

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

- T No. 2399 of 1990 **IN THE MATTER OF** an application by the Tasmanian Public Service Association to vary nominated public sector awards
- T No. 2511 of 1990 **IN THE MATTER OF** an application by the Federated Engine Drivers' and Firemen's Association of Australasia, Tasmanian Branch to vary the Boiler Attendants Award
- T No. 2504 of 1990 **IN THE MATTER OF** an application by the Association of Professional Engineers, Australia, Tasmanian Branch to vary the North West Regional Water Authority Employees Award
- T No. 2506 of 1990 **IN THE MATTER OF** an application by the Association of Professional Engineers, Australia, Tasmanian Branch to vary the Professional Engineers Award
- T No. 2508 of 1990 **IN THE MATTER OF** an application by the Hospital Employees Federation of Australia, Tasmania Branch to vary nominated public sector awards
- T No. 2605 of 1990 **IN THE MATTER OF** an application by the Federated Miscellaneous Workers Union of Australia, Tasmanian Branch to vary the Miscellaneous Workers (Public Sector) Award
- re structural efficiency
principle

T Nos. 2467, 2469, 2470
2471, 2472, 2474, 2475,
2476, 2477, 2478, 2479,
2480 and 2481 of 1990

IN THE MATTER OF applications by
the Tasmanian Public Service
Association to vary nominated
Public Sector Awards

T No. 2653 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Ward Clerks

T No. 2655 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Maintenance Staff

T No. 2656 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Trade Instructors

T No. 2654 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Laundry Machine Operators

T No. 2657 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Attendants

T No. 1844 of 1989

IN THE MATTER OF an application by
the Tasmanian Teachers Federation
to vary the Teaching Service
(Teaching Staff) Award

re recreation leave allowance

T No. 2264 of 1989

IN THE MATTER OF an application by
the Secondary Colleges Staff
Society to vary the Teaching
Service (Teaching Staff) Award

re recreation leave allowance

T No. 3200 of 1991

IN THE MATTER OF an application by
the Tasmanian Public Service
Association to vary the Inland
Fisheries Commission Staff Award

re Coxswain's Certificate
Allowance

FULL BENCH

PRESIDENT
COMMISSIONER GOZZI
COMMISSIONER WATLING

Hobart, 11 November 1992
continued from 6/10/92

TRANSCRIPT OF PROCEEDINGS

unedited

PRESIDENT: Well, are there any changes in appearances at this point?

MR D.P. HANLON: HANLON, D.P., I appear for the Minister administering the State Service.

PRESIDENT: Thank you, Mr Hanlon. Well, I think we should commence with matter T.2399 and related matters report back. Mr Warwick?

MR WARWICK: Thank you, Mr President and members of the bench. I seek to report from the point of view of the Health Services Union of Australia that negotiations are progressing in respect to the matters contained in the Memorandum of Understanding and we are pleased to be able to report that those discussions are progressing satisfactorily.

There are two principal areas of activity that we are endeavouring to pursue. Firstly, the broad questions of job redesign and translation. There are regular weekly and often twice-weekly meetings taking place in respect to those issues and documents and understandings are being drafted and circulated to the relevant parties.

The second area of activity relates to the broad question of award drafting encompassing the content of the Health Industry Award and, in particular, matters relating to scope, all of the agency-specific questions, and in relation to that area of activity I can report that those meetings have been taking place and there are fortnightly conferences set down and they've been set down until at least Christmas. Obviously we will continue after Christmas but at this stage the dates have been put in the diaries on a fortnightly basis.

The course of action we've undertaken involves a slow process. We are not able to produce results overnight but we remain committed from our point of view and we believe the employers as represented by the department in negotiations - the Department of Health that is - are both continuing to negotiate with goodwill and to negotiate on the commitments given by both parties in the Memorandum of Understanding.

On that basis, Mr President members of the bench, we would request an adjournment in respect to today's proceedings. We have no solid position, I suppose, as to when the bench should set again - sit again. There probably is a need to set down a number of dates from today's hearing and there probably is a need to do some longer term programming, and in that regard while we acknowledge that there certainly would be a need to sit - for the commission to sit again this year, we would think that January is not probably - probably not a good month for the commission to program further sittings in respect to the matters in question.

PRESIDENT: Why do you say that, Mr Warwick?

MR WARWICK: It's been a long difficult year, sir, and we expect that there will be a number of parties to the proceedings who will be partaking of annual leave during that period of time. I, for one, certainly will be.

PRESIDENT: Now, this is really in relation to other matters going to the making of the new awards is it not, rather than the general issue of conditions of service and agency-specific matters and your particular application for a health industry award. So are you asking for all those matters to be adjourned?

MR WARWICK: From our point of view, indeed, sir. Yes.

PRESIDENT: Notwithstanding the - the proposed operative date and the desire, I would have thought, of the parties to pursue the issues as quickly as they could to reach some finality at an early date.

MR WARWICK: Mr President, we are aware of the operative date set out in the decision of 29 November, but you will also be aware that there are alternative possibilities available in the Memorandum of Understanding. In respect to the question of the broader public sector and how 1 December this year will affect those people is not a matter that I believe really is - at this point of time at least - at least a question for us to address you on.

PRESIDENT: All right.

MR WARWICK: I seek to conclude my remarks by indicating that it may be necessary for both myself and Mr Rees to take leave of the commission this morning and we certainly would wish to put on record that we mean no disrespect to the commission in doing so, but there is, as you would be aware, Mr President members of the bench, an important union activity taking place this morning.

Following on from the show of working class solidarity in Victoria, we would be expecting a similar rally to take place here in Tasmania and while the matters before the bench this morning are of great importance, we believe that the question of the future of the award system and the future of our members' rights and entitlements under that award system is also extremely important and it will be incumbent on us this morning to - to ensure that we're at that rally.

PRESIDENT: Well, you do so at your own peril, of course, Mr Warwick.

MR WARWICK: I appreciate your comment, Mr President. If the commission pleases.

COMMISSIONER GOZZI: Mr Warwick, just one question I have; you said that you are holding fortnightly meetings on award drafting, scope, and you mentioned agency-specific questions. Can you elaborate what you mean by agency-specific questions?

MR WARWICK: Certainly, Mr Commissioner Gozzi. Those - I mean by agency-specific matters, those matters specified in the memorandum itself.

COMMISSIONER GOZZI: Right.

MR WARWICK: I think they're, in fact, the concluding set of words in the Memorandum of Understanding on the last page.

COMMISSIONER GOZZI: All right. Fine, thank you.

MR WARWICK: If the commission pleases.

PRESIDENT: Mr Vines?

MR VINES: Mr President members of the bench, I support Mr Warwick's submissions in relation to what has been going on and what is going on in the health area in relation to the other applications that my union is a party to. We have been, over the last few weeks, involved in discussions with the government, but we would see those discussions continuing hopefully over the next couple of weeks, and we'd be in a position to report back to the commission in more detail at that time, but we'd be seeking an adjournment of today's proceedings to allow those discussions to continue, and as I say, ask the matters be reconvened in a - probably in a fortnight's time.

Like Mr Warwick, myself and my other representatives will also be seeking leave of the commission later this morning to participate in the trade union rally. If the commission pleases.

PRESIDENT: My same comments.

MR VINES: Sorry, sir?

PRESIDENT: My - the same comments as I made to Mr Warwick apply to you, of course, Mr Vines.

MR VINES: I think most things we do in this business are at our peril, sir, particularly this concerned.

PRESIDENT: Yes, yes.

COMMISSIONER GOZZI: Mr Vines, your comments made in respect of both the application for making of the health industry award and matter 2399 -

MR VINES: No, what I said, Mr Commissioner, was that in relation to health I supported what Mr Warwick said.

COMMISSIONER GOZZI: Yes.

MR VINES: And then in relation to our other applications I was saying that discussions -

COMMISSIONER GOZZI: Yes, I missed that.

MR VINES: - were happening with government and that we would report back, hopefully in a couple of weeks.

COMMISSIONER GOZZI: Yes, thank you, Mr Vines.

PRESIDENT: Mr O'Brien?

MR O'BRIEN: If the commission pleases, I personally want to make it clear that the comments I make are relevant to my own organisation's position only. I note the transcript as - and other documents in these proceedings have noted my previous appearance on behalf of the Trades and Labor Council and I want to specify that the comments I make are not on behalf of the Trades and Labor Council, but solely on behalf of my organisation.

PRESIDENT: So, how long has that -

MR O'BRIEN: I thought that a change -

PRESIDENT: - been the case.

MR O'BRIEN: - indeed, when we lodged new appearances -

PRESIDENT: Very good.

MR O'BRIEN: - when there was a change in the bench -

PRESIDENT: Yes.

MR O'BRIEN: - it goes back to that point, but I've just noted that and I thought it certainly should be corrected, particularly at this point in time.

PRESIDENT: So there's no - there's no TTLC -

MR O'BRIEN: No.

PRESIDENT: - representative as such.

MR O'BRIEN: Well, not in these proceedings that I'm aware of.

PRESIDENT: Yes, thank you for clarifying that.

MR O'BRIEN: I'm sorry if there's been any misapprehension about that, but I was under the understanding that when we lodged new appearances that I only appeared on behalf of the Australian, Liquor, Hospitality and Miscellaneous Workers Union. I understand Mr Commissioner Watling wasn't on the bench at that time.

In relation to the request for adjournment, we certainly have no problems with - with the matter being adjourned. Our position is that we have had discussions with representatives of the Minister administering the State Service, we are also involved in other collective discussions about the processes that have been undertaken. We believe that we can more productively process the matters relating to my organisation's members in direct negotiations relevant to our own matter in these proceedings and we would foreshadow that at a subsequent hearing we would be seeking to argue for the matter T.2605 of 1990 to be dealt with separately.

PRESIDENT: And that is specifically?

MR O'BRIEN: Our application, Mr Commissioner.

PRESIDENT: Your original application?

MR O'BRIEN: Yes.

COMMISSIONER GOZZI: Mr O'Brien, your original application - and I'm not sure whether the detail of what I'm saying to you is precisely correct - but the original application really was joined with all the other applications and those applications have been processed to the extent that structures have been determined and we're now at the stage of looking at - hearing the responses from the parties on conditions and other related matters.

When you are submitting now that you'd prefer to have application 2605 of 1990 dealt with separately, what does that really mean in the context of the stage of the proceedings that we're now at?

MR O'BRIEN: Well, I guess there are a number of connotations that can be put on that. I don't wish to argue that today if indeed the matter is to be adjourned to a hearing shortly thereafter. I'm in the same position as the other organisations here. It's my wish that, as the secretary of an organisation which has members who will be dramatically affected by proposed industrial legislation, to be with those members when they are presenting themselves outside the Parliament today. So I'm quite happy for the matter to be adjourned to deal with that in circumstances where the issue

can be debated without other pressures bearing on everyone's mind. But I thought it was only fair of me to foreshadow that that was what I would like to argue at a subsequent hearing, rather than allow the commission to assume that we were happy with the processes that was now being undertaken.

COMMISSIONER GOZZI: So, you'll take the question on notice.

MR O'BRIEN: Yes please.

PRESIDENT: Yes. Thank you, Mr O'Brien. Mr Lane?

MR LANE: Mr President, on behalf of the Tasmanian Teachers Federation, I endorse the remarks made by my colleague Mr Vines although I must point out that the Teachers Federation has been unable at this stage to have any discussions on agency specific matters with the Education Department when it comes to those non-teaching employees who are members of ours.

However, I believe it would be appropriate at this stage to have the hearing adjourned to at least see if we can make some progress in that particular area and, unfortunately, having noted what you have said to my colleagues previously, I shall also be seeking leave from this hearing later this morning to attend what I believe to be a very crucial event as regards the future of the industrial relations system in this state. If the commission pleases.

PRESIDENT: Yes. Thanks, Mr Lane. Mr Pyrke?

MR PYRKE: Mr President members of the bench, the APESA supports the application for an adjournment this morning. In saying that, I can say that we have been having some discussions with representatives of the Minister administering the State Service and our position would be similar to that in which Mr O'Brien finds himself.

PRESIDENT: I see. So, you'd be seeking to have your particular earlier application dealt with separately?

MR PYRKE: Potentially, sir. We haven't quite made the final decision, but this is the potential path that we could be going down. If the commission pleases.

PRESIDENT: Yes. Thanks, Mr Pyrke. No other submissions from employee organisations? Mr Devine?

MR DEVINE: Members of the bench, I'd simply report with respect to conditions of service that we've had a number of discussions with government representatives and, in fact, the union has put forward some proposals of its own which are being considered by the government and we're awaiting them to report back so that we can continue those negotiations. With respect to proceedings today, sir, and the UFU's involvement

in them, there would not be a great deal more that I could contribute to that, regardless of how long we were to continue, sir.

PRESIDENT: Yes, I understand that submission. Thanks, Mr Devine. Mr Hanlon?

MR HANLON: Thank you, Mr President.

PRESIDENT: Before you start I should alert you to the fact that we will rise just before 11 o'clock for the traditional 2 minutes remembrance.

MR HANLON: I think one of the important factors to come out of this morning's report back is very clearly that each organisation is now appearing here and speaking for itself and that is an indication, from the view of the government, that not every organisation is here and not every organisation is reporting on the process.

And one of the difficulties that confronts government in processing these matters to date is, who actually is speaking to them, who's speaking for whom and who actually is involved. This has been an ongoing problem, particularly when applying to matters that are not formally before the commission such as the conditions of service, agency specific in terms of negotiations and the processing of matters before it.

We, on a number of occasions, have indicated that we thought the process was not capable of being processed and nothing in our experience, since that submission was put in May, has led us to believe that our conclusions then are in any way unsound. Since July 15 we have had documentation in accordance with the bench's wishes with various union parties to this matter.

By direction of the bench there were meetings recommended to be held in the month of October, since the October hearing, and there have been two of such meetings. In a collective sense, there have been various meetings held between the minister and his representatives and various individual unions in all forms.

The situation that we are confronted with is the fact that various organisations who, in the view of the government, are tied into award restructuring arising out of the 3 per cent agreements and W.2 and then the processes set down by this commission to handle matters that flowed from those original agreements.

We have met on the conditions of service on the two occasions. On both occasions we have discussed process, agendas, who will be parties, who won't; we have not discussed any matter of substance. I'm not saying the matters that are not

significant we were discussing, but we were not discussing the content. It's very clear that organisations are looking for an enterprise level focus, that the whole of government approach - that is, the process developed from W.2 - is not of itself functioning.

It certainly hasn't worked from the government perspective, and from the submissions that are being made to us, and they are ongoing at present, it's very clear that the total process is seriously flawed. As a result of our two meetings in October, we wrote to all unions on 30 October. In that letter we set out to - I tender a copy of that as an exhibit.

PRESIDENT: Yes. We'll mark this MATSSA.3, Mr Hanlon.

MR HANLON: That letter was sent personally addressed to every organisation. We - I don't think it matters to the government's representative how you wish to number - we're aware that -

PRESIDENT: I don't think it matters. We'll find a place for it, Mr Hanlon.

MR HANLON: And the reason for the letter was, having discussed process on the two meetings, having been confronted with various opinions put as to who was involved and who wasn't, then the minister's representative wrote to each organisation, and the letter draws attention to the basis under which we last appeared before the commission on 1 October and that - the critical nature of the operative date, and the third paragraph says:

Whilst the parties have met on two occasions since the decision of 1 October 1992 it has become apparent to the Government that there are a number of issues that must be clarified prior to the 11 November 1992 report back hearing.

Whilst the combined public sector unions (CPSU) have provided a document, on a without prejudice basis, that does contain a number of clause titles that the CPSU wish to discuss and have included in a new award, the document does not contain any suggested wording for the proposed clauses nor does it contain comments on the proposed draft award provided to unions by the Government.

It then goes on to deal with the meeting focusing on the process:

- and that some unions have expressed, both verbally and in writing, a wish to be excluded from the process on conditions of employment matters.

The Government is therefore seeking from your organisation a statement as to whether it is willing to continue with the existing Award Restructuring process (all elements of it), partial elements of it or to withdraw from the process.

It is essential that the parties meet prior to the 11 November 1992 report back to discuss both the direction that your organisation wishes to take and/or the negotiation on the content of the Conditions of Employment Award.

Now, we parted company at the last meeting requesting that there be further meetings. No meetings have been requested of the government to occur and as a result of sending the letter on the 30th to formally seek out that involvement, we have received four replies.

Now, we have been in contact with a range of organisations who have sought to discuss with us various matters going to award restructuring, but it is very clear that there is not the commitment by all organisations that we believe are involved in this process. And so the key point, on the next occasion when the matter is before the commission, is who actually is involved because not every organisation comes to the meeting.

We don't expect every organisation to have to be in attendance, but clearly there needs to be some organisational form and the letter is motivated to try to deal with that aspect of it. And, of course, it is an impediment to any form of negotiation that there are continual conditions - preconditions set or that we are continually faced with people or organisations who say they are not involved.

It's been a fundamental part of W.2. that equity standardisation of conditions. There is no doubt that in establishing a condition of principle it may be applied differently in different parts of the service. But the principle of any condition is quite capable of being established and having flexibility and a different application. But we are really confronted with parties not wishing to engage in that process. Is this an appropriate -

PRESIDENT: I think it might be an appropriate time, Mr Hanlon. Just for the record, before we rise, we'll change that exhibit number from MASSA.3 to H.30. We'll adjourn for a brief time.

SHORT ADJOURNMENT

PRESIDENT: Mr Hanlon?

MR HANLON: Thank you, Mr President. Very clearly the situation from the government's perspective is that we see this choice as being a very stark one, that the process that we entered into was based on consultation, negotiation and a set of objectives. If they are no longer achievable and that it's impossible for the parties to work on for that agenda, well, then as soon as we arrive at that decision then the sooner the current process can be brought to an end and some process that delivers to both parties the reform outcome.

Now, given the submissions that have been put from the other end of the table and the request for an adjournment, I would clearly want to put on notice that at the next date of hearing we would see the choice as organisations electing to be in or to be out. And our position is, to date the process has not worked. We have met the deadlines and the response has been insufficient for us to believe that any other activity that flows from W.2 is also going to be confronted with an inability to focus and accomplish the target.

COMMISSIONER WATLING: Can you just explain that? What do you mean by 'it's their choice to be in or out'? The decision has been made, it's just continuing with the process.

MR HANLON: Well, I hear what you say, Mr Commissioner. But the situation of saying that people should confer and this process can only produce benefits if people do confer, that the experience to date does not show that to be an effective method.

COMMISSIONER WATLING: But what's the choice, to be in and out of what?

MR HANLON: Well, the choice is either we're going to proceed with the W.2 agreement or that the parties withdraw from it. We do not wish to be part of the process where people withdraw as individual organisations either by way of non-participation or by saying they're not bound and are then capable of frustrating the process for organisations who may wish to process it. And that matter needs to be dealt with once and for all. The bench offered an opportunity of that in May and certain undertakings were given. We've seen nothing since May to change our belief that the commitment is there.

PRESIDENT: But wasn't the safety net, if you like, to all of that was that in the event that the parties couldn't reach agreement on these matters they would go to arbitration.

MR HANLON: Oh, I think the original intention of the parties were that matters that were negotiated and that details were outstanding could come to the commission. When we're talking about the whole agenda then the transferring of that to the

commission in the hope that we can get decisions that are workable, is to expect too much from an arbitral process.

I'm conscious of the request for adjournments. We would really believe, Mr President, so that the proceedings do not become unworkable - but if the commission takes on board that we will be arguing the point of where the process goes at the next hearing and I would expect to hear organisations in response to that - that the best course of action would be to set a date.

PRESIDENT: Who are the organisations who responded to your letter?

MR HANLON: The Salaried Medical Practitioners' Society -

PRESIDENT: And did they want in or out or partial?

MR HANLON: They saw no good purpose in meeting to discuss the conditions of service. The Tasmanian Teachers Federation and the Secondary Colleges Staff Association also responded and both organisations, in effect, put the same argument they've put on a number of other occasions, that they're not involved as regards teachers and only involved as regards some limited occupations. And the HSUA whose response was, in effect, all will be dealt with under the context of the health memorandum. I don't wish to go into any more detail of that letter as they're not present.

COMMISSIONER GOZZI: Mr Hanlon, just so we can be fully aware of what you're saying to us that on the next day of hearing this question of choice needs to be resolved one way or the other, are you limiting that choice to conditions of service matters or the whole process?

MR HANLON: The whole process, the whole process. It's not a question of picking and choosing the eyes out of it, it's a question of acknowledgement that the parties have engaged in the process and having engaged in the process have achieved as much that could be achieved out of it.

COMMISSIONER GOZZI: So, if it went the way that everything was to be abandoned, if you like, that would entail determined structures, everything that has been done so far by way of determination would be left, abandoned.

MR HANLON: Well, from the government's position the work that we are doing is an internal process, still exists. It provides an opportunity for those organisations who are seeking an agency or an enterprise level focus and to start with a process which suits their needs and suits ours. Currently this process is not achieving it for us.

COMMISSIONER GOZZI: So, obviously you have in mind a number of issues. Would it be that what you're foreshadowing could be a process would entail existing awards and if the legislation, presumably, gets through that you'd be looking at enterprise negotiations on that basis. Is that -

MR HANLON: Mr Commissioner, the question of any proposed bill has not formed any part of our position. We have received various requests from organisations. And in responding to those I don't really want to go into any detail because a number of those apply to individuals, some to a couple of organisations as a group, and there are various proposals entailing all sorts of varieties of outcomes. All we can see is, having a look at all of them, is that there is a theme that this process is not capable of delivering.

COMMISSIONER GOZZI: All right. So let's - just in preparation for that next hearing when these things will be put in stark contrast, will you also be addressing that in the event the commission did walk away from what's been determined so far what would happen to the special cases that were subsumed into the four model streams?

MR HANLON: Well, I might express a view on that but they don't happen to be our applications, Mr Commissioner, and I think that comment should be addressed to those organisations.

COMMISSIONER GOZZI: Well, I guess

MR HANLON: I understand what you are saying.

COMMISSIONER GOZZI: - rather than just putting it to you let me just say, that obviously that would be an issue that I would expect to surface as a matter of course because, quite clearly, the bench took the lead in indicating to the parties that the special cases would be rendered null and void simply because they would be subsumed into the streams.

MR HANLON: If you're saying to me, do the abandonment take away the rights of those organisations in terms of their original applications, is it in that context you're putting it?

COMMISSIONER GOZZI: Well, I'm just wondering what the thinking is, that's all.

MR HANLON: Well, no party should be punished for having participated in the process, if I could say that. But because there are discussions going on I really don't want to be drawn about what the government's view would be about that at this point in time, as we've entered into all these discussions with organisations on the basis of no preconditions.

COMMISSIONER GOZZI: And, of course, the other point that I would be interested in is what the president raised a moment ago that the case is really well and truly completed as far as structures are concerned and the issue of conditions of service could always be arbitrated. And I heard what you said about that and about the size of the task, et cetera, but obviously that is an option and I'd really want to know ultimately, in considering all the aspects of what may be put, why that might be considered to be beyond, as you've said, the capabilities of the bench.

MR HANLON: Oh, it is not - it isn't just about the conditions of service. We're then left with agency-specific items, we're going to be into a whole range of other issues that are interrelated about workplaces, classifications, et cetera, which streams organisations - classifications are in, and all I'm saying is if you've got runs on the board then you can overcome some of these issues as they arise. But there are no runs on the board in terms of consultation.

PRESIDENT: So, you're saying that all the proposals are going - stretching back to W.2 and culminating in H.27, and our decision, is so flawed that they're incapable of being made to work -

MR HANLON: Well -

PRESIDENT: - notwithstanding the fact that there were inherent safety provisions written into all parts of the decision.

MR HANLON: The government's position has been, to date, not to deal with organisations on any matter that's covered by the agenda and the process set out both in W.2 and the various decisions. There comes a point in time where enough water drops onto the stone, if I can put it that way, that we have formed the view that we can't be right, that that is the process to go. And after a while enough people knocking on the door has convinced us that they can't achieve what they want and we're not going to achieve what we want.

PRESIDENT: Well, how do you think you're going to -

MR HANLON: Well, I think that -

PRESIDENT: - just can you enlighten us as to how you will be able to achieve anything if the whole program is discarded?

MR HANLON: Well, I think there is - the fundamental issues is that we are proceeding on the belief that everybody's participating in the agreed agenda. And it is obvious to us that that is not the position and that has to be sorted out and if that, in our submission, is found to be true, then it's the next step; where do we go from there? And, no doubt, in

the period between now and the next hearing date we will be in a position to be much more fully aware of what various organisations are seeking to achieve with us. What's going on is about process, there isn't any content anywhere, neither said of discussions.

PRESIDENT: We have heard from the employee organisations that they're in the process of negotiations and discussions.

MR HANLON: Well, I don't wish to reflect on organisations' comments who are not here. I realise they do so at their peril but I think to describe anything in any forum under any agenda as being anything more than preliminary or about process is to stretch a long bow.

PRESIDENT: We will adjourn briefly to find a date for you. We will grant the adjournment and we will come back and give you the date shortly.

SHORT ADJOURNMENT

PRESIDENT: As indicated earlier, we will grant the adjournment on - and we will resume on 14 December at 10.30 at which time we would expect every party to respond to the submissions made by Mr Hanlon and to inform the bench as to whether their organisation believes that there is any good purpose in pursuing with the restructuring decision. Thank you very much, we will adjourn till the 14th.

HEARING ADJOURNED