TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 2652 of 1990

IN THE MATTER OF an application by the Tasmanian Salaried Medical Practitioners' Society to vary the Medical Practitioners (Public Sector) Award

re structural efficiency principle - special case

COMMISSIONER WATLING

HOBART, 2 August 1993
Continued from 17/3/93

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances please.

MR J. HOUSE: If the commission pleases, JOHN HOUSE, appearing with **DR JUPE** and **DR SENATOR**, for the Tasmanian Salaried Medical Practitioners' Society. Mr Commissioner, we'd seek leave that my colleagues from time to time have got other commitments and if it's agreeable to the commission I'll be here all the time but they may not be able to be.

COMMISSIONER WATLING: Oh, well, they're only appearing with you, aren't they?

MR HOUSE: That's so, sir.

COMMISSIONER WATLING: Right, that's fair enough. Good.

MR M. STEVENS: If the commission pleases, MICHAEL STEVENS, appearing with **KATE PAMMENTER**, for the Minister administering the State Service Act.

COMMISSIONER WATLING: Good, thank you. Right, well, are there any preliminary matters? No. Right, Mr Stevens?

MR STEVENS: Thank you, Mr Commissioner. Mr Commissioner, I wish to place before you today the controlling authority's preferred structure for the employment of medical practitioners employed under the Medical Practitioners Award.

Before I place those submissions, I would just like to place on record the fact that the TPSA, who are parties to this award, are not here. And they certainly have been extended an invitation by the commission and, indeed, I have had some informal discussions with their advocates and they certainly know it's on. So I just want to make the point that the controlling authority views that as the PSA having nothing to say about the proposed structure or, indeed, the submissions placed on record by the society on that particular matter of the moment.

I guess I'm just protecting my position because I don't want the PSA coming back afterwards and saying: Okay, Mr Commissioner, this is what we want and away we go. I think they've been afforded ample time to make submissions and they have chosen not to attend.

Now before we look at the structure, I wish to briefly outline the matters that I will be dealing with today. Basically, what I will do is in accordance with the statement placed on record by the commission at the last day of hearing. That is a request by the commission, as represented by you, Mr Commissioner, to have explained to it the classification structure that is to be sought by the controlling authority to be placed in the award, and to also outline the classification criteria by which the controlling authority will determine how

medical practitioners will be classified within that structure.

This information, hopefully, will be of assistance to the commission when we go to the next phase of this matter which, of course, is the salary rates being sought by the society and the supporting evidence and demonstrated work-value changes that would justify the salary points. I'd also very briefly, Mr Commissioner, like to outline our stance on the changes to the conditions being sought by the society.

The purpose of this submission is to assist the commission by informing you of our stance. However, I must say that I will not be placing submissions on the content of the society's claims regarding conditions, nor the controlling authority's submissions on the merit of these claims. The reason that we don't seek to do this at this time is that this is consistent with the agreement between the parties that was discussed and agreed before you, Mr Commissioner, on transcript prior to the commencement of the case, and that is that the controlling authority's arguments will follow the conclusion of the society's arguments.

So, Mr Commissioner, we hope at the end of our submissions you will be in a position to have a solid basis on which you can adjudge the work level arguments by linking the evidence back to a structure. And who knows, Mr Commissioner, it may even be an agreed structure.

I do believe, Mr Commissioner, that the structure that we propose is very similar to the structure proposed by the society, so there is some common ground on which you can proceed. I will imagine, however, that the parties will .... completely different views on the appropriate salary rates that should be attached to this structure.

Now I would point out at this time that the controlling authority is unaware of the amount of remuneration that is being sought by the society, although I'm sure that this will be revealed in the not too distant future.

So, Mr Commissioner, if I could go to the matter of structure and I will come back in my submission to refer to the structure and the classification criteria proposed by the society. But I think it will assist you to know what our proposal is about before I talk about the proposal claimed by our friends at the other end of the table.

Now I wish to hand you at this stage, Mr Commissioner, an exhibit.

COMMISSIONER WATLING: This must be your first, isn't it? We'll mark this MATSSA.1.

MR STEVENS: Thank you. Now if I could just briefly explain the exhibit, Mr Commissioner. It's slightly different to how we normally do our exhibits in that what I want to do is to, if you like, put in one exhibit all the information that goes to the classification structure and criteria. And so, hopefully, it will assist the commissioner in just having one exhibit to deal with. So what I've actually done is included in that exhibit an index of the information that we will be providing to you during the course of our submission. So if the commission is happy just to -

COMMISSIONER WATLING: We'll just give it one number and then you can refer to it as the page number in that exhibit, if you like.

MR STEVENS: Okay, thank you. Now the first batch of material in the exhibit deals with the structures in other state and territory awards covering medical practitioners. And when I use the term `medical practitioners' I basically refer to those people who are employed primarily in the public sector, i.e. not visiting medical officers. In all other states and territories, of course, they do have separate arrangements, as we do here, for visiting medical officers.

Now the reason I have put other states in and territories is so that you can see the type of structures and changes that are occurring in these states and territories. So if I could start, pages 1 and 2, essentially, is just a summary, a ready reckoner, if you like, for the commission's benefit on each of the states with the particular classifications and the salary rates and, more importantly, the number of salary points. So I won't propose to run through that because I'll run through in some detail the states and then, hopefully, the commission will just have a ready reckoner if you require information.

So if I could start with Western Australia, Western Australia have two major awards covering full-time medical practitioners. The first award is known as the Metropolitan Teaching Hospitals Award and it covers what can be categorised as training positions. That is, interns, resident medical officers, registrars and senior registrars. There are 10 salary points. The other award is known as the State Public Hospitals Medical Practitioners Award and covers general practitioners, medical specialists and senior specialists. And there are, in fact, eight salary points in that particular structure.

Now I don't intend to go through the actual salary points but they are there for your perusal, Mr Commissioner, should you so wish at a later date.

I would, however, Mr Commissioner, point out that medical superintendents or directors of medical services, and if I could use the term - generic term, medical administrators from

now on to refer to that group of people, are not subject to a separate award or classification structure, but are actually contained within the Hospital Medical Practitioners Award and are paid as specialists, providing they meet the criteria, but are limited as to how far up the specialist scale they can actually rise.

Now if we go to page 5, New South Wales, New South Wales we have two major awards, the Public Hospitals Medical Officers Award. This, of course, covers the classifications of intern, resident medical officers, registrar, senior registrars, career medical officer, specialist and senior specialist. There are 23 salary points in this particular area. I guess we could probably denote it generically as the clinical award, because the other award covers and is know as the Public Hospital Medical Superintendents Award. It actually appears on page 6 and covers medical superintendents, deputy clinical medical superintendents, assistant clinical medical superintendents, chief executive officers and deputy chief executive officers. It has 13 salary points. Now New South Wales does have, obviously, from this a separate award and classification standards for superintendents.

Page 8, Victoria. Well, of course, Mr Commissioner, as we are all aware, Victoria is in a very unusual situation at the moment where, in fact, as a result of changes to their industrial relations legislation all Victorian awards were abolished on 1 March '93. My information is that the salaried medical practitioners are employed in accordance with individual or collective employment agreements. What that actually means in practice, of course, is that the employment arrangements contain the same conditions and structures as contained in the previous awards. So even though, I guess, they don't have the force of law, so to speak, I still put them in because it gives you an idea of the sort of structures that are contained.

Now there are two awards: the first is the Hospital Medical Officers Award; it covers medical - hospital medical officer, hospital senior medical officer and hospital registrar - 11 salary points. The other award is the Hospital Specialists and Medical Administrators Award. This covers the classification of specialist, senior specialist, principal specialist, senior principal specialist, director of medical services and deputy director of medical services with a total of 14 salary points.

Now, unfortunately, I have not been able to ascertain what is likely to occur in Victoria, but it would seem there is a possibility of progressing individual contracts because I understand from the Victorian Department of Health and Community Services that it - government policy is that each hospital stands alone and negotiates directly with either the AMA or whoever represents the doctors or in fact the doctors

themselves individually, so there is no central coordination of doctors salaries, so the results of that will be extremely interesting.

Now if I could go to page 10, Australian Capital Territory. Australian Capital Territory has one award or in fact it is an industrial agreement known as the ACT (Improving Productivity in ACT Public Sector Health System) Agreement. This award contains the classifications of resident medical officer, registrar, senior registrar, career medical officer, community medical officer, specialist, senior specialist, deputy medical superintendent and medical superintendent. It has 46 salary points. Rather, in our view, a lot for the number of medical practitioners it would cover.

13 - lucky 13 - the Northern Territory Award which in fact is also an agreement known as the Medical Officers(Northern Territory Public Service) Agreement, an agreement certainly Mr House is far more familiar with than me being involved with the negotiations on it, but the set up under this agreement is slightly different to other awards and essentially what we have is a spine or backbone award where we have a number of levels, 1 to 24, and then we have a number of designated, if you like, classifications which have a range of levels within it, so when you're actually looking through you can see that in fact there are levels which appear in more than one classification, for example, level 4 appears both as a clinician and as a training registrar and that sort of example is repeated as we go through, and in fact when we first started putting our structure together we, in fact, tried to design something similar to that, but we got into trouble - .... say got into trouble - we had great difficulty in actually sorting out what the appropriate relativities should be.

Now the number of distinct classifications or, if you like, headings, are 13 which, just as a matter of interest, is greater than any other state or territory. Now for your information the classifications used are, clinician, training registrar, senior registrar, hospital medical officer, senior hospital medical officer, medical administrator, rural medical administrator, specialist clinician, specialist medical administrator, specialist public health and medicine, senior specialist clinician, senior specialist administration, senior specialist public health medicine which, I guess, without knowing the full impact of how it actually works, would seem to be a rather lot of classifications.

Now if we could skip Tasmania because we'll come back to Tasmania and move to page 18, Queensland. We have essentially three awards; the first is a Resident Medical Officers Award

Public Hospitals Queensland, and Queensland Radium Institute. It covers interns, junior house officers, senior house officers, registrars, principal house officers, senior registrar. It has 11 salary points.

The second award is the Regional Health Authorities Medical Specialists and Medical Officers Interim Award. It covers medical officer/general practitioner, medical officer/general practitioner with FRACGP, staff specialist, senior staff specialist and has 11 salary points.

The final award is the award for Senior Medical Staff Public Hospitals Queensland and the Queensland Radium Institute. It covers medical superintendents only. It has 14 salary points.

That leaves us, if you like, in the run round the states with South Australia which I have included on page 20. South Australia has one award known as the South Australia Medical Officers Award. It covers intern, resident medical officers, registrars, senior registrars, medical officers, consultants and senior consultants and has - I think it's about 33 salary points. Anyway, it's of that order.

But I would like to say, for the commission's benefit, the South Australia - and my understanding is that they are currently negotiating with the South Australia Salaried Medical Officers Society - SASMO?

DR SENATOR: SASMO, yes.

MR STEVENS: - yes - on a new award and in fact they have just completed a fairly extensive study on the work patterns of training doctors - residents, registrars, interns - which is not available for other states to look at yet, but certainly we'd be very interested in what they found .... Interestingly enough, it was done as an agreement between SASMO and the South Australian Health Department and covered quite a range of materials so that would certainly be interesting so see whether the myth of what people do and don't do actually matches up with the reality.

Okay. So, that a quick run round the states. I haven't put the Commonwealth in and the reason I haven't put the Commonwealth is, essentially, the Commonwealth medical practitioners are mainly employed in Department of Veterans' Affairs and most of those, certainly in New South Wales and Tasmania, are now part of the state health authority and there are plans to make the other Repatriation Hospitals a part of the appropriate state awards - covered by the state awards and the guiding principle is that they will actually pick up the state awards. They won't go over with their own classification structure or - which of course has led to certain in-house arrangements about salary, but the point being the structure is determined by the states.

Okay. So what can we gather from what the structures are around the country. Well, obviously the first thing is that there are fairly disparate structures, but there are common features which are worth noting. If we look at what - I could refer to - if I could refer to as training positions, we see that the common classifications are interns known as clinicians in the Northern Territory; residents, registrars and senior registrars.

Similarly if we look at the specialist classification, all states and territories have, as their common classifications, specialists and senior specialists and in the medical practitioners range there certainly seems to be emerging a fairly defined career range for medical practitioners. Medical administrators, also in the main, have unique classification points, although Western Australia don't.

So, what do we have at present in our state? Well, if I could refer you back to page 16 we have one award. We have the classifications of resident medical officer, registrar, medical practitioner, deputy superintendent, superintendent, and specialist. There are 38 salary points. Now, clearly, in our view, the structure does need to be changed and to borrow the words from the society in their submissions on the structure, we have attempted to design a structure that is consistent with the structural efficiency principle and does maximise the concepts of simplicity, flexibility, clarity, accountability, equity, logic, pragmatism, and modernity.

We have designed a structure that does reduce the number of salary points and introduces clearer more manageable classification criteria. Now, Mr Commissioner, if I could refer you to section 23 where we actually start our classification, both criteria and structure - just some introductory notes so you have some idea of where we're coming from.

I have split the classification structure and indeed the classification criteria into three distinct categories. These categories are medical practitioners in training, medical practitioner, and specialist medical practitioner. Now it would be my submission that this is how it should appear in the award, as three separate sections. Again, the alternative to that is to use a structure similar to the Northern Territory where levels are specified and certain levels are replicated within the classification nomenclature contained with the award.

We do not favour this approach for a number of reasons. The first, and in our view one of the most important, is that relativities, as far as the controlling authority goes, between the three structures are not finalised as yet. We

have ideas about where they should go in, if you like, in rough terms where the cut in and cut outs would be in the various structures, but our final view will be shaped by the evidence that the society intends to lead, and indeed what they will be putting forward as their work-value changes, and we need to consider that, if you like, as a whole prior to making our final decisions on where the actual relativities should be between the three sections.

So as we go through, I'll give you an understanding where we would see approximately the relativities gain, but would need some fine tuning.

So, Mr Commissioner, if I could start on page 23 with the first category, that is: Denoted Medical Practitioner in Training. And if I could actually refer you to the table itself.

There are four classes in this category - Class I, II, III, and IV. What I have attempted to do - or, I should say, we, as the agency have attempted to do, is to keep the specifications to just classes, not classes and grades or classes and levels, so we have a consistent approach across.

Class I, which would have a spot salary, and is what is known - what are known as interns. Class II has a 3-year salary scale and is to be used for resident medical officers. Class III has a 4-year salary scale and is to be used for registrars. Class IV would be a spot salary and is for the classification of senior registrar.

If I could note, Mr Commissioner, that the senior registrar in fact is a new classification that we are proposing.

It would be my submission, Mr Commissioner, that the titles I have referred to in the column on the right-hand side should be incorporated into the award itself perhaps by including them within brackets next to the actual class. I'd argue this on the basis that these titles are used Australia-wide and are certainly widely used in the hospital system and would assist those who will use or may need to use the award and are not skilled in industrial relations or the use of awards. So it would be, I think, a user-friendly feature if in fact we did that.

Now if I could refer you to page 34 - 24 - sorry, Mr Commissioner. This contains the classification criteria which denotes the classes and therefore the difference between the classes.

Now the wording is brief and it's certainly brief if you compare it to the wording prepared by the society, but the reason it is brief, Mr Commissioner, is that we have tried to design something that is simple, understandable and, if you

like, factual, and doesn't get too involved in qualitative concepts. They certainly have a place which I will come to later in my submission, but this is, if you like, the factual material.

So, Mr Commissioner, a Class I is a medical practitioner who holds limited temporary or provisional registration under the provisions of the Medical Act 1959. I would have to confess, Mr Commissioner, that I made a note to first thing this morning to actually find out the difference between limited, temporary and provisional registration in case you asked me that and I forgot. But I'm sure -

COMMISSIONER WATLING: So is that a hint I shouldn't ask you?

MR STEVENS: Well I'd prefer if you didn't, but I'm sure that there are people here who would -

COMMISSIONER WATLING: But it's - would be defined in the act anyway, wouldn't it?

MR STEVENS: My understanding is, provisional registration goes to interns, so they've passed the qualifications but haven't actually got their experience.

Now Class 2, the resident, is a medical practitioner who is fully registered under the provisions of the Medical Act and has had a minimum of 1 year's relevant post-graduate experience.

Essentially, it's just someone who has completed their internship.

Class 3 - and this where we start to depart from what was previously in the award - is a medical practitioner who is fully registered under the provisions of the Medical Act, who has had a minimum of 4 years' relevant post-graduate experience and is undertaking a course of study approved by the National Specialist Qualification Advisory Committee.

Essentially, Mr Commissioner, this class is reserved for the employee who is in an accredited training position and is embarking on the training program. Now we have included NSQAC - if I could use acronym NSQAC - as the one organisation which has the definitive view on what training programs are recognised and what qualifications are recognised. This is in fact a central plank of our submission and one where we differ quite markedly from the society, as we would submit, Mr Commissioner, that only those qualifications and specialities recognised by NSQAC will be recognised by the controlling authority.

Now there is an amount of discussion on transcript from the society about the inclusion essentially of the FRACGP - the

Fellowship of the Royal College of General - of General Practitioners - I've missed out an `A' - it must be Australian - and FACEM, which is the Fellowship of the Australian College of Emergency Medicine. They're the two, if you like, major disagreements between the parties. Our view is that until NSQAC recognise them as specialities we won't, and therefore they should not be, reflected within the official classification criterias deserving of a higher grade based on qualifications.

So -
COMMISSIONER WATLING: So to your knowledge, they're not recognised - those additional ones are not recognised by NSQAC - is there any intention to recognise them?

MR STEVENS: Well, since I've - and I must admit I'm not intimately involved with the Medical Practitioners Award - but since I've become acquainted which now is some years ago, I can - it has always been on the books that the FRACGP is going to be recognised - it never has. I mean it may or may not happen. I'm advised in reading the transcript, the society is certainly of the view that it is going to happen and may be -

COMMISSIONER WATLING: So you're saying when it does happen you'll recognise it?

MR STEVENS: We'll recognise it, and it will already be in the award ready to be recognised because we'll just say all those qualifications endorsed or approved by NSQAC. I would however point out that the FRACGP is recognised by NSQAC as a higher qualification which means that it is - that's important when we come to our medical practitioners classification criteria. It is recognised that the higher qualification or the senior qualification - and my understanding is that you have to have a senior qualification to be an approved specialist. So they don't actually see general practitioner as being a speciality but they do recognise the FRACGP as being -

COMMISSIONER WATLING: As a higher qualification.

MR STEVENS: - the higher qualification. And I'm advised that FACEM has yet not got to that level.

Now the classification criteria itself - it is important to note that the criteria limits this class to those in training positions. We do have employees at present, Mr Commissioner, that are employed as registrars, but are not in accredited training positions and who perform a valuable role and quite a significant part of the hospital work force.

Those employees under our new structure will be classified as medical practitioners Class I - but I'll come to that shortly.

Now the 4-year experience I think quite clearly comes from 1-year internship and 3 years as a resident medical officer.

Class 4 is a medical practitioner who is fully registered under the provisions of the Medical Act 1959, has a minimum of 7 years relevant post-graduate experience and who has successfully completed all examination requirements for a senior qualification in accordance with national - with the National Specialist Qualification Advisory Committee.

So essentially, these are people who have qualified as specialists, or at least passed the examination part of being a specialist. Now we actually proposed a new classification which in fact makes us similar or at least supportive on this particular aspect with the society. There are number of reasons for us doing this as a controlling authority.

We do have a number of registrars who gain their senior qualifications that is required so they can become a specialist and there are not specialist positions available. Now my understanding, at present under the current award they are employed as registrars and receive a qualification allowance.

Now it's my view that part of the streamlining of award that in fact we - we get rid of qualification allowances and that e recognise the qualifications in the classification criteria not by separate allowances. But that probably is an argument that we'll have when we get more into the conditions side of it, but I think it's important that the commission are aware from the outset of where the controlling authority stands.

COMMISSIONER WATLING: So you'll be taking the line that the allowances won't appear in the award and should appear in their salary rates?

MR STEVENS: Mm.

COMMISSIONER WATLING: An all-up rate for the level and the classification.

MR STEVENS: Yes, yes. We might dilute that somewhat when we get to the specialist range but I'll - I'll talk to you about that when we get to that.

Now the controlling authority submits that the people who have gained this qualification do possess skills that would justify a separate work level standard and flowing from that, Mr Commissioner, we would say that they should and would exercise that additional responsibility and hence the controlling authority would use these people, if you like, for coverage purposes in substitution for specialists on various rosters.

An attraction for the controlling authority, Mr Commissioner, but I'm sure you could appreciate or at least recognise that it essentially gives the ability to have a more flexible work force which does have some flow-on in - in cost efficiencies for the agency.

Now our advice from other state health authorities on whether or not this actually works - whether the use of senior registrars is beneficial, the - the general information is that they are but it does require some fairly strong medical administration to ensure that they fully fulfil their role.

If you like, the award setup is - gives the ability for the controlling authorities to actually achieve the sort of benefits I've talked about, but it becomes more a managerial problem rather than an award problem, say. Obviously we're of the view that we could resolve that without too many problems. We would also argue that the minimum of 7 years' experience be required. Now I understand, and again I would be advised from my colleagues at the other end of the table, that this is not the case, but there are a number of specialist colleges that actually hold their examinations prior to the relevant experience being worked.

And as we, in the work level standard, would be expecting senior registrars to have both the theoretical and practical experience necessary to fulfil that - those functions, we see the 7 years as being essential to ensure both the practical experience and the theoretical knowledge match-up. So we would argue that the 7 years is the appropriate period of experience.

If I could turn to the second - page 27 - sorry - page 25, the second group is that of medical practitioner. Now just for the commission's benefit, we actually started off denoting these - this actual group of classifications as career medical practitioners, but we've dropped career. Most other states use it but there was certainly a view amongst a number of people that we spoke to that career was not really an appropriate term, so we've just called this class medical practitioners.

Again four classes: Class I has 3 years, Class II has 2 years, Class III and Class IV have spot salaries.

Now could I just say, Mr Commissioner, this is the area of - of the greatest reform or recasting of the current award. Previously there were 17 salary points within the medical practitioners part of the award and we are proposing seven.

Now if I can take you to the classification criteria, Mr Commissioner: Class I - is a medical practitioner who is eligible for full registration or holds limited or temporary registration under the provisions of the Medical Act 1959 and who has had a minimum of 3 years' experience.

This class is for the group of employees we were talking about in respect of being held against registrars positions who aren't actually in accredited training positions. Now quite clearly we would see the relativity of this particular salary - the first year salary point - coming in at around about the third year salary rate for an RMO - resident medical officer - or resident.

So that's where we'd see the Class I medical practitioner coming in. That would -

COMMISSIONER WATLING: So it would be third year level of Class II -

MR STEVENS: Yes.

COMMISSIONER WATLING: - for a medical practitioner in training.

MR STEVENS: Practitioner in training - would be the first year - Class I. And in the second and third year the rate would relate to the registrars.

Now these employees, as I've said - or these people as I said are essentially in training but not as specialists. Now the reason I've got limited or temporary registration is it is my advice that we do have a number of people who hold limited or temporary registration who are employed in some of our hospitals especially on the north-west who don't hold full registration and that's essentially because they are overseas trained doctors and they're either going through an accreditation process or they're going through an immigration-type process but they are granted I think it's temporary registration - it might be limited, I'm not sure, but anyway it's to cover those category of staff. So essentially they're not covered at the moment but they are part of our work force.

Class II is a medical practitioner who is fully registered under the Medical Act 1959 who has had a minimum of 7 years' relevant post-graduate experience.

We see this, Mr Commissioner, as the top of the career range for medical practitioners and these people would be serving as a professional without direct clinical supervision. Hence our requirement for 7 years' experience.

This category of staff also encompasses our general practitioners at community health centres, our medical

practitioners in the public health areas and also the remaining district medical officers. Now I'm informed that we have one at the moment and I suspect that as time goes by the district medical officers will not become a feature of public sector employment.

As you probably know, Mr Commissioner, district medical officers were essentially government employees who were placed in a remote area to service the community there but were actually employed by the government - they weren't set up in private practice.

One of the places, just as an aside, that there was a district medical officer at St Helens. Now I think the latest change shows that St Helens is quite - is quite a nice place to operate a private practice and in fact the district medical officer has left us and set up his own private practice.

So over time, the district medical officers will disappear but they will actually be classified as Class II.

Obviously the other benefit for the controlling authority is that we want to try and build a staff component in hospitals with a generally trained work force, again to try and, if you like, save on some of the reliance on specialists or visiting medical officer services. That it is a - an Australia-wide trend of trying to get general practitioners into hospitals. I think it's probably fair to say that it's more likely to be in places such as the North-West Hospital - North-West Regional Hospital and not so much in the training institutions such as the Royal Hobart Hospital.

Class III is a medical practitioner who is fully registered under the Medical Act 1959, who has a minimum of 7 years' relevant post-graduate experience, and who holds a qualification which is recognised by NSQAC as a higher qualification.

The controlling authority sees this position being restricted to those medical practitioners who hold qualifications considered by NSQAC as being higher and they are defined in the booklet and includes such - when I say the booklet, I actually mean the NSQAC booklet. I think that's an exhibit, isn't it, Mr Commissioner?

COMMISSIONER WATLING: Yes, I think it's been tendered before.

MR HOUSE: It wasn't actually an exhibit, I think I just passed it up for information.

COMMISSIONER WATLING: Made it for information. Yes, here it is. I've got it.

MR STEVENS: I don't intend to refer to it but just as long as the - is the green one the latest one, is it? I've got the blue one.

MR HOUSE: It's the latest I have, '91?

MR STEVENS: '92.

MR HOUSE: Oh, well, you're ahead.

MR STEVENS: Might compare notes after. Now it is of obvious benefit to the controlling authority to encourage the general practitioner work force to have this qualification, especially in the community and district health centres. And we felt that, as Class II being, if you like the top of the career range medical practitioner requiring 7 years' experience, there shouldn't be an additional years of experience requirement on someone who holds a higher qualification. It should just be the holding of the higher qualification. That's why we've left it at 7 years, not changed, if you like, to the 9 years.

So that's where we see the Class III. Class IV is a medical practitioner who is fully registered under the Medical Act, who has had a minimum of 9 years' relevant post-graduate experience and who is appointed as a head of a division or department within a hospital or program. Obviously, what we see this classification being reserved for, Mr Commissioner, is those medical practitioners who are appointed as heads of department or divisions, and we would say that they should have a minimum of 9 years' experience.

We would obviously see the Class IV as being of an equivalent salary rate to, without putting a final submission on this because we would revisit this, but somewhere of the Class II/Class III and the specialist range, somewhere of that order. And would cover such people as the director of emergency medicine of both the Royal Hobart Hospital and Launceston General Hospital.

So that's the medical practitioners. If I could turn to our third category, which is page 27 and page 28. That is the category of specialist medical practitioner. If I could - there are again four classes, Class I has 3 years, Class II, Class III and Class IV have spot salaries and Class IV is for a senior specialist.

COMMISSIONER WATLING: So II, III and IV will be all spot salaries?

MR STEVENS: Yes. Class I, if I could just say why we have put 3 years into Class I. There has been some - if you go back to the previous award we actually had a range of specialists starting with Class I Grade 1. I think there were

four grades in the specialist Class I, but because of the experience requirement being 2 years' experience, it actually meant that you went, I think, to a Class I Grade 3 and because you could count your actual training time as experience, it meant that we had two grades that we could never use. So it is our view, and it is certainly the view of our directors of medical services, that there should be some years of experience - or that there is a fairly steep learning curve for the first 2 years after final qualifications. So that's why we've got first year, if you like, somebody who comes out as a specialist with no practical experience subsequent to the gaining of the speciality, so we'd have the 3 years - first, second and third year. But, I guess, the arguments on that will become more apparent to you when we actually sit down to talk about the appropriate salary rates outlined .... et cetera.

Now I have to tell you, Mr Commissioner, I guess, up front because it won't take you long to -

COMMISSIONER WATLING: To work it out.

MR STEVENS: - work it out when we get over the page, that we see the progressing from Class II to Class III as being, essentially, based on years of experience. I certainly read with interest the debate between the society and the bench on this particular matter and, I guess, we'll probably have something similar but as far as the controlling authority goes, we do support the approach and I'll outline .... when we actually get on to it.

COMMISSIONER WATLING: So that's one thing you're in agreement on anyway.

MR STEVENS: Yes. Two out of three we're in agreement on anyway.

Now, Mr Commissioner, it is our view that the Class IV level be reserved for senior specialist and as we have put previously in the submissions all other states and territories have a classification of senior specialist and in some cases there are classes within that range. Now it is our submission that such a classification is required in our award. The question of advancement of eligible medical practitioners to this level is a vexed one. It should not be automatic. We have attempted to address the problem in the following manner.

Firstly, there is a significant experienced - perhaps if I - I'm actually getting a little ahead of myself. If I could refer you to page 28 and actually go through the classification criteria, starting again at Class I. Class I is a medical practitioner who is fully registered under the Medical Act 1959 and who has had a minimum of 7 years' relevant post-graduate experience and who holds a senior

qualification recognised by the NSQAC as appropriate to his or her speciality.

Class II is a medical practitioner who is fully registered under the Medical Act 1959 and who has had a minimum of 9 years' relevant post-graduate experience and who holds a senior qualification recognised by the NSQAC as appropriate to his or her speciality and has had at least 5 years' practical experience in that speciality subsequent to the gaining of the senior qualification.

Class III is a medical practitioner who is fully registered under the Medical Act 1959 and who has had a minimum of 11 years' relevant post-graduate experience and who holds a senior qualification recognised by NSQAC as appropriate to his or her speciality and has had at least 8 years' practical experience in that speciality subsequent to the gaining of the senior qualification.

There's nothing magical about those figures that we have chosen, the nine and the five, the 11 and the eight. They, in fact, are the same as currently appears in the award. My research from how other states do it shows that - I would have to say, there's not unanimity - it's not unanimous. I was just trying to think of the noun. Those are the particular years of experience but certainly of that order. It is around about 5 years' experience, if you like, to get to the second grade and around about the 8 years to get to the third grade.

Now if I could go to the Class IV and, as I way saying, we have the situation of trying to ensure that the advancement is not automatic. If I could read the classification criteria that we have: is a medical practitioner who is fully registered under the Medical Act 1959 and who has a minimum of 15 years' post-graduate experience and who holds a senior qualification recognised by the NSQAC committee as appropriate to his or her speciality and who has completed at least 12 years' practical experience in the speciality subsequent to the gaining of the senior qualification.

The controlling authority will give consideration to recommendations on appointments to this level by the peer review committee set up under this award.

If I could briefly look at the experience requirement, 12, the society actually put 10 in theirs, although I do note on page 378 of transcript the society did say that they felt the requirement for the senior specialist should be at least 10 years. So, I guess, we are saying that there is a fairly hefty experience requirement and I don't think there would be too many problems with that as a principle, given that we are, if you like, rewarding both individuals and positions for being something a little out of the ordinary.

Now the second criteria is that the controlling will give consideration to recommendations on appointments to this level by a peer review committee. The controlling authority does support the society's submissions on the establishment of a peer review committee, but not the two person committee as proposed by the society. And I would say, which I will come back to in my submission later, we certainly do not support the peer review committee being involved in any of the other issues that were actually put forward.

Mr Commissioner, the success of the -

COMMISSIONER WATLING: So you only support it in relation to this Class IV?

MR STEVENS: Yes. I think there's about six matters that the society proposed that the peer review committee could look at and I'll be dealing with those shortly.

The success of the approach to classification relies on -

COMMISSIONER WATLING: So you - can I just go back then. I must take it from that, that you're seeing that the peer review committee is a body that would recommend only.

MR STEVENS: Yes.

COMMISSIONER WATLING: So it's an advisory body?

MR STEVENS: Yes.

COMMISSIONER WATLING: It doesn't have any power other than making recommendations?

MR STEVENS: No. It's an advisory body. I'd say from my research, Queensland and New South Wales have a peer review committee - South Australia, sorry have a peer review committee which assists their controlling authority in promoting people, and it actually seems to work pretty well.

Now, Mr Commissioner, the success of the approach to classification relies on the criteria that the peer review committee will use.

We do have views on what that criteria should encompass, but we also have a view that as a first stage we would like to discuss with the society to see whether or not we can, if you like, formulate some agreed criteria for the peer review committee to consider when they are making their recommendations.

COMMISSIONER WATLING: So are you saying that the controlling authority will establish a peer review committee?

MR STEVENS: Well, we would say yes. If the commission adopts the classification criteria -

COMMISSIONER WATLING: Right. I am just trying to work this back. So if you are saying that the controlling authority will appoint or establish a peer review committee, then who draws the charter for this committee?

MR STEVENS: Well, that's - I guess what I am saying is, we would like in the first instance to sit down and discuss with the society and see whether or not we can't get an agreed charter. The society have presented as a submission a charter.

I guess, with great respect to the commission, we'd prefer to try and develop it as a cooperative approach rather than us put up what we think and the -

COMMISSIONER WATLING: Well, I'd have to say that I would be more than happy for you to try and work through the charter if you are going to establish it during the course of the submissions put by the employees. It started off that this committee would have the say, that it would make the ruling, and then we got into some debate as to whether or not it was an advisory committee and whether it had any powers in its own right.

MR STEVENS: Yes.

COMMISSIONER WATLING: Now when it goes to this whole matter I am more than happy if you can reach agreement on as much as you can. Like, it is conciliation before arbitration.

MR STEVENS: Yes.

COMMISSIONER WATLING: So if you want to sit down with the employees and talk about a charter. You have obviously got some agreement that you'll establish a peer review committee but you have obviously got to work this other thing through. I'm more than happy if you try and work it through.

MR STEVENS: Yes. Yes, well can I say when the parties had negotiations there was a huge range of matters to be negotiated and it was quite obvious the parties were not going to agree on the majority of those, and I think it is fair to say the society took the view that, okay, we're better off getting the case started and starting to, if you like, work through things.

So, hopefully we're in a stage now where if we can negotiate on a couple of these - I wouldn't say lesser, but lesser in number at least now - we may be able to resolve them.

Now I guess it is fair to say that the society at the start of negotiations did see the peer review committee on having the final say on whether or not someone would advance.

We would not support that, no matter what happens, so maybe we won't be able to agree to some of the, if you like, building blocks or the fundamentals of peer review committee, in which case we will come back and put our submissions as to why we can't, and what you should rule, one way or the other.

But, in the first instance, I certainly extend that invitation, and as I imagine this case has still some distance in time to run it's certainly not going to slow anything up.

Anyway, I am sure the society will respond in due course on that.

Now - and the other thing I would say is - if they are not interested, then of course we will make submissions to you on it. They would be in the manner of information, I'm not saying necessarily that we would seek your approval to set up a peer review committee, but we'd give you a -

COMMISSIONER WATLING: No, but I am noting at this stage that you have got it in the definition that you'll give consideration to their recommendations. So that, prima facie, it must suggest that you support the establishment of a peer review committee.

MR STEVENS: Yes.

COMMISSIONER WATLING: How that peer review committee operates as far as you're concerned is yet to be finalised by some discussions. As you say, you may not be able to finalise its charter, in which case I'll have to intervene. But I prefer it you work it out.

MR STEVENS: Yes. Okay. Thank you, Mr Commissioner.

COMMISSIONER WATLING: I think it is a stepping stone to say that you have got at least to the first point, and that is that you are prepared to agree that there should be a peer review committee.

MR STEVENS: Yes. Right. Now, Mr Commissioner, as a general comment, you will note that our classification criteria we put to you covers the areas of experience and qualifications.

There are a number of other criteria that should be used to assist in meeting the levels.

The major area that we would be seeking to include is to actually introduce performance criteria for each classification.

Now again, Mr Commissioner, we have views on what should be in the performance criteria. Again there may be benefit to see whether or not we can reach some sort of agreement with the society on the performance criteria which would denote the various levels.

I mean, the reason I guess we're looking at this particular aspect in relation to performance and peer review is it really is a cooperative approach.

For it to work properly, any performance based criteria to work properly is best started from - at least started from an area of agreement. So we'll see how we'll go.

But, again -

COMMISSIONER WATLING: So you are foreshadowing that you are going to try and conciliate this with the other parties?

MR STEVENS: Yes, well what I will be coming to is, my submission on the classification criteria put forward by the society is an amalgam of performance criteria, qualifications, experience, work level standards.

It is, in our view, quite complex and difficult to understand. We want to make it as simple as we can.

If we take out the qualifications and experience as being matter of facts - they're not endorsed by you - at least you'd know where the two parties stand, and then we try and build the performance-based aspects of the classifications.

COMMISSIONER WATLING: Who would actually, sort of, carry out this performance appraisal?

MR STEVENS: Well the controlling authority. I mean, we would see, I guess, the medical administrators as carrying out the performance appraisal. Can I say, we've had some experience in performance and competency-based standards, if you like, with the enrolled nurses' case, which I'm sure you're familiar with, in the federal commission.

Now I'd have to say, with the greatest respect to enrolled nurses, they're certainly a far less complex group than medical practitioners. And it has been almost impossible to develop agreed competency standards or even to really get down to the detail of it. I know it's an Australia-wide move to develop these things, and it's a fine idea, but it certainly brings out a whole host of problems. Where it may have been some time ago we thought we could probably do it without much input from anybody, our experience with the enrolled nurses is saying that that's not the case. You need to involve all sorts of people to try and get something that's meaningful.

COMMISSIONER WATLING: So in this area, if each of the classifications was to contain a performance criteria, given that you've got no firm standards at this stage, would it just be on the recommendation of one's peers?

MR STEVENS: For the Class IV?

COMMISSIONER WATLING: Well -

MR STEVENS: The peer review committee is only to go to senior specialist.

COMMISSIONER WATLING: Is that right?

MR STEVENS: Yes, sorry, I -

COMMISSIONER WATLING: I thought you meant all.

MR STEVENS: No, no, the peer review committee is only to go to make recommendations on the appointment of a Class IV specialist. What we're saying about the performance criteria is that we'd be happy to sit down with the society -

COMMISSIONER WATLING: Yes, but the performance criteria I'm talking about, are you saying the performance criteria for every one of the levels within your proposed structure?

MR STEVENS: Well we'd certainly try and do that. I don't know how real that is, but we're certainly prepared to sit down and see whether it is real. The reason why I say that is because what the society put forward, essentially, was a performance-based thing: you will have responsibility for this, this and this and you will be expected to go to these lectures, publish books or - you know, that sort of stuff, depending on where you came in the structure.

Now we're very concerned about having that just appear in the award. I'll be coming to this shortly but, essentially, in my view, if we have - not only my view, but the controlling authority's view, if we put forward the sort of classification standards like this in the award, which is H.10, then what we really do is create, if you like, a litany for industrial disputes and interpretations before you and the president about what words actually meant and what was done and what wasn't done et cetera, unless they're really carefully thought out.

This is a problem we got to in enrolled nurses. It was easy enough to develop something, you know, which was quite wordy and read well and all the rest of it, but what did it actually mean? I mean, the parties had different views on what words actually meant and away we went. And, in my view, if you're not very careful and don't have these really thought out

totally, 6 months down the track, 12 months down the track you'll get a rush of claims about whether or not someone should be a Class III or a Class II because of some subplacitum that has or hasn't been met.

COMMISSIONER WATLING: So how do we get on then if the award contains a provision which is required to under the principles that the employer can direct an employee to carry out all the tasks and duties within the level on which they're appointed?

MR STEVENS: Well I see no conflict with that. At the end of the day, as employers, if you like, we will determine what we want people to do.

COMMISSIONER WATLING: Yes, but it might be three different things in three different districts -

MR STEVENS: Yes, well -

COMMISSIONER WATLING: - if case history shows.

MR STEVENS: Well it may well be. That's why I'm saying - at the first instance if we can agree on some of the, if you like, performance .... work level material that's been put forward by the society, we might be able to get generic statements which you're going to be happy with, in the award. It may well be that the best thing to do is just to leave the classification criteria as they are, based on experience and qualifications because they're known, they're factual, and then the employer has, if you like, position descriptions which go with it - I don't think we've actually had position descriptions for senior medical practitioners before - and that would outline the tasks and duties.

I mean, I'm approaching it from the -

COMMISSIONER WATLING: I know exactly where you're coming from.

MR STEVENS: Yes, well -

COMMISSIONER WATLING: I know exactly what you're trying to tell me.

MR STEVENS: Yes. And I guess I'm also trying to protect the situation that we don't want to see that in the award because, in my view, that will become a recipe for industrial - perhaps not disputation, but we will be up before you, you know, arguing if someone didn't get re-accredited in 2 years' time. Should they then stay at the Class III, should they drop down, all that sort of stuff.

Perhaps if I - because I want to talk about the society's classification criteria.

COMMISSIONER WATLING: Yes. You just go and do what you have to do. I won't intervene.

MR STEVENS: Okay, thank you, Mr Commissioner. Anyway, as I said, we are prepared to talk to the society about whether or not we can sort something out.

Now the other category of staff that we have not mentioned, Mr Commissioner, nor have we produced specific classification criteria for, is the generic category of medical administrators. Now our submission, Mr Commissioner, is that this category of staff should be classified within the classification of either medical practitioner or specialist medical practitioner. Which category they would fall into would be determined by the controlling authority. So, for example, if we require a medical practitioner with specialist medical administration qualifications to run a teaching hospital or a hospital with a high level of tertiary services, then we would classify that person within the category of specialist medical practitioner, of course, provided they met the classification criteria, and there would be no barrier on how far they could go. They would be treated like other specialists.

Now we would classify a person, for example, where the significant work force is provided by general practitioners, then they would be classified under the medical practitioners classification of the award. It is our submission, Mr Commissioner, that we do not require separate medical administration criteria or classification scales. And I would also point out, I guess, from a pragmatic point of view we have a total of four medical administrators in this state anyway. That's three superintendents or three directors of medical service and one deputy director. So our view is that it is quite logical and proper that they fall into the classification criteria and structure that we have put forward.

So, Mr Commissioner, that concludes our submission -

COMMISSIONER WATLING: So where do they get award coverage then?

MR STEVENS: Well they'd be just classified as a specialist medical practitioner or as a medical practitioner, and they would have 7 years' experience, possess the appropriate qualification or whatever.

COMMISSIONER WATLING: So we couldn't find, from the award then, under your proposal, that medical administrators were, indeed, covered.

MR STEVENS: No, unless you had specialist medical practitioners/medical administrators at the top of the - and medical practitioners/medical administrators at the top of the actual classification heading.

COMMISSIONER WATLING: So could it be then argued that they're award free?

MR STEVENS: I wouldn't have thought so.

COMMISSIONER WATLING: Well if the award doesn't say where they fit and there's no classification for them in the award, and there's no mention of them in the award, I think I could mount a pretty good case to say that they're award free.

MR STEVENS: But if they're classified as specialists or as a medical practitioner and paid - aren't they covered that way. It's just that their duties happen to be medical administration rather than -

COMMISSIONER WATLING: Yes, well they could be a medical - they could be a specialist medical practitioner, but are we going to get into this argument where you then develop all these in-house names again?

MR STEVENS: Well I wouldn't have thought so. I mean, all we're saying is that -

COMMISSIONER WATLING: Well is this person that's going to be the chief medical administrator - say, a medical administrator at the Royal Hobart Hospital, will that person be referred to as a specialist medical practitioner?

MR STEVENS: In award terms, yes.

COMMISSIONER WATLING: What about otherwise?

MR STEVENS: Oh well, internally he would have the title of director of medical services. But it's the same as that people have - I don't know, psychiatrist or endocrinologist, I mean, they're denote the type of speciality. That's not actually specified in the award. I guess what we're saying is -

COMMISSIONER WATLING: Yes, but it's a specialist medical practitioner though, isn't it?

MR STEVENS: Yes. What we're saying is someone who has the FRACMA, I think it is, who is recognised by NSQAC as being a specialist, then what's the difference between FRACMA, the obstetrics and gynaecology speciality or any other speciality.

COMMISSIONER WATLING: Yes.

MR STEVENS: They are specialist medical practitioners whose field of expertise -

COMMISSIONER WATLING: Well I agree that they're specialist medical practitioners, but when you get down to the medical administrator of a hospital the question will then be asked whether they're covered by the award. There's no mention of them -

MR STEVENS: Okay.

COMMISSIONER WATLING: - and you're wanting to eliminate any further elaboration within the levels and standards.

MR STEVENS: Well perhaps we could cover it by having a sentence in both the medical practitioners and - or perhaps in the preamble that medical administrators, however denoted, will be classified within the following streams, within the following three streams.

I think this concludes our submissions -

COMMISSIONER WATLING: Yes, can I just go back to that. The only reason I'm raising this is because there will be a fair amount of administrative work included for these people, right? Everything that we've dealt with up to date has a very heavy medical component.

MR STEVENS: Yes.

COMMISSIONER WATLING: And we're not covering administration at all, under your proposal, in terms of the award. I couldn't find it anywhere. That's why I'm a little bit toey about just this thing running free.

MR STEVENS: Well I think we could tie it down by saying medical administrators, however designated, will be classified within the following streams, dependent on qualifications and experience. I guess, and I'll come to it shortly, as the controlling authority we don't have the concerns of, for example, the medical administrator at Launceston General Hospital will end up on the same classification as the medical administrator at the Royal Hobart Hospital. We don't see that it's necessary to have within the award a grading system to ensure that doesn't happen. And I think you, yourself, in the previous submission, pointed out that certainly nurses, if you like, director of nursing at the Royal is the same as director of nursing at Launceston.

COMMISSIONER WATLING: It's a fact, isn't it?

MR STEVENS: Yes, if we're moving to regional structures.

COMMISSIONER WATLING: It's a fact, isn't it?

MR STEVENS: Yes.

COMMISSIONER WATLING: Yes. Look at all the submissions that were put forward on that over the years.

MR STEVENS: Certainly. Mr Commissioner -

COMMISSIONER WATLING: I get a bit cynical when I see other people playing around in the field, you see, and often because of political reasons.

MR STEVENS: Mr Commissioner, we're pure industrial relations on this end of the table.

COMMISSIONER WATLING: I can understand that but often you're not in control either, with due respect.

MR STEVENS: Well that's true enough.

Now if I could briefly look at the submissions made by the society on this matter, our submission is based on the information handed up in exhibit H.10, and our submission it is not appropriate that this be included in the award. The material forwarded is a mixture of classification standard, work level standard, performance criteria and evaluation reports. Now I certainly don't want to appear critical of the society's efforts, as it is extremely difficult to come up with standards that are logical, real and useful, and that's what I've been trying to do.

And my discussions on classification standards with other state health authorities show that the other states and territories do not have particularly useful standards that we can use. So this being the case it would be my submission that we should stick with something simple and understandable, then I would submit that the society's exhibit does not satisfy either of these categories. As I said before, I think an endorsement of the document as it is phrased is just a recipe for interpretation and industrial disputes.

Now I understand from the transcript that these standards in part come from Commonwealth medical officer standards and the standards proposed for professionals in the professional stream of the November 1991 state award restructuring decision. Those standards in the controlling authority's views are of limited value in this case due to the differences in the subject matter.

With respect to the actual document I would like to make some specific comments. Firstly, the group standard for medical practitioner, that is the overall statement which is page 1 and 2 of H.10, on what a medical practitioner is, is in our view neither necessary nor desirable and in opposed. Within

the specific matters put the reference to the FACEM, the Fellowship of Emergency Medicine, is opposed as it is consistent, in our submission, that the controlling authority will only recognise qualifications recognised by NSQAC for classification purposes.

I'd also say that the re-accreditation of requirement on medical practitioners or on specialists is, at this stage, as I understand it, restricted to only obstetrics and gynaecology at the moment, though we certainly would applaud and we think it is an extremely beneficial view put by the society that re-accreditation should be part of the performance criteria, and we would hope that the specialist colleges do endorse it. And from the submissions placed by Dr Senator previously it would seem that that's what they're going to do. At the moment they don't, so we, in our view, cannot put something in the award that isn't practised. I think that will just result in problems.

Now I'd also point out that the various groupings and classification criteria for medical administration depended on the institution they work in, is also opposed and I don't - for reasons already outlined, we do not support or propose a separate classification level for medical administrators. And, as I pointed out previously, we do have other senior professionals classified at the same level regardless of the region or the institution. It is our submission that the classification of medical administrators on the same level is not - that the outcome of having the classification of medical administrators on the same level is not of itself cause for concern.

Now I note - to Dr Senator's submission when he was arguing about the various roles, on a paper being prepared on hospital role delineation which he exampled to give weight to the society's submission. Now I have seen the paper, I have a copy of it here, Mr Commissioner, because I noted your comments that if you weren't provided with a copy that you may well be seeking to have one. It is our submission that this paper does not relate to the subject at hand. What it does, it deals with ensuring that there is no or little duplication of services between hospitals. And this is obviously essential to ensure efficiencies and no wasted money on duplication of services.

It essentially flowed from a similar document in New South Wales. It's an 80-page document. I'm more than happy to make it available to the commission. I obviously haven't photocopied it as an exhibit, but it's here if you wish to have a look at it.

COMMISSIONER WATLING: But it's your submission that the relevance of it is somewhat limited.

MR STEVENS: Yes. If I could just quote from it: In May 1990, the Minister for Health, the Hon. John White, released for widespread discussion a document titled `Wanted Your Views About a State Health Plan'. This issues papers represented the first major step in the state health planning process. It was designed to allow all Tasmanians an opportunity to have a say in the future direction of our health system - blah, blah, blah - so that we may more appropriately plan services for the future. There is little doubt that Tasmania has had unnecessary duplication of some hospital services, et cetera.

In the past some hospitals in Tasmania have taken the initiative and continue to add to their existing activities without questioning economic viability or patient safety issues. At the same time they were meeting newly identified demands. Many continued to maintain already established services for historical reasons only. This scenario is not unique to Tasmania. Other states and territories have experienced similar growth patterns and, as a result, have devised mechanisms with which to deal with it. As mentioned above, role delineation of hospitals is one such mechanism.

It has been and continues to be successfully applied in New South Wales since the early '80s. Most other states and territories are embarking upon similar programs and it is possible that a national model for role delineation will be developed.

So, essentially, the two, as I understand it, major health planning type documents that were produced on this, was the `Guide to Hospital Role Delineation', and the `Clinical Privileges' paper. I'm not quite sure where the `Clinical Privileges' paper is now, but that was certainly done.

Anyway the document is here, Mr Commissioner, if you want to inform your mind as to whether or not you think it should be taken into account. The reason I've produced it is that you did say in transcript that you may well require the controlling authority to -

COMMISSIONER WATLING: Well that's because at the time I wasn't fully familiar with what was in it. It had been mentioned and -

MR STEVENS: I'll leave it up to your discretion, obviously, if you want - I think the society have a copy of it anyway ....

Now if I could go back to the - make submissions on the peer review committee role. I've already stated the controlling authority does support the establishment of a peer review committee for making recommendations to the controlling authority for appointment to the senior specialist level. However the society has argued that this -

COMMISSIONER WATLING: That's Class IV?

MR STEVENS: That's a Class IV.

COMMISSIONER WATLING: We'd better start talking the same jargon because -

MR STEVENS: All right - for the Class IV level in the specialist medical practitioner classification range. However the society has argued that this committee would also consider the appropriateness of non NSQAC qualifications, the granting of clinical privileges for those without NSQAC approved qualifications, the ability to reconsider sabbatical leave or merit of study course applications that have been rejected by the controlling authority and, lastly, to consider matters of professional or medical misconduct.

Mr Commissioner, we totally oppose the use of this or, in fact, any other committee to deal with these issues. Firstly, the matters of non NSQAC and granting of clinical privileges do not arise, as we do not support any qualification that is not specified or approved by the NSQAC committee. And even if you were persuaded to adopt the society's claim regarding non NSQAC qualifications, it would be our submission that it is inappropriate to delegate this power, if you like, to deem equivalent qualifications to a committee.

The right of appeal to the committee on matters involving sabbatical or course of study programs is not supported either. And I can say the one thing that the State Service Act does - or the state service does not lack for and that is avenues for appeal with the commission itself, the Commissioner for Review, the Ombudsman and a number of internal matters, we certainly would not support another appeal mechanism and, quite clearly, in our view, these matters fall within the normal role of management and the normal range of management prerogative, and should not and would not be delegated.

Now the matter of misconduct, either medical or professional, is a matter that would be dealt with under the Tasmanian State Service Act, essentially, through the appointment of an appropriate enquirer. Now there is a strong argument, Mr Commissioner, that in matters such as this not only does justice have to be done, but it also has to be seen to be done. And I would say that it may not be seen to be done if, in fact, those sorts of matters were dealt with by a peer review committee. So we don't support the peer review committee, if you like, becoming involved in any of those five areas.

So, Mr Commissioner, in summary, I guess, I would urge you not to adopt the classification standards or, indeed, the structure - although the structure is fairly close - proposed by the society, but to adopt a the material we have placed before you.

Now before briefly summing up, I wish to just touch very quickly on the conditions of service matters that have been discussed by the society. I will briefly outline our stance for the information of the parties, but I reiterate that I will not be making submissions on the merit of the society's claims or the merits of our views, as these will be presented to you at the appropriate time.

Now looking at the conditions matters - and I hope I've got them all because there's certainly -

COMMISSIONER WATLING: So what document are you going to deal from - deal with and off?

MR STEVENS: Good question.

DR SENATOR: H.14.

MR STEVENS: H.14, yes. I've actually prepared myself a little one page.

COMMISSIONER WATLING: Well I might make a little note on H.14.

MR STEVENS: Right, okay.

COMMISSIONER WATLING: Is this the one of 17 March '93, being the latest?

MR STEVENS: Yes, exhibit H.14 I've got.

COMMISSIONER WATLING: Well we've had a couple of variations to it over the time.

MR STEVENS: I beg your pardon?

COMMISSIONER WATLING: We've had a couple of variations to it over the time.

MR STEVENS: Right, well I hope I've got the final one.

COMMISSIONER WATLING: The date on mine is 17 March '93.

MR STEVENS: Yes, that's what's concerning me. I haven't got a date on mine. Exhibit H.14 replaces H.8. Anyway I think we'll go and see how we go.

Okay, the matters agreed: title; clause 1; clause 2 - Scope; clause 3 - Arrangement; clause 4 - Date of Operation, which is obviously for the commission to determine; clause 5 - Supersession and Savings; clause 6 - Parties and Persons Bound, even though I'm very tempted to argue that 6(a)(ii) should be deleted, I'll resist that temptation, and move to clause 7. As I understand it, we have agreement on controlling authority; full-time medical practitioner; hourly rate; medical practitioner; post-graduate experience; and weekly rate.

Now I would say that there are a number of classifications - definitions in there that we will probably support now, such as senior registrar. Yes, we'd certainly support the definition of senior registrar and I would need to go through the rest of the definitions to find out exactly where we stand.

COMMISSIONER WATLING: Right, so that's something you've got report back on.

MR STEVENS: Yes.

COMMISSIONER WATLING: Right.

MR STEVENS: Now then, here we go. Classification standards - definitions and classifications standards, sorry, clause 7. Okay, well, classifications standards, you've got our response on that. Clause 8 - Salaries, waits to the work-value component; clause 9 - Transfers of Trainee Medical Practitioners, we oppose; allowances (a), (b) and (c), we oppose. I guess, our view, as I've said before, is that we'd be looking at an all up rate. Clause - that's clause 11, sorry. Clause 12 - Payment of Salaries, I think we have some problems with some of the wordings in clause (b), (c) and (c); clause 13 - Hours of Work, again we would be making separate submissions on that, so we don't support that; clause 14 - Meal Breaks, now my understanding meal breaks, in fact, was a matter that was dealt with under the 4 per cent, and we'd be seeking to have what was agreed to in the award but, again, I'd need to report back. For the purposes of our discussions, now clause 14 is not agreed, and neither is clause 15, 16 or 17. Call Back and Return to Duties - clause 18, obviously, no. Rostered On Call - clause 19, no. Deductions from Salary, Protective Clothing, Meal Allowance and Travelling Allowance, as I understand it, they're direct lifts from the General Conditions of Service, so we wouldn't have a problem with those and, in fact, they would also include clause 24 - Training Courses and Conference Allowances. Clause 25, clause 26, clause 27, clause 28, dealing with study leave, sabbatical leave, examination leave, we would not support, and we would be replacing submission on those. Clause 30 - Rec. Leave, I understand there are some matters on that we'd need to talk to you about too. Clause 31 -

COMMISSIONER WATLING: I think that question is about whether or not it's an additional leave or a compensation to be included at the time of taking leave.

MR STEVENS: Yes.

COMMISSIONER WATLING: So the argument is whether we're increasing the quantum or we're saying to people: because you do this, you'll take an accrued amount at the same time as you take leave, which may look like it's an additional leave, but it's an accrued benefit taken at the time of leave.

MR STEVEN: Yes, that's right, Mr Commissioner. And we, obviously, have a bit to say about that particular matter.

Recreation Leave Allowance, we'd see no reason for it to be changed from the General Conditions of Service; sick leave, we would be making submissions on that; parental leave, assuming that's the same as is in the state service - well, we would support it on the basis that the same has been proposed for the General Conditions of Service. If it is, if it is not, then we would be arguing for consistency with that award, so we have one parental leave clause which would be consistent across -

COMMISSIONER WATLING: I think this is on the basis of the full bench decision.

MR STEVENS: Well if that's the case we'd have no problems with that. I haven't been through the specific wording of it.

MR HOUSE: There are some differences.

COMMISSIONER WATLING: Yes, slight. Anyway you've got to have a look at that.

MR STEVENS: Yes.

COMMISSIONER WATLING: And I think the union is going to have to have a look at it as well in view of the full bench decision now. If they want a commissioner sitting alone to override a full bench decision, novel. I'm prepared to take it on. I mightn't last very long.

MR STEVENS: Bereavement leave, it's the introduction of pro rata. We would want to make submissions on that to you, Mr Commissioner; leave entitlements to part-time employees and relief, again, we would not support; clause 37, clause 38 - clause 38 has been deleted. Right, clause 37, clause 39 and clause 40 and clause 41, we don't see any problems with but they are new.

COMMISSIONER WATLING: Go past me again with that comment.

MR STEVENS: Clause 37 - clause 38 has been deleted, is my understanding.

COMMISSIONER WATLING: Yes. You agree to clause 37?

MR STEVENS: Well, as I understand it, they are new clauses and so we would be placing submission to you.

COMMISSIONER WATLING: Right. And clause 39 in the same boat?

MR STEVENS: Yes, clause 39 and clause 40.

COMMISSIONER WATLING: Right.

MR STEVENS: And, indeed, clauses 41, 42 and 43. We don't have any problems with 41, 42 and 43 or, indeed, clause 40 through to 43, but we would need to make some submissions to you because they are new matters for the award.

COMMISSIONER WATLING: So are they going to be agreed?

MR STEVENS: Yes. Could I reserve on that?

COMMISSIONER WATLING: Right, a big question mark on that.

MR STEVENS: And that's it for me on that particular matter.

MR HOUSE: Through you, Mr Commissioner, are you proposing to indicate your attitude to our part-time provisions?

MR STEVENS: Which ones are they?

MR HOUSE: Well it's in a number of cases, for example, in relation to leave we had, after some guidance from the commission, specifically spelt out how part-time people will be dealt with. And I was wondering if the controlling authority had any general view as to our approach to part-time. I know you'll be picking it up as you deal in your submissions with each clause.

MR STEVENS: Perhaps if I could take that .... and let you know this afternoon. I'm unaware of whether we have formed a general view or not. My advice is that we are going to make submissions on it, but I'll find our for you this afternoon.

MR HOUSE: Thank you.

MR STEVENS: So, in summary, Mr Commissioner, I commend to you our submissions on the appropriate structure and classification criteria. It is a structure that, in our view, does take the best of other health authority's and also encapsulates common structures that are found in other awards.

It's simple, logical, fulfils the requirements of the structural efficiency principle, and is one that will allow the flexibility and the certainty and the career development for those people who use it in such a manner as to fit in with the current wage fixing principles and the way that awards are going in this country.

So, Mr Commissioner, if I could perhaps leave it there and resume my seat.

COMMISSIONER WATLING: Right. Well the question is now, I suppose, that we have two structures before the commission and we're going to embark on this work-value process. The union has probably only just received your view on this today. I don't know whether there's any mileage in seeing whether you can get together or even get closer on the structures themselves, and whether you want time to consider that particular question.

I'd have to say, from where I sit, if we haven't any agreement on the structure, then I'm going to go into the work-value case with two structures in my mind. And you're going to be pushing your view as we examine witnesses and the employees are going to be pushing their view in examining witnesses. Now it would be simpler all round, there's no doubt, if we knew what the structure and then we were work valuing everything to the structure to determine the money.

The questions that are going to surface, I think, during the course of any discussions you have will be a) the structure itself and, b) whether this simpler approach to the definitions should be taken as opposed to the more elaborate one put by the unions. Now it's something that you may wish to look at, but from where I sit it would be easier - and I think from where the parties sit, it may be easier if we went into the work-value argument on an agreed structure, but I understand you mightn't be able to get anywhere near it. But if you can, I think, it's going to sort of take a - the work-value component is going to take an easier course because you're all arguing about the one structure. And you may well cut the work-value case in half because you might be able to get agreement on certain aspects that might not require the calling of witnesses, if you're both looking at the same structure. You may get to the end result a lot quicker.

Now the thing is that you may need some time. I've allocated a fair amount of time this week for this matter and whether or not the commission may be of some assistance in chairing a conference between the parties. But it would be handy for all concerned to get straight into this work-value bit as soon as we can and just look at a structure and say: right, what's the pecking order, why, when and how? At least both parties are looking at or examining witnesses with the same structure in mind. If we go in with two completely different structures

- probably in some cases they're not too far apart, but anyway.

I'm prepared to go off the record and discuss some of this, if you like. Are you happy to go off the record to discuss some of this? Right, we'll turn the record off.

OFF THE RECORD

COMMISSIONER WATLING: We will adjourn now till 10.30 tomorrow morning, at which time we'll enter private conference to examine whether or not any agreement can be reached on the structure of the proposed new award prior to heading into the work-value case. Thank you.

HEARING ADJOURNED