

**IN THE TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

T Nos 2146, 2147, 2152,  
and 2167 of 1989

**IN THE MATTER OF** applications by  
the Tasmanian Trades and Labour  
Council, the Building Workers  
Industrial Union, Tasmanian Public  
Service Association and the  
Tasmanian Teachers Federation to  
vary nominated awards consequent on  
the decision of the Australian  
Industrial Relations Commission  
dated 7 August 1989

re State Wage Case, October 1989

**FULL BENCH**

ACTING PRESIDENT  
COMMISSIONER GOZZI  
COMMISSIONER WATLING

Hobart, 20 March 1990  
Continued from 15.11.89

**TRANSCRIPT OF PROCEEDINGS**

ACTING PRESIDENT:

Could I take appearances in this matter or changed appearances as the case may be?

We'll forego that formality then.

I thought it would be appropriate to make it clear at the outset as to why we're here, and to that extent I refer to the last State Wage Case supplementary decision of 9 November 1989, and where in particular that Bench mentioned at page 15 that it would closely monitor the progress of structural efficiency exercises.

I'll go briefly to the quote towards the end of page 15 of that decision and pick it up where it says, in the second last paragraph:

Our one comfort is that in both the public and private sectors the approach from this point on and for the duration of the Principles is to be strictly in accordance with those Principles. In that regard we announce now that we intend to closely monitor progress of structural efficiency exercises on an award-by-award basis.

However we do not necessarily believe that a lot is to be achieved by that monitoring being carried out solely by a Full Bench.

It is far preferable, we believe, to allow individual members of the Commission to monitor those awards for which they are responsible.

And then we come on to the part which is probably most relevant of all in respect of today's hearing.

And to test the bona fides of the parties in this regard we would expect to receive applications from the TCI

and/or the TTLC during the month of February or March 1990 in relation to reports of progress on an award-by-award basis.

Well, of course, that allowed matters to be brought on by individual members of the Commission or through application of organisations to have those exercises brought back to the Commission.

Since we haven't received any applications by either of the two major organisations representing employers and employees, we believe that it is beneficial to call for a general report today so that we can get some idea as to whether or not things are progressing satisfactorily, or whether or not there are sticking points which need to be highlighted and which the Commission can, hopefully, assist in.

And to that extent shortly I'll be asking organisations to give us an overview of how they see the progress of the structural efficiency exercises.

I should indicate also, to those who are not already aware, that the Commission has already commenced to program all of its private sector awards. And the method will be that each member of the Commission will, during roughly a week period, call on all of their private sector awards for individual reports of progress to ascertain whether or not those matters can be adjourned or they need to be kept before the individual member, and anybody can find out what the dates of those hearings are later on from the Commission if they wish.

So far as the public sector is concerned, it is envisaged by the Commission that it would probably be

preferable to have all public sector awards to report to the one Full Bench for the same sort of exercises as we're about to embark upon today.

It may well be that after that Full Bench gets a picture painted that there may be some awards which can be hived off to individual members of the Commission. Alternatively, of course, it may well be that that one Full Bench ought to deal with the bulk of awards as a Full Bench.

In the event that any organisation wishes to put in claims which are to exceed the limits imposed by the wage fixing principles and need to run a special case, then those special cases will need to be channelled through the normal channels. And that is, through the TTLC to go to the Anomalies Conference.

And from then on, of course, a decision will be made as to whether or not they are to be treated as a special case, whether the special case is to be rejected at that level, or an award made immediately, or the matter referred to either a Full Bench or even individual members of the Commission.

ACTING PRESIDENT:

So I hope that makes it clear as to: (1) why we're here today and how the Commission will deal with what will obviously be a very significant series of exercises to try and ensure that we don't have too much of a problem and that nothing is happening until people start to panic further the track.

We hope that the picture which we will get will be that everything's pretty well under control, but in the event that that's not the case, then the Commission will monitor the awards and those which need assistance of the Commission will get that assistance.

Mr Bacon.



MR BACON:

Mr Acting President, members of the Bench, the way you've outlined it, Mr Acting President, was the way we saw it that what you would expect today from us is an overall view of how, from the unions' point of view, the award restructuring structural efficiency exercises are proceeding, and that's what we intend to do.

We're pleased to have the opportunity of reporting to you on the state of play following the decisions of last year. The way that we would like to do is that I would give you an overview of progress since that time, generally, as the union movement sees it.

A number of other unions have indicated to me that they wish to report to you off their own ... for themselves in probably a somewhat more detailed way on progress in their own areas. In addition are a couple of unions who have asked me to hand up to you, which I will do as we go along, a report from them on what has happened in their area or where they see themselves as being.

The TTLC view is that, overall, considerable progress has been made. I've sought information from all relevant unions and have received information, both verbally and in writing, in regard to most areas.

We believe that that information shows that unions have made considerable progress in three respects.

Firstly, there has been a great deal of work done on investigation of, if we could term it this way, what exists now and how do we want to change it.

Of course, this work, in many cases, largely predates the Full Bench's decision of last November, but I can now report that the work is largely completed in all major areas and this

has allowed unions to move onto the next two phases as we see them.

Secondly, unions have done a great deal of work in consultation with an education of their members. The TTLC regards this activity as absolutely crucial to the chances of success of the whole exercise as the aims of improved productivity and more satisfying and better paid jobs will not be achieved without the enthusiastic support of employees.

To this end, many unions have embarked on a formal program of seminars for delegates and members as well as distributing a great deal of written material. Whatever the form, all unions have been engaged in extensive consultation with members.

I would say from my own experience, Mr Acting President, that there has been more work done in regard to this exercise by unions with their members than probably any other case previously, and that, as we see it, is as it should be, that the changes which are envisaged to long-held ways of working and so on.

While we see the need for change, we believe very strongly that that change will only be effective in producing the results for both employees and employers if it is not only supported in word but actually supported by the union members as employees.

The work done in regard to both those first two aspects has led to a situation where unions are in a position to take part in detailed negotiations with employers. Many, of course, have already commenced negotiations and some of those unions will report individually.

But bearing in mind that many of the key areas awaiting on completion of national negotiations, for instance, metals, building, retail and so on,

which Tasmanian officials have been involved in from the start, that other areas are well advanced in negotiations, as will be reported to you, and that dates have been set in the near future for other negotiations to start, the TTLC believes it can confidently say that the whole exercise is proceeding satisfactorily.

To further assist unions in the award restructuring process, the TTLC has applied to the federal Department of Industrial Relations and Training for funding under the Federal Government's Workplace Change Assistance Program so that we can employ an award restructuring coordinator.

We certainly hope that this isn't dependent on the result of the federal election on Saturday, but we haven't had final word on whether the funding has been approved or not. We would expect, particularly seeing the TCI has already received funding under this program that, in the interests of having a level playing field for everybody, that the TTLC's application would be viewed favourably. We certainly don't expect any problem with that.

And our experience immediately following the decisions last November was that there's an urgent need for the TTLC to have the resources to be able to effectively coordinate and assist unions in these exercises.

You will recall that part of the TTLC agreement with the State Government in relation to the State Wage Case was that the TTLC was to provide detailed information in relation to all public sector awards to the Office of Industrial Relations on a fairly tight timetable following those decisions. While I can report to you that that was achieved by the TTLC, it wasn't without considerable



disruption to other work because of the lack of resources.

MR BACON:

We certainly see this application for funding and the employment of an award restructuring coordinator as an important part of our assistance to affiliated unions in this exercise.

So while we report to you that overall we see the progress as being satisfactory, we feel that we also should take this opportunity to point out some potential difficulties that lie ahead. And this isn't in relation to specific problems that have arisen in regard to any award, they are general problems that the TTLC sees may affect the exercises.

Firstly, we're deeply concerned at the implications that the State's budgetary situation may have on proposals for increased skills training, which we see as an essential part of providing appropriate career paths for employees.

The TTLC believes that far from reducing expenditure in this area we, in fact, need increased resources to meet what will be a greatly increased demand. We will be taking up this issue with the State Government in the weeks ahead.

And certainly our experience has been, particularly in those areas which have been involved in national negotiations, that the increased demand for training will put extreme pressure on resources at TAFE and so on.

As I said, we do see it as being crucial that, if employees are being offered the chance of advancing on career paths based on attainment of skills, that the proper training facilities ... that resources are adequate to provide proper training facilities so that employees can be



confident that they will be able to advance along those career paths.

We would also like to take the opportunity to repeat on the record the often-stated position of the union movement, that in this exercise we see it as essential that employees must genuinely agree to change; that no employee will lose income as a result of the change, that is, we will not agree to negative offsets; and that the appropriate union must be a party to any agreement.

Again I say this not in relation to any specific problem that's arisen in relation to any award, but we feel it is necessary to ... or rather, we choose to take advantage of the situation to place that on the record once again.

Finally, in addition to that overview I've given, I have, as I've stated, been asked to hand up on behalf of two unions a statement from them, or a document from them which may assist the Bench in getting some idea of what is going on. The first is from the Federated Clerks Union.

ACTING PRESIDENT:

Perhaps we should label that one FCU.1.

MR BACON:

I certainly won't add anything to that.

ACTING PRESIDENT:

Neither will I.

MR BACON:

Which as you will see, Mr Acting President, is a letter to me from Doug Fry, the Branch Secretary of the Federated Clerks Union, and a copy of a document, 'Commercial Clerks Award Documentation For Testing Process'.

As I said, and as Mr Fry says in his letter, they've requested that I hand that up.

The second one is from the Amalgamated Society of Carpenters and Joiners who have asked me to hand up

to you the joint statement on award restructuring in the building industry.

ACTING PRESIDENT:

I think I can get my tongue around ASC&J.1.

MR BACON:

Which again is for your information, which may be of assistance to you in seeing where the parties have got to in relation to that industry.

As I said, Mr Acting President, that gives our overview. Generally, we think things are proceeding satisfactorily. The unions are quite comfortable with the proposal by the Commission to list awards individually. There is no confusion in the union movement that from now on, or from the decision last year, it will be dealt with on an award-by-award basis.

We believe that no major problem has arisen which should be brought to your attention. It may be that in the course of those award-by-award hearings that problems are raised by the parties, but we don't see those as being overall problems that affect the progress generally.

If the Commission pleases.

ACTING PRESIDENT:

Thank you very much. That's helpful to us and I'm sure the exhibits will be helpful too.

Who would like to follow? Mr Vines?

MR VINES:

It appears that I'm next, Mr Acting President.

Sir, from the Public Service Association's point of view, whilst we haven't yet reached the panic stages, to use your words quoted earlier, our heartbeat has increased at times.

We're at the situation now, sir, that we have submitted a series of proposed structures, salaries,

classification guidelines and award proposals to the government representatives and there have been several detailed discussions in relation to those.

We have also, as part of the SEP agreement in November last year, submitted to the government a list of those special cases which we would be seeking to pursue. And again, there have been some discussions on some of those special case areas.

MR VINES:

The Commission will recall that part of the SEP agreement of last year was a translation process and so that matter was settled at that time and hasn't been an issue since.

I think it's fair to say, Mr Acting President, that from our point of view there have been some hiccups in the process of award restructuring but generally speaking there has been steady progress. I think it's also fair to say that with our four-stream proposal, we don't seem to be too far apart from the government.

I'm not saying that they're accepting all of our arguments at this stage but the discussions that we've had to date seem to have both groups heading in the same direction.

On the basis of our proposals progressing now from more than just a concept stage to actually having legs and being discussed in some detail, it is our intention, sir, with the assistance of the Trades and Labor Council to seek more formal meetings with other public sector unions in an endeavour to try and coordinate the public sector approach to award restructuring.

From the PSA's point of view, we believe the proposals that we put up are capable of covering all public sector areas and it will be a matter to see how they coincide with the



objectives of other public sector unions.

I would echo the concerns of Mr Bacon in relation to the budget situation of the debate, not only as it relates to the money that is going to be available for spending but as it relates generally in terms of award restructuring and we are concerned at the potential for delays in progress on the whole award restructuring area because of what appears to be a fairly tight budget situation.

We are also concerned and we are continuing discussions on the recognition of the enormous restructuring that is going on within the State Service over the last 12 months and we still maintain that the efficiencies and the changes that have been part of that restructuring should be taken into account when we're looking at the overall structural efficiency principle.

Similarly, with some proposals that have been put about by government in relation to potential budget cut-backs for the next financial year, it is also our position that they cannot be dealt with in isolation to award restructuring.

So, in terms of the actual progress, Mr Acting President and commissioners, we are relatively satisfied with what's happening to date but we do have concerns on the financial side of it and concerns that further down the track there may be some delays which might not be totally necessary. If the Commission pleases.

ACTING PRESIDENT:

Well, of course, I'd just add that you're not alone in being concerned that we can all keep our heads above water and cope with the task ahead.

One of the reasons why we're here today is to make sure we're keeping up with the big wave, in keeping just

ahead of it rather than it dumping us.

MR VINES:

I think my feet are starting to get wet already, sir.

The only other issue that I would seek guidance from the Bench, either now or at some later time, is in relation to the conduct of special cases.

Mr Acting President, you indicated before that you would see those special cases being channelled by the Anomalies Conference. The area that we would seek to have clarified is in relation to those cases which have already been through the Anomalies Conference but haven't proceeded further, but which we wish to run as special cases there. I think there are about half a dozen awards in that category, sir, and the guidance of the Bench in relation to those would be appreciated.

ACTING PRESIDENT:

Right. We may need to, after we've heard everybody, give some quick guidance on what we feel is appropriate to happen in the variety of circumstances, but I'll just wait until we hear everybody who wants to comment on that area and have a chance, during a brief adjournment even, to discuss it with my colleagues.

MR VINES:

Thank you.

COMMISSIONER WATLING:

You're referring to the ones like the dentists and the dental therapists?

MR VINES:

Welfare workers ... there are quite a series of them, Mr Commissioner.

COMMISSIONER WATLING:

Yes.

ACTING PRESIDENT:

We'll give some guidance and address that area.

Mr Sherry?

MR SHERRY:

Mr Acting President and members of the Bench, I just wish to report briefly in respect to the overall position in the hospitality industry and in particular draw your attention to problems we perceive in respect to training matters and I believe these would be of relevance in other industries.

I will make a number of remarks in the following areas. Firstly, in respect to skills audits; secondly, in respect to classifications in career structures; thirdly, in respect to relativities; fourthly, in respect to training requirements; fifthly, in respect to other award negotiation matters; and finally, in respect to an education process and program.

Certainly, the matters that I mentioned to you, we would be dealing with in far greater detail on the award-by-award process that you've indicated.

But firstly, in respect to skills audit matters, I'd indicate in the hospitality industry a skills audit has been carried out of all major occupations across a range of industries.

Those skills audits will be produced at the appropriate time (I don't know whether it's appropriate to table them today) but the skills audit is a massive task. It has involved in our industry an analysis of cooking, waiting, bartending, clerical, reception. Those have been completed and we're currently in the process of a national skills audit in the area of greenkeeping and leisure attendants.

I don't want to go into the specifics of those. Those last two will be produced at the appropriate time. However, the task in terms of a skills audit is a massive job and we don't envisage being completed until

MR SHERRY:



the middle of this year - and it's been under way for 2 years.

Secondly, in respect to classification and career structure, in respect to the hospitality industry I'd table ... it's a draft working document which we have given to the Confederation of Industry, of the proposed grades - proposed new grades in the hospitality industry - along with a diagram that represents the proposed career structure, incorporating levels and definitions.

ACTING PRESIDENT:

We'll call this - I wish Ie hadn't started this - FLAEU.1

MR SHERRY:

FLAIEU.Tas Branch.1.

ACTING PRESIDENT:

Thank you for your help.

MR SHERRY:

In respect to the hospitality industry the document I've presented to you is draft 12, which represents a discussion process involving the last 18 months at a national level under the auspices of the National Tourism Industry Training Committee. And it is a document that we've had some initial discussions with the Confederation of Industry in this State in respect to its application to relevant hospitality awards in this State.

And those details of discussion I and, I assume, the TCI and appropriate employer organisations, will report to you in the individual award process.

ACTING PRESIDENT:

Yes.

MR SHERRY:

The third area that I wish to mention which has been touched on and does cause us some concern and that's the area of relativities.

Following the skills audit and the negotiations on the classification career structure it became apparent that it was necessary in the hospitality industry to undertake a

job evaluation of all job tasks in the industry.

And again what I would propose to do today is to present the criteria under which that job evaluation was carried out. The results I will present at future hearings.

It does highlight, when I come to the training requirements, the problems we're going to be faced with in this industry.

I'll table this document.

ACTING PRESIDENT:

Thank you. That will be FLAIEU.2.

MR SHERRY:

The employer organisations in the hospitality industry nationally, in conformity with the national wage decision, believed it appropriate to examine existing relativities.

Now, from that, from the material I present at the individual award hearings, it will be necessary to proceed in a number of areas with an Anomalies Conference. And I would seek some guidance because we will be undertaking Anomalies Conferences nationally in respect to our national awards in respect to a number of areas identically.

And it may be appropriate - and we haven't a final position on this at the present time - it may be appropriate that that is done in conjunction with the Federal Commission.

We would certainly be concerned if, in fact, we had to run an Anomalies Conference at a national level and a state level on exactly the same relativity studies, on exactly the same classifications. It's an issue I raise now for you to consider at some stage.

ACTING PRESIDENT:

Yes. Well, as you are probably aware, there are mechanisms available

because of reciprocal provisions in the respective pieces of legislation.

MR SHERRY:

The final document that I would present is a document on the proposed training requirements under award restructuring that will be introduced into the hospitality industry.

COMMISSIONER GOZZI:

Just before you go on with that, Mr Sherry, I'm not sure whether you picked up the significance of that point ...

MR SHERRY:

Yes.

COMMISSIONER GOZZI:

... about reciprocal arrangements.

MR SHERRY:

Yes.

COMMISSIONER GOZZI:

It may be something that you need to advise us on.

MR SHERRY:

Yes, I take that on board.

ACTING PRESIDENT:

Your last exhibit, No. 3.

MR SHERRY:

Thank you.

The National Tourism Training Committee Australia has, at the same time as the skills audit, discussions have occurred. The discussions on the classification and career structure and the relativity studies has been coordinating all the training requirements in the hospitality industry. And this has involved the evaluation and standardisation of current courses in the hospitality industry in such areas as the cooking trade, the waiting trade.

It has also involved the introduction of a considerable range of courses at every level of the proposed new structure in the hospitality industry.

If I could perhaps just draw your attention to the first section of the document titled 'Food and Beverage', and the training requirements there



are listed for each grade of a proposed hospitality industry award.

Now, just to indicate to you the problems we're confronted with and the massive task that's ahead, in this country there are some 50,000 cooks, of whom 50% approximately have no formal trade qualifications, but are paid at that level. And the task of trade testing approximately 25,000 cooks is a fairly significant one.

MR BACON:

Taste testing.

COMMISSIONER GOZZI:

That's the first test.

MR SHERRY:

I'm sure Mr Bacon would enjoy that task.

Similarly, in the waiting trade there are some 10,000 persons who, through practical experience, are paid at or employed at trade level, but only some 500 to 1,000 who have formal trade qualifications. Again the task of trade testing those persons, together with the introduction of a new award structure, is a fairly major matter.

MR SHERRY:

Then if you consider that the proposal is to introduce training modules at every level of the proposed new hospitality industry award, and you're dealing with between 200 and 250,000 employees, we have considerable concern about the resources, the education training and skills formation task that lies ahead.

I highlight those matters because they're of particular concern in our industry. But I believe they would be relevant to some degree or other in other industries.

In terms of the training matters, there are a vast array of issues which do impinge on the industrial arena. And without going into detail, I just mention a number of them which I believe need to be

considered in respect to award restructuring, which in this industry we're going to have some problems.

First and foremost will be the issue of who is going to pay for training. There is a proposal for the introduction of a minimum training guarantee whereby employers will be required to devote 1% of their total payroll as from 1 July this year on training, and a further 1/2% 2 years down the track, making a total of 1-1/2%.

That will mean an increase of some 6 to 800 million in training terms, expenditure dollars nationally, but whether that is sufficient or not and whether, in fact, I suppose that legislation is introduced depends to some degree on what happens on Saturday.

ACTING PRESIDENT:

Does that proposal have a high or a low cut-off point so far as the number of employees are concerned? It's only 200, isn't it?

MR SHERRY:

No, it's 200 ... the employers with a wage bill of \$200,000 or less will be exempt from that proposed minimum training guarantee.

ACTING PRESIDENT:

Isn't there a proposal to exempt those who might be already doing their own training?

MR SHERRY:

No, but in fact if they're doing their own training and they're clearly expending over 1% and then 1-1/2% they're clearly meeting the minimum training requirements.

ACTING PRESIDENT:

Right.

MR SHERRY:

There would be many such firms or industries that would be meeting that requirement at the present time.

ACTING PRESIDENT:

Right.

MR SHERRY:

But linked with that there are a variety of issues again which in

hospitality, and maybe of relevance to other industries to some degree or other, the issue of accreditation of private providers. We believe there'll be an explosion of training linked with award restructuring and the minimum training guarantee, which clearly will not be met by the existing resources of TAFE.

That leads to the resources that will be available for TAFE in this State to meet the training demands. And that's been mentioned earlier: the issue of trainer training - who is to train people?; the issue of industry and workplace consultative process on training and education requirements; the recognition and portability of skills and the access to paid training leave - just to mention a few of the major issues that will need to be developed in this area.

And finally, the other matter I would report on is that in respect to the hospitality sector there is a commitment from the Federal Government and the National Tourism Industry Training Committee to expend a significant sum of money. It is yet to be determined, but it will be a significant sum on education process amongst employers in the industry around the country in the form of pamphlets, videos etc. and likewise at State basis.

I would intend to, at the report on the individual award negotiations, present to you a full copy of the skills occupational audits that hopefully will have been completed, a full copy of the finalised draft of the classification and career structures, a total breakdown of the relativity studies and the various points scores against the relativity study document that I've presented to you. And also, hopefully, some idea and solution in respect to the various training requirement issues



that I've raised with you this morning.

Thank you.

ACTING PRESIDENT:

Mr Sherry, is the general reception of all those people you've had to deal with favourable to the concept of upgrading the skills and changing the classifications and then auditing those skills, and so on?

MR SHERRY:

Yes. We're fortunate in the hospitality industry in that we have a national training committee that commands the respect of the employer organisations and the union, and which has been able to conduct such things as a skills audit, relativity studies and, in this case, been able to secure the agreement of the parties on 90 or 95% of the issues.

Of course, with one major issue outstanding which at the national level we haven't yet come to grips with, and that's wages. But certainly on the major issues there's been a recognition in this industry of the enormous changes in the industry in the last 20 years and a need to find some solutions to the problems.

ACTING PRESIDENT:

Yes. Presumably, in your industry as most others, there would be a percentage of employees who, for various reasons, may not wish to be retrained or do anything different, particularly if they are approaching retirement, or for any other personal reasons just are happy to maintain their present level of skills and the range of work. What would happen to those?

MR SHERRY:

Well, that is their choice. The important thing in the award restructuring, we believe, as a union, is to ensure that there is the career structure there, the training module is available and the choice of an individual to follow a career structure in an industry that in the

past .... has not had those opportunities available.

ACTING PRESIDENT:

Yes, but would you see that those who, for their own reasons, don't wish to alter their status quo as getting the same sorts of financial rewards?

MR SHERRY:

Well, clearly, under the structure that I believe will unfold in the hospitality industry, they won't receive the same sorts of financial rewards because the wage levels will be linked to grades, will be linked to training. The major problem that we foresee in the introductory stage - and we believe it will be a 5 to 10 year process (we're not underestimating the problems) is evaluating existing skills that have been acquired over time through practical acquisition rather than formal training.

And as I've indicated, in the areas of cooks and waiting and certainly in other skill areas, that is going to be an enormous task.

ACTING PRESIDENT:

To that extent I guess you've got some commonality with the position of Mr Vines who has indicated that there have been changes in his particular area which he believes ought appropriately be recognised and taken into account in assessing whether or not the requirements of the new principle have been met.

MR SHERRY:

Yes. Well, as I've mentioned to you, in terms of the results of the relativity studies, there are a number of occupations which certainly nationally the union and the employers believe require some further close examination. For example, cooks, waiters, cocktail bar attendants, persons of that skill level which we believe will require some individual attention.

But again, we will be presenting to you the skills or the relativity

outcomes of that study at an appropriate date and make the appropriate application, but, as I say, we intend to conduct cases in our national awards in those areas and we'd like to avoid the duplication of cases if that's possible.

ACTING PRESIDENT:

That's understandable. Thank you.

MR SHERRY:

Thank you.

MR O'BRIEN:

If the Commission pleases, I'll be very brief. Mr Bacon has outlined the position so far as the unions generally are concerned. We note that there will be award-by-award reports-back.

In relation to the progress on individual awards, the only additional comment that I would seek to make now is to endorse the initial decision of this Commission to process the first instalment of the structural efficiency increases and make this comment that it has been noted in proceedings before State Wage Case benches in the past that both the union movement and the employers in this State have limited resources.

The sorts of processes that have been outlined, particularly by Mr Sherry, preceding me, about skill audits and the sorts of processes that are involved in consultation, which both the unions have been involved in (and I note from a document I understand will be tabled by the TCI, the employers have been involved in) that the parties have been allowed to take that important consultation step in an atmosphere of genuinely seeking a path to be followed rather than proceeding under the pressure that would have been felt in terms of establishing the guidelines to process the first increase, bearing in mind the many and varied awards that need to be processed and the



resources that are available to process them.

We noted in this morning's 'Mercury' a comment from Mr Campbell in relation to the national Metal Industry Award that that award processing had been the subject of 4 years of negotiations, and considering the progress that had been made there - and certainly that award is in advance of any other in Australia - that we both have the opportunity of looking at what's taken place in those areas and assessing ... forming ideas for the processing of the various awards of this Commission.

We also have been able to use the lead time for the process of consultation which is very important because if there is to be significant change it needs to be achieved by consensus not by imposition. It is, I think, a well-understood fact that change which is resisted is much more difficult to implement than change which is understood and is introduced by consensus.

But in saying that, I don't think that anyone should have any other but the view that we have a massive task in front of us. It will not be achieved in the short term. We will achieve it in the speediest possible time and there will be problems in various areas achieving that.

But having said that, we endorse the process to date. We would say that the Commission made the best decision that it could have made in relation to the processing of the first increase and that we look forward to reporting further award-by-award in relation to progress and proposals for progress before individual members of the Commission.

ACTING PRESIDENT:

Thank you Mr O'Brien.

Mr Lane.

MR LANE:

Mr Acting President, members of the Bench.

Firstly, my apology for being late. My diary had the wrong time in it.

The Teachers Federation, Mr Acting President, has good news and we have bad news and I will go into detail on those when we report award by award and I'm quite sure you will see the problems that are faced in that area when we come to the specific awards.

We naturally do have some problems in the public sector area. I think they're becoming fairly evident from the press reports that have been circulating for the last few days on budget cuts and so forth, and therefore the environment in which we're trying to operate award restructuring is an exceptionally difficult one because there is no doubt that the teachers' claim - and I will refer specifically at this stage to that - is not without some added expenses as far as budgetary implications are concerned, and therefore we do have some difficulties in that particular area.

But I want to make it quite clear in this Commission, and as we have during negotiations, that the Teachers Federation is prepared to negotiate a phasing-in of new structures and new salary levels to ensure that the budgetary implications are limited or are not as dramatic from year to year.

And I want to make that perfectly clear that we would go for quite a lengthy phasing-in should we be successful in gaining the salary increases that we are seeking as far as the teaching service is concerned.

I will report specifically later on the Teaching Service (Teaching Staff) Award which, I guess, is the main area of concern for the Teachers

Federation, but the good news, of course, is that we are up and running on that particular award, that we have had seven lengthy - and sometimes fruitless meetings - but still seven lengthy meetings to discuss award restructuring of the teaching service and we will be able to report to you that some progress has been made and we believe that the first hurdles have been crossed in that area and we can now probably and hopefully make better progress.

On the other awards to which the Teachers Federation is a member, we, unfortunately, have had no specific award restructuring negotiations as far as the Welfare Workers Award is concerned, the Therapists Award, the award covering recreation officers and the teaching service on Teaching Staff Awards, but I will come back to those later on.

I would like to make a comment on the special case status of our ... specially our Teaching Service (Teaching Staff) Award claim and there will also be a special case applied for ... as far as laboratory technicians are concerned, because their award will need to be treated in that particular way, or our claim will need to be treated in that particular way as well.

We would seek, Mr Acting President, that teachers and those others who are seeking special case status be allowed to have access to the 3% if satisfactory progress has been made on the restructuring aspect, that the special case status or the application for that not be used to delay the gaining of the first 3% because it is quite likely, especially with the Teaching Service (Teaching Staff) Award, that that will be a very protracted case indeed because it's more than likely we will be running ... depending upon the circumstance of time, but it's more than likely we'll be running a full-



blown work-value case, and with the whole of the teaching service involved in that, that is likely to be a very long case indeed.

And the end result, despite the fact that I would hope this is not the end result, but the end result may be that the special case fails and therefore all we'll end up with at the end of, say, a 6 to 12-month case is the 3%.

Now, in our opinion the teachers should not be denied the 3% if the negotiations have resulted in good progress towards a revamping and restructuring of the award and career structures under that award.

ACTING PRESIDENT:

I promise you you'll get a fair hearing.

MR LANE:

I'm quite sure, Mr Acting President. I expected nothing else.

Also, I would like to point out, Mr Acting President, members of the Bench, that ... depending, of course, on the result of the election this Saturday, it is quite likely that at the end of that federal election the Federal Minister for Education will be calling a summit of all education ministers throughout Australia, and unions, to discuss the national claim by teachers and the concept of national bench marks and career structures.

Now, we believe that that summit could take some time in formulating an outcome and, once again, we would not like the 3% delayed because of that, especially as we don't ... we have no idea what the outcome of that summit will be and the consequences of that summit.

So I would ask that, if possible, teachers are able to gain access to that 3% as quickly as is possible under the principles that have been

set down, and the guidelines, rather than tying it to the special case.

I hope I've made myself clear on that, Mr Acting President.

ACTING PRESIDENT:

You're being heard.

MR LANE:

I will, as I say, come to the specifics of the awards later on when we go through award by award.

If it pleases the Commission.

ACTING PRESIDENT:

Thank you, Mr Lane.

Ms Moran.

MS MORAN:

I agree with what my TTF colleague has said, gentlemen of the Bench. There are just a few extra remarks I'd like to make.

We've already heard reference to that well-known phrase 'the level playing field' and I feel that in some aspects we haven't been working on a level ... playing on a level playing field since award restructuring began.

The government has made various proposals within award restructuring but, at the same time, it takes unilateral action outside of award restructuring. For example, there have been 5.5% staff cuts in colleges since the award restructuring process started, and the government is attempting to keep those 5.5% staff cuts outside of the structural efficiency negotiations.

With reference to remarks made by just about all of my predecessors about training, I must point out that the colleges will be assuming increased responsibility for pre-vocational training which has, until now, been the responsibility of TAFE and that they too need extra resources, both financial and in terms of teachers, to shoulder that burden at a time when the department,

as I said, has already cut staff and when the budget cuts mooted suggests that there will be further cuts.

I point out too that award restructuring is important in the teaching area, as the ACTU, the Federal Government and even this State Government have already said, and that ... I'd like to report Mr Kelty who said that it was not an area where trade-offs in structural efficiency ... sorry, in efficiency and productivity should be necessary, and to point out that it's an area where workers are already overloaded and that the best way of increasing efficiency and productivity is to employ more and better qualified teachers, that is, by improving wages and conditions through award restructuring.

I believe that the department is using award restructuring to make an attack, as Mr Lane has already indicated, on fundamental conditions of work for teachers - in the teaching hours areas, for example - and we are not aware of this happening anywhere else in Tasmania or in Australia.

MR WARWICK:

Mr Acting President, members of the Bench.

ACTING PRESIDENT:

Mr ...?

COMMISSIONER GOZZI:

Warwick.

ACTING PRESIDENT:

... Warwick.

MR WARWICK:

Yes, sir, that's correct.

We have encountered a specific difficulty since the decision of 9 November, sir, and I should say at the outset that the problem we've encountered is not of Mr Willingham's doing or Mr Abey's doing. It goes to that question that ...

ACTING PRESIDENT:

The field's narrowing.



MR WARWICK:

It goes to that question that then President Koerbin raised during the proceedings in the State Wage Case and it's the question of human resources. We have a couple of vacancies within the ranks of the federation at the moment which makes life difficult. We've had a federal .... change on which is very important in terms of Tasmania, and the barristers always insist that everything stops when that's the case, and we've had a very rigorous program before this Commission in respect of a host of other matters.

COMMISSIONER WATLING:

You might get some recruits from this room, Mr Warwick.

MR WARWICK:

Well, I think there was a job in the paper last week. It was advertised, sir, so ...

Nevertheless, Mr Acting President, members of the Bench, progress has been made in a number of areas. We've met our obligations in respect of those that emanated from the decision of last year, which was to provide the TTLC with proposals for award groupings and special cases.

We have met with the government in respect of those issues, and the government, indeed, has put its cards on the table in respect of how we should go in relation to hospital workers and, generally speaking, we're not too far apart, that is, in terms of what sort of awards we should have once award restructuring is completed and the way in which broadbanding should proceed.

MR WARWICK:

There are a couple of exceptions there, Health Professionals in particular being one of them, and the members of the Bench will know that our application in that area is awaiting further consideration and parties making submissions to that Full Bench last week indicated that they didn't want to make a leap into the dark by creating that new award,

but I'd like to take this opportunity to indicate that we will be inviting the Commission to make a leap into the light in the near future and make a Health Professionals Award.

Training of course is an important issue. We have had traineeship clauses go before the Commission in respect of Medical Practitioners (Private Sector) Award and the Hospitals Award.

The Department of Employment and Education has indicated that those matters needed to be completed to proceed with the establishment of an industry working body and I think we pointed out last time that that would be the first industry working body anywhere in Tasmania in respect to the health sector.

DEET sees that the enactment of those clauses is important because of full funding reasons. They need to see those clauses before the funding can be made available to establish that body.

In terms of skills audit, we've reached agreement with the Health Department on the principles as to how the audit should proceed. That is, who shall have access to the information and how it should be processed and so on and so forth and, indeed, a pro forma has been developed and it's being trialed at St John's Park at the moment.

So, perhaps in conclusion, Mr Acting President and members of the Bench, I'd like to very strongly endorse the comments made by my colleague, Mr Vines, when he said that we will be doing a much higher degree .... a large amount of work within the walls of the Trades and Labor Council to establish uniformity of claims.

So, in short, the situation is that we've had some difficulties and they've been organisational

difficulties. Progress is being made but we have quite a way to go. If the Commission pleases.

ACTING PRESIDENT:

Thank you Mr Warwick.

Mr Abey?

MR ABEY:

Thank you, Mr Acting President and members of the Bench.

In a decision of last year you clearly put us on notice as to your expectations. Not only did we welcome that but we in fact invited it. It was an inherent leg of the TTLC-TCI agreement, that the second stage would be award by award and that that would be set in concrete, and that the second stage increase would be conditional upon a satisfactory conclusion of a structural efficiency agreement.

We're now at the business end of the structural efficiency wage fixing principles. This time we must deliver the goods or the system will have seemed to have failed.

From the TCI's part, we will be insisting that in this round the goods are delivered and that the twin objectives of improving the efficiency of the enterprise, whilst at the same time providing better paid and more fulfilling jobs, are achieved in the exercises.

We're not pretending for a moment that it is an easy exercise.

Yesterday, I was present at the Metal Industry Award proceedings before Deputy President Keogh and, to put it in perspective, in that one award (and it's already been mentioned this morning) reference was made to the negotiations which have been proceeding for 4 years.

One employer organisation had six advocates at the bar table dealing with that award. The money spent to



date on developing the training proposals was in excess of \$2 million and they are budgeting for something in excess of \$7 million.

Those stakes are pretty high and there is no way known that we will be able to match that sort of resource and apply it in the awards that are before this Commission.

But having said that, the TCI is doing everything it humanly can to progress the structural efficiency exercise. We have been successful in obtaining Commonwealth assistance in appointing a Work Change Assistance Officer, Mr Danny Sutton, who is with us in this court today and that has proved already of great benefit in our endeavours.

I note Mr Bacon's comment, that they are also seeking similar assistance in the interests of the level playing field and I wish him well. I hope he's also successful.

MR BACON:

You might have a hint how we could be successful.

ACTING PRESIDENT:

He might be able to borrow yours.

MR ABEY:

We'd be in that.

If he is successful, I might add, to ensure that the playing field is properly level and the TTLC is not in fact kicking with the wind, it's crossed my mind that we may well have to then apply for assistance to get an artist-in-residence so we too ....

On a more serious note, the TCI is actively providing training courses for its members and I appreciate the cooperation and participation of Mr Bacon in the first such course that we held recently. We have and will be holding a program of seminars on an industry-by-industry basis to enlighten our membership on the subject of structural efficiency.

We are also preparing a handbook. Again, in the interests of this educative program. I might add, and we've referred to the education side of this this morning, that it is a huge task. For anyone who has attempted to address a group of people on this subject it is a daunting task because it is complex, it is difficult to come to grips with the concepts and the buzz words and the objectives which have got to come out at the other end.

MR ABEY:

But notwithstanding how daunting the task is, the TCI is approaching this particular aspect, or this particular subject, and applying the resources to this particular subject like none other that has preceded it.

I'd like at this stage to table a document which summarises from our part the activity to date in the awards in which the TCI has an active interest. It doesn't cover every private sector award, but it certainly covers most of them.

ACTING PRESIDENT:

We'll label this TCI.1.

MR ABEY:

I hasten to add that it's not in alphabetical order necessarily because it's ... each page is alphabetical but that's where it ends. But I think you'll find that as you flip through that you'll find that there is considerable activity in most areas. We don't walk away from the fact that there are a number of awards where we simply make a comment with little or no activity. And I think that is inevitable at this stage. But there are some that are well advanced and nearly all are heading down that track.

Now, I am conscious, Mr Acting President, that you have foreshadowed, and perhaps even set in place, that you will be calling on every private sector award for report. I would ask that that decision be reconsidered, on a number of grounds.

Firstly, if we're calling on all private sector awards, and I assume that also means registered agreements, we're looking at upwards of 70 - 100 additional award hearings in the immediate future.

In my respectful submission, those hearings would be able to do little more than flesh out the thumbnail sketches that are inherent in this document.

More importantly, they would tie the manpower resources of both the trade union movement and ourselves, and other employer organisations, up immensely in a critical period when I say, with the greatest respect, we could be applying ourselves more productively in advancing the structural efficiency debate. And by that I mean by actually getting out there and talking to the unions about the whole process, rather than reporting.

Now, I'm not for a moment underestimating the very critical role that the Commission should play in this process. But I simply ask that that decision be reconsidered and not that awards not be brought on for hearing, but they be brought on for hearing at the request of either of the parties when it's considered necessary, rather than on the motion of the Commission.

I'm also conscious that the Commission is and will not be at full strength in the foreseeable future. There is already a long cause list and by adding something of the order of 70 to 100 additional hearings over the next few weeks, in our view that would add intolerably to the burden of dealing expeditiously with disputes and other award matters which will, as a matter of course, come before it.



ACTING PRESIDENT:

Well, we're not masochists, of course. We just saw it as necessary given the history of the way matters have developed thus far. And I think at the earlier hearing a number of organisations said they didn't want a repeat of the old 4% round, and we didn't have much detail, with respect, before us for the first round. And we saw it as proper and appropriate that we would keep our finger on the pulse rather than let things drift along.

But, I'm sorry to interrupt you.

MR ABEY:

I understand and applaud the sentiments you've just expressed on that aspect. All I'm saying is that that very process will in all probability slow it down rather than speed it up, because you'll be taking people away from actually getting down and doing it rather than reporting.

I think there will be a number ... even if you are ... if you are of the mind to change your attitude on that aspect there will be a number of awards that will come before you as a matter of course and, indeed, some of them are already listed. And I think that's desirable. But to take an across-the-board approach and say that everyone is to come on for hearing, I think is something that may well be or should well be reconsidered.

I would also indicate, and put on notice to anyone in this room, that we do not accept the concept of a blueprint. We do not accept that the Metal Industry Award prescription, which presumably will be endorsed later today, will provide the blueprint for all awards. It is an appropriate settlement for that industry but that doesn't mean it should be slavishly applied across the board. And we indicate quite squarely now that we will be looking for a diversity of outcomes, not a

blueprint to apply across all, and that that diversity will embrace what is of particular interest to the employees and employers in a particular industry.

A couple of points of quasi-administrative nature: in the decision of last year the Full Bench ultimately endorsed the TCI-TTLC agreement and that was followed by a conference to clear up some of the details of that. Very specifically in that agreement was a schedule of allowances which were to be adjusted in accordance with that decision. And very specifically in that agreement it was said that all other allowances would be subject to separate application.

I'd have to say that that schedule has not been followed by each individual commissioner in varying each award. And rather than coming back and saying that we are seeking erratums or hearings on each of these particular cases where that hasn't been followed, we foreshadow that that will be a position which we will seek to redress in whatever manner is appropriate in the next round.

MR ABEY:

Secondly, I would also request that at some appropriate time, whether it's at the conclusion of this hearing, that the Full Bench address and determine the submissions we made at the previous hearing dealing with access of the TCI and presumably the government to the Anomalies Conference.

We put a submission on that matter at the last hearing. It was not referred to in the ultimate decision and we would like to have ...

COMMISSIONER GOZZI:

I thought we did refer to it, Mr Abey.

MR ABEY:

No, you didn't, Mr Commissioner.

COMMISSIONER GOZZI: Well, at some stage in the proceedings we put it in writing that we favoured the existing arrangements to continue.

MR ABEY: Well ...

COMMISSIONER GOZZI: It might have been 30 October decision but I'm sure it was committed in one or the other decisions.

MR ABEY: Well, if that is the case and I missed it, I apologise.

COMMISSIONER GOZZI: Yes, we certainly did. I'm positive we did.

MR ABEY: Well, I'll re-read it but the only reference I saw to it was by inference in that you adopted the principles without reference to our application. If that was the case I'll re-read it but I certainly don't recall the reasons if you did make that decision.

Having said that ...

COMMISSIONER GOZZI: Although it got a fair working over from the draft decision so it might have finished the cutting and pasting job. We'll both re-read it, Mr Abey.

I'm sure I can find a draft where it's in it if it's not in the final decision.

MR ABEY: Having said that, Mr Acting President, members of the Bench, we are satisfied that the progress that we've achieved to date is the best that could reasonably be expected in the all the circumstances and we ask that the Commission actively encourage the parties to continue that process and aid and abet the process in any tangible way which may be open to it.

If the Commission pleases.

ACTING PRESIDENT: Thank you.



Mr Willingham.

MR WILLINGHAM:

Thank you Mr Acting President and members of the Bench.

I would hope to be very brief, Mr Acting President, given that my colleagues who deal in the public sector have found I would submit very little to take issue with in their negotiations and relationships with the Minister's representative in the award restructuring process thus far.

So I echo the sentiments, particularly of Mr Bacon, because I think they summarise in an overall sense what has transpired thus far in the public sector.

There have been few contentious issues before the parties thus far and to some extent that has been deliberate, but because real contention has been absent from the negotiations thus far it does not mean that we are not over the next few months going to come to grips with and overcome those contentious issues and it may well be then that the reasonably and comparatively peaceful process that we've experienced thus far may be disrupted. That is, I think, inevitable.

In terms of public sector awards, Mr Acting President and members of the Bench, there is certainly a number of awards which have scarcely been looked at, whereas others are at a fairly advanced stage of progress particularly in terms of the structures and broadbanding and the classifications standards applying to a number of large awards, and in particular those which Mr Vines referred to as the four-stream proposals, and in teaching service, which I'm happy to report the parties agreed the structural details as recently as late last week but, of course, that is only the very first

hurdle which the parties have to overcome.

We are conscious of the fact that if issues divide us to such an extent that disputation - real disputation - is likely as we progress through these discussions, that recourse is available to the Commission and we can assure you that irrespective of what matters divide us in our negotiations, if they look like getting out of hand we won't be waiting around over the negotiating table seeing our efforts disintegrate; we will be seeking immediate and ready access to this Commission. We're seeking the support of the Commission to get the show back on the road.

But I'm encouraged, Mr Acting President and members of the Bench, to say that in all my discussions and dealings with public sector unions the attitude has been spirited but it has been cooperative and it's been constructive.

But I reiterate, sir, that we have not yet dealt with the two of the three sets of objectives which emanate from the structural efficiency principle.

And by that, sir, I mean that there is one grouping of objectives which could be called common objectives and it is those which we are primarily working towards at the moment.

There are objectives which are employer-based and there are objectives which are employee-based, and it is in those latter two groups where I imagine most of the anxiety and potential problems are going to occur, and in virtually every area we have not yet really come to grips with those potentially contentious issues.

So, in summary, Mr Acting President and members of the Bench, we are

satisfied thus far at that stage in overall terms with what has developed in the public sector. But we will be able to give a more detailed response, if it is the Commission's wish, at the Full Bench specially convened for the purpose which I believe you alluded to earlier, Mr Acting President.

If the Commission pleases.

ACTING PRESIDENT:

Thank you.

Obviously there's a ... we need to get a further response to Mr Abey's suggestion that we ought to reconsider calling on every private sector award first of all and then subsequently each of the public sector awards as a matter of course.

ACTING PRESIDENT:

I don't know whether people would like an adjournment and come back after lunch and address that.

You're ready to respond, Mr Bacon?

MR BACON:

Mr Acting President, only in that we said earlier that we were comfortable with the proposition that you'd put about it. We have sympathy for Mr Abey's lack of resources. As we've often said too, we have some of the same problems.

We, as I said, are comfortable with it because we think at least it does bring every award before the Commission so the parties can report, albeit on some occasions very briefly, on what the state of play is.

We don't see that each hearing would turn out into a long drawn out affair. I think the ones that have been listed already are listed at half-hour intervals, and we would have thought that in nearly all cases that a report could be given within that half an hour.



If it was necessary for further hearings to be held then that would be an indication it was a good thing that they have been called on. If in fact there was no need for further hearings immediately, then that ... no harm has been done by having a short hearing.

So we're comfortable with it and quite happy to operate in that way.

ACTING PRESIDENT:

Good. Well, we've had a fairly long session, we started early.

Excuse me.

MR BACON:

I think the clock's a bit fast too, Mr Acting President. I don't think I spoke for that long.

...

ACTING PRESIDENT:

We will ignore that particular clock and take a brief adjournment and come back and see if we can shed some light on things.

...

ACTING PRESIDENT:

There are a couple of matters which we feel that it's only fair that we should respond to straightaway, and other matters which are perhaps peripheral we will respond to more completely in writing.

But first of all, on the suggestion that we ought to postpone our program of calling on every private sector award, we appreciate the difficulties imposed upon everybody as a result of that sort of exercise and we share the concern as to how it ties up valuable resources. But we believe that it is of sufficient importance for us to go to that joint exercise, and therefore we indicate that the planned program of hearings will be as already determined.

Turning to the question of special cases, we'd indicate that new special cases are to be applied for

in the usual way to go before the Anomalies Conference - and that is of course via the processes which precede that.

Matters already processed before the Anomalies Conference will be continued to be treated as special cases, and in both instances special cases are to be considered as part of the total structural efficiency exercise.

As perhaps indicated, we think, by some parties today, we don't envisage special cases being separable from structural efficiency exercises. That is, we do not see special cases being run and resulting in increases prior to a hearing in relation to structural efficiency matters.

Now it was also ... and we will comment on that, of course, in our written further decision to make it abundantly clear as to what we envisage.

ACTING PRESIDENT:

Commissioner Gozzi was engaged in an exchange, I think, in relation to the other matter which was raised concerning enlarging the procedure in relation to anomalies to give access through matters being initiated by TCI and others.

COMMISSIONER GOZZI:

On that point, Mr Abey, I took the opportunity of having a brief look while we were considering our position in respect of what's just been said and I agree with you, I couldn't see it at first blush either.

I know it's in one of the drafts and it looks as though it may not have carried forward. In which case, if it hasn't, on closer checking, we'll address that issue in the written comments that we're going to make after today's proceedings.

So I'm sorry about that. It certainly looks as though it's been

left out somewhere - editor's flaw,  
somewhere.

ACTING PRESIDENT:

I think we've addressed the most  
urgent matters at this time.

I must say that it's been of benefit  
to the Commission to regain some sort  
of feel for what is happening out  
there and there are certainly some  
very encouraging signs as to the sort  
of work which is being put in. And  
obviously there's still a lot of work  
to be done and it's anybody's guess  
when all of that work will be  
completed. But we do believe it's  
important that at least the matter is  
kept before all of us, collectively,  
and the sooner we properly complete  
the tasks then the better it will be  
for all concerned.

Hopefully we can do it with the least  
amount of trauma, but if there are to  
be difficulties which arise, then we  
must address them of course and deal  
with them.

We'll close this hearing off and put  
out a piece of paper in the next day  
or two.

HEARING CONCLUDED