's a good question, sir, but I think our submission has addressed that, and it has said that in order to get the Australian economy back on the road there is a burden placed on the employee, on the employer, and on Governments, in the short term, to go without.

In fact as the Federal Government itself has stated there must be, in the short term, a drop in the standard of living.

May it please the Commission, the second key issue we raised went to the question of whether or not the centralized wage-fixing system, as ratified by the Full Bench in its March 1987 decision, is a suitable approach given today's economic circumstances.

To decide that, it is appropriate that we look at the benefits awarded by the decision and the principles promulgated to administer the centralized wage-fixing system.

The decision is geared to assist, as much as possible, the low income earner. The $10.00 flat rate increase in the first tier will benefit the low income earner, especially as far as nett gain is concerned.

The Commission did refrain from awarding any further increases in the first tier. However, it is quite possible that an increase of up to 1.5% may be awarded after October of 1987 as the national wage Bench has decided to call together the parties to discuss the question of a further increase.

The question, we say, that should be posed before such a meeting takes place is whether or not the increase sought is to be determined on its merits, or will it, as usual, be decided by industrial pressures.

MR JARMAN: The second tier is the area for most concern.

We believe it is essential that any increase awarded under this tier must meet all of the criteria contained within the principles used for justification.

We would stress, most strongly at this stage in our submission, that should the National Wage Case submission be adopted by this tribunal any increase sought in the second tier must be rigorously tested for merit.

MR JARMAN: As we say, any applications for increases in the second tier must be in total conformity with the Principles and, as such, must be rigorously tested.

In considering its position in respect of second-tier claims, the Government will determine its attitude in light of the circumstances prevailing at the time.

We make it clear that we reserve, absolutely, our prerogative to argue our position before this tribunal as to the merit, or otherwise, of any second-tier application, or indeed any first-tier claim.

Just as it is the union's prerogative to prosecute claims as they deem appropriate, it is our prerogative to argue our case as we deem appropriate to the circumstances.

It must also be stressed that the Tasmanian Government will continue to make such submissions to national and State wage cases, as it deems appropriate and necessary in all of the circumstances.

We will continue to place critical emphasis on the capacity of the State economy to absorb increased labour costs, unemployment levels, and the rate of inflation, particularly in comparison with our major trading partner countries.

We will attach great weight to any serious erosion to the State's financial position which may result from the forthcoming Premiers' Conference and the Loan Council meeting later this year.

The Principles in the Full Bench decision have been amended and a new one has been included.

The new Principle, which has been designed to accommodate changes brought about by restructuring on efficiency grounds, is seen by the

MR JARMAN: Commission as providing a degree of flexibility.

Print G6800, on page 13, clearly puts the Federal Commission´s views on the new Principle.

The Commission, while seeing some positive benefits through the provision of the new Principle, also sees some disadvantages if care is not taken in its use.

The national wage decision, at placitum `e´, on page 13 of Print G6800, states, and I quote :

> "Although there was general acceptance of the need for the new principle, the parties recognized that in its application there could be inappropriate outcomes. We share that concern and repeat the warning given in the decision of 23 December 1986 - the new principle must not provide a vehicle for bogus wage increases or other sham arrangements."

The Federal Commission, for the balance of page 13, goes on to describe a number of situations which should not be tolerated under the new Principle.

May it please the Commission, we are concerned that the decision does not, in all instances, confine the operation of the Principles to the 4% limit defined in the second tier.

For instance, it would appear that work value, considered to be in excess of the quantum allowed in the second tier, may be prosecuted by the anomalies Principle.

PRESIDENT: How would that work, do you suppose, Mr Jarman?

MR JARMAN: Well, that´s a very good question. I, like some of my colleagues, have some doubts about the decision, but

MR JARMAN: one assumes that there would have to be a decision taken somewhere that the increase is being sought under a work value Principle. If they were in excess of the second-tier limit it would have to be taken to an anomalies conference.

PRESIDENT: And the President pursuaded on balance of evidence that, prima facie, there was a case for more than 4%.

MR JARMAN: That would be my reading of it, and I don't say that that's a correct reading, because I say, along with my colleagues, I have some doubt as to the meaning of the wording in the current Principles.

PRESIDENT: And then presumably he would refer it back to the Full Bench or somebody else?

MR JARMAN: Yes, that would be the case. That's the way we would see it.

PRESIDENT: And since I have interrupted you, is there some peculiarity on page 33 of the decision, under the heading of `First Tier', and the operative date of the second bite of the first tier, if there is to be a second bite, say. October 1987, that's all I'm getting at - is the dates.

MR JARMAN: Page 33?

PRESIDENT: Yes. The second paragraph:

> "The Commission will convene a conference of the parties ..."

of the matter ...

MR JARMAN: Yes, sir, I had already alluded to that.

PRESIDENT: Yes, well they talk about that perhaps in October 1987 ...

MR JARMAN: That's correct.

PRESIDENT: ... it's possible to consider the

PRESIDENT: further 1.5, and yet under the heading in `Second Tier´ it´s possible to consider the first instalment of the second tier before the second instalment of the first tier is paid.

MR JARMAN: Yes, that would be my reading of it, yes.

PRESIDENT: And presumably there would need to have been some argument before the Commission that would lead it to conclude that the 2% adjustment on account of the second tier was justified, so presumably any such argument would have to commence well before October 1987.

MR JARMAN: Well, it´s a good question that you pose. The way I would understand it, the onus would be on the people prosecuting the claim for a further 1.5% to give some indication on the grounds for such a claim. It may be seen that the grounds for claims in both tiers may be different.

PRESIDENT: Or may affect different groups of people, perhaps?

MR JARMAN: Yes, that´s correct.

PRESIDENT: There might be something, in the nature of second tier, for one group and something, in the nature of first tier, for all or only some, perhaps - I don´t know.

MR JARMAN: Well, I was thinking more along the lines that perhaps the first-tier claim may be solely confined to claims based on the economy, whereas claims in the second tier might be more closely related to work value or restructuring.

PRESIDENT: Yes, but I can´t see how one could determine that there was capacity to pay even the first instalment of the second tier if you hadn´t, at that stage, considered its impact on the economy which may bear on the appropriateness or otherwise of a second bite of the first tier.

MR JARMAN: I certainly understand what you are saying, and there would appear to be a problem there.

I had said that it would appear that work value, considered to be in excess of the quantum allowed in the second tier, may be prosecuted via the anomalies Principle. This, of course, means that there are no limitations under the anomalies and inequities Principle.

The new package also allows for the granting of supplementary payments which will be confined to the second-tier quantum.

Whilst it is appreciated that the National Wage Case Bench saw the lifting of the embargo on supplementary payments as a benefit for the low income earner, we wonder at its wisdom in today's economic circumstances.

We believe that the package, as designed, is too flexible. We have said that, before the national wage Bench, and with the publishing of the decision there is, we submit, no reason to change our view.

Whether or not the package will achieve the restraints sought by the Commonwealth and assist in the restoration of our economy is something that will only become determined in the months ahead.

Our third key issue was the attitude of the Government to the centralized wage fixing system and the recently formulated package designed to operate until at least May of 1988.

As previously indicated, we believe that there are certain aspects of the package that may be too flexible for our fragile economy. However, it is fair to say that there are aspects of the 1983 package that we were not ecstatic about.

The benefit we see with this sort of

MR JARMAN: package is that the Principles provide a set of parameters for all parties when dealing with claims for increases in pay and conditions.

We believe that it is appropriate, considering our economic predicament, that we have a centralized wage fixing system providing a controlled industrial relations environment.

We consider that it would be inappropriate to return to a `law of the jungle´ situation which could set back the recovery of our economy and create lasting damage.

So, in short, we believe at this point in time that we are better off with the system than without it.

Our fourth key issue went to the subject of public interest.

As indicated previously we are of the opinion that a centralized wage fixing system is appropriate.

We feel that such a system provides for a degree of control over industrial issues and, until proven otherwise, provides the best option for assisting economic recovery.

As we see it, the question arises as to whether or not the new two-tier approach is a suitable form of centralized wage fixing for this jurisdiction.

We have already indicated that we have some reservations about the national wage decision. However, we are cognizant of the fact that centralized wage fixing has been designed on the concepts of commonality and uniformity.

To distance ourselves from the national wage decision may prove disastrous for the State´s industrial system.

We must remind ourselves that there are people working within this State

MR JARMAN: who are covered and classified by Federal awards.

Those people will, if their unions give the appropriate commitments, receive any benefits flowing from the two-tier system.

To initiate something different in this State could, in the long time, prove inequitous for persons covered by award in either jurisdiction.

We should not lose sight of the fact that the centralized system has been designed to overcome inequitous situations.

In our view it would be appropriate if the decision of the national wage Bench was adopted by this tribunal subject to any necessary minor jurisdictional variations.