

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. Nos 1135, 1136 and 1151 of 1988

IN THE MATTER OF applications
by The Tasmanian Public Service
Association, the Tasmanian
Trades and Labor Council and
the Australian Railways Union
(Tasmanian Branch) to vary
awards and agreements in line
with National Wage Decision of
5 February

FULL BENCH

PRESIDENT
DEPUTY PRESIDENT
COMMISSIONER WATLING

HOBART, 11 February 1988

TRANSCRIPT OF PROCEEDINGS

MR CORDWELL: Australia (Tasmanian Branch), The Operative Plasterers and Plaster Workers' Federation of Australia, Tasmanian Branch and the Federated Engine Drivers' and Firemen's Association of Australasia, Tasmanian Branch.

PRESIDENT: Thank you, Mr Cordwell.

MR GRUBB: **GRUBB, A.J.** on behalf of The Amalgamated Society of Carpenters and Joiners of Australia, Tasmanian Branch.

PRESIDENT: Thank you, Mr Grubb.

MR NEIL: If the Commission pleases, I appear on behalf of the Australian Railways' Union (Tasmanian Branch) **NEIL, W.R.**

PRESIDENT: Thank you, Mr Neil.

MR CUSHION: If the Commission pleases, **CUSHION D.A.** on behalf of the Musicians' Union of Australia.

PRESIDENT: Thank you, Mr Cushion.

MR BLACKBURN: If the Commission pleases, **BLACKBURN, J.G.** on behalf of the Retail Traders Association of Tasmania.

PRESIDENT: Thank you, Mr Blackburn.

MR RICE: If the Commission pleases, **RICE, K.J.** on behalf of the Tasmanian Farmers and Graziers Employers Association.

PRESIDENT: Thank you, Mr Rice.

Mr Lennon.

MR LENNON: Thank you, Mr President.

The application lodged by the Tasmanian Trades and Labor Council and the Tasmanian Public Service Association and the Australian Railways' Union is consequent upon the decision of the Australian Conciliation and Arbitration Commission, who handed down recently an increase of \$6 per week for

MR LENNON:

all wage and salary earners covered by their jurisdiction.

I'm pleased to be able to advise the Commission that I've had discussions with the Tasmanian Confederation of Industries and the Office for Industrial Relations, and we've reached an agreement in the following terms to put before you today:

1. That all awards and agreements with the Commission, in both the public and private sector, be increased by \$6 per week for all classifications.
2. That proportionate increases flow for juniors.
3. That the minimum wage be increased by \$6.
4. That the operative date should be the first pay period on or after 5 February this year.

And, finally, that separate applications would need to be made for shift allowances where they are expressed in money terms.

Mr President, I don't believe it's necessary to go into great detail on the agreement. I think it's reasonably obvious it is a direct flow, if you like, from the decision of the Australian Conciliation and Arbitration Commission. I note that in the Commission's previous decision in the National Wage Case (of this Commission that is) on page 28, that the Bench at that time indicated that: "Given the measure of consensus, both State and Federal, peak trade unions and major employer organisations, during the National Wage Case, we've formed an opinion that only in extraordinary circumstances would it be desirable to settle upon objectives manifestly inconsistent with those of the Commonwealth in a National Wage Case".

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LENNON

MR LENNON:

And, sir, both the employers, the Office of Industrial Relations and ourselves, by virtue of the fact that we've reached this agreement, I think concur that no extraordinary circumstances exist for you to depart from the Australian Conciliation and Arbitration's decision. Therefore we would seek your speedy resolution in this matter.

PRESIDENT:

Thank you, Mr Lennon.

Mr Lennon, did your agreement also go to a continuation of the current wage fixing guidelines, and I quote:

"... until the next review is completed."

MR LENNON:

Sir, we don't seek any alteration to the current system of wage fixation at this stage.

PRESIDENT:

I take that to mean yes?

MR LENNON:

Yes.

PRESIDENT:

The question of juniors we understand has been agreed. Those who are directly involved with awards that have junior rates would recall that on the last occasion there were some problems experienced in determining the correct proportion of the then \$10 that was properly due to juniors because the awards concerned did not indicate the percentage that the then current junior rates bore to an adult salary.

I understand that requests or indeed directions were given by members of this Commission to those interested parties to make good that omission. To the best of my knowledge and belief that direction hasn't been totally complied with. Therefore, if the Commission did respond to this agreement in the way that you would have us respond, we may yet find we have a problem, unless someone can do some work rather quickly on it.

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PRESIDENT - LENNON

MR LENNON:

Sir, I wasn't aware that there was a major problem with respect to the proportionate increases for juniors. But if indeed that is the case ...

PRESIDENT:

Yes.

MR LENNON:

... could I possibly suggest that a conference might be appropriately convened by the President to identify the problem areas so that a suitable approach or method could be found to overcome the problem. It seems to me one way that could be quickly found would be to determine what the flat increase on the adult rate is in percentage terms and then apply that same percentage to the junior rate.

That is one alternative I could think of off the top of my head. But certainly we would need to research the problem areas. I wasn't aware that there was a number. It would seem to me that it would be most appropriately determined ultimately by calling on that individual award if that was necessary. But in the first instance, to try and overcome the problem, perhaps a conference could be convened by yourself.

PRESIDENT:

It might be quicker, Mr Lennon, if this Full Bench, in those circumstances directed or authorised the Commissioner concerned to deal with the matter at first hand if necessary. I think it might be quicker in the long run rather than have a conference with the President and then the President to report back ...

MR LENNON:

The only reason I suggested the conference, Mr President, was that you would then be able to obtain a consistent approach across all the awards which are obviously to be affected.

PRESIDENT:

That might be difficult, Mr Lennon, without actually going to a specific award, because I am mindful - I am sure you are - that different rates

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PRESIDENT - LENNON

PRESIDENT:

appear for different juniors, and if one settled upon a standard percentage it might - I don't know - it might produce inequitable results. I really don't know. I think it is probably a matter for the Commissioner and the parties concerned.

MR LENNON:

I wasn't suggesting standard percentage, by the way. I was just talking about a percentage of the adult rate in that particular award.

DEPUTY PRESIDENT:

Perhaps, Mr Lennon, if the parties here today could indicate to us whether or not it is the intention that where there is no percentage in an award, whether or not it is the intention that there be a flow-on of the \$6 per week for adults to go to juniors, and whether or not it be proportionate to their current salary in relation to the adult rate.

MR LENNON:

That is the substance of our agreement, Mr Deputy President.

DEPUTY PRESIDENT:

Well, if the parties could perhaps indicate broadly whether or not they agree to that, it would be of some help to us.

MR LENNON:

Right, well, from our point of view, and the substance of the agreement that we have reached with the Confederation of Industries and the Office of Industrial Relations is that proportionate increases should flow to juniors.

PRESIDENT:

Yes, the great difficulty, Mr Lennon - and I am not trying to put obstacles in your way - is that where it is not possible to identify the adult rate, you either come up with a notional rate, or select a rate.

Anyhow, we understand your attitude, and I guess this is the attitude of the trade union movement generally. We will deal with it.

MR LENNON:

Thank you, right.

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PRESIDENT - DEPUTY PRESIDENT - LENNON

PRESIDENT: Anything from the employers? Or Mr Vines, do you want to say something, or the teachers? Oh, they are not here today.

MR VINES: No, they're not, sir.

MR LENNON: I'm representing the teachers, Mr President.

MR VINES: Sir, we would, on this occasion, endorse the submissions of the Trades and Labour Council in relation to the Federal Wage Case. But in doing so, sir, we do, as we have in past hearings before this Commission, maintain our concern and opposition to the current wage fixing system. However we appear to have no choice on this occasion but to go along with the decision once again. If the Commission pleases.

PRESIDENT: Yes, thank you, Mr Vines.

Mr McCabe?

MR McCABE: If the Commission pleases, in the recent National Wage Case, the State of Tasmania told the Federal Commission that it opposed the flow-on of any wage increase under the first tier principle of either 1.5% increase in salaries and wages or any other form of increase.

This opposition was based on the fact that the Australian economy has not developed a sufficiently firm foundation to support such an increase.

To support this, we said that while some of the economic indicators had shown improvement in the latter part of 1987, there was still major difficulties with this country's balance of payments.

We had an external debt problem of massive proportions, and the inflation rate which was still far too high when compared with those of

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PRESIDENT - VINES - LENNON - McCABE

MR McCABE:

our major trading partners.

We also said that employee remuneration growth continues to outstrip similar growth among our eight major OECD trading partners.

We said that in real terms the Australian economy has not changed greatly since November of 1986. And while those favourable economic adjustments which had taken place gave rise for cautious optimism, we still had a long way to go.

We emphasise to the Commission that if Australia is to grow and become an economic power, it must be competitive in as many overseas markets as possible.

This is nowhere better illustrated than in the Tasmanian economy which relies on a high concentration of exported oriented industries in the primary and secondary sectors, these being based on intensive use of natural resources.

Tasmania's exports are dominated by mining, agricultural and forestry commodities, and as the export prices for these commodities are determined by world markets, Tasmanian producers are ill-placed to absorb wage cost increases.

We emphasise that there can be no doubt the second tier increase of 4%, together with the additional first tier increase and the cost of occupational superannuation, will add significantly to real unit labour costs in this country.

For these reasons, we told the Bench that we oppose the ACTU's claim and submitted strongly that there should be no further increases in the first tier.

We said that should the Full Bench decide that an increase should be awarded, that such an increase should

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McCABE

MR McCABE:

not be awarded until at least early in 1988 in order that the ramifications of the stock market collapse which occurred in October, late 1987, could be assessed.

Well, as the Bench would be aware, we were not entirely unsuccessful in our submissions to the Federal Commission in that the \$6.00 per week increase granted in their decision of 5 February was somewhat less than that sought by the unions, and the operative date was delayed until the first pay period to commence on or after 5 February 1988.

If the Commission pleases, notwithstanding the submissions of the National Wage Case, we now say that since the Federal Commission has decided to grant an additional first tier increase, we would not oppose the flow-on of the same increase to employees under the awards of this Commission.

This stance is consistent with the Government's position of not opposing in this jurisdiction, the flow-on of decisions handed down in National Wage Cases.

While we are mindful of the financial burden that any increase will place on both public and private sector employers, on this occasion we would not wish to see Tasmanian employees under State awards treated differently to employees elsewhere in Australia.

We submit that any increase should operate from the first pay period to commence on or after 5 February 1988 in line with the Federal decision.

In relation to junior rates, we say that where such rates are a proportion of an adult rate, that a corresponding proportion of any flat rate increase should be awarded.

We would also remind the Bench that

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McCABE

MR McCABE: in accordance with the generality of the national wage decision of March 1987, that there should be no increases in allowances, except in accordance with the criteria established by this and the Australian Commissions. If the Commission pleases.

COMMISSIONER WATLING: What happens, Mr McCabe, if it's not a percentage proportion of the adult rate and the award doesn't prescribe it? Is it your submission that they get the full amount?

MR McCABE: No, I don't think I would be advocating that at all, Mr Commissioner, no.

I think when those sort of questions arise, it's a matter for the parties to the award to deal on an award-by-award basis.

COMMISSIONER WATLING: I only asked it because I thought you were qualifying your support in that area.

MR McCABE: No, we wouldn't be supporting that concept, Commissioner.

PRESIDENT: Thank you, Mr McCabe. Mr Stevens?

MR STEVENS: Thank you, Mr President.

I'd like to indicate that the Minister for Public Administration and the other controlling authorities that I represent support and adopt the general submissions made by Mr McCabe, on behalf of the Minister for Industrial Relations.

Specifically, we do not oppose the flowing on of the \$6 per week increase and the proportional increase for juniors to employees under awards of this Commission, including agreements where necessary.

We support Mr McCabe's submission that we are not opposed to employees

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PRESIDENT - COMMISSIONER WATLING -
McCABE - STEVENS

MR STEVENS:

under State awards receiving the flow-on of decisions handed down in National Wage Cases.

I would also support the operative date of decision as being the first full pay period commencing on or after 5 February.

And in specific relation to the juniors there are a number of State awards in the public sector that do not have a percentage for juniors, they were dropped out about 2 years ago. So we'd be seeking to put those back in.

Again, I'd support the parties on an award-by-award basis, and I would indicate that following ... or approximately 2 years ago, if you go back in this history of the award, you will see that each junior rate in fact had a percentage of the appropriate adult rate. So it's just a bookkeeping exercise really. And, as I understand it, the percentages for juniors are consistent across the State employees - across the public sector employees awards of this Commission.

If the Commission pleases.

PRESIDENT:

Yes. Thank you, Mr Stevens.

Mr Stevens, whom do you think should be given the task of preparing the necessary orders, if these claims are successful - the parties?

A lot of heads seem to be shaking.

MR STEVENS:

Well, I'm not sure how it was done last time, but I think that was quite successful.

MR :

Well said.

MR WESTWOOD:

Good one.

PRESIDENT:

I think we understand that submission, Mr Stevens.

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PRESIDENT - STEVENS - WESTWOOD

MR STEVENS:

Thank you, Mr President.

PRESIDENT:

Thank you. Perhaps you might care to address it too, Mr Edwards, since you're on your way up ...

MR EDWARDS:

Yes, Mr President, I will.

PRESIDENT:

... I think.

MR EDWARDS:

I would have thought that flick passes were made illegal some time ago.

Mr President and members of the Bench, the organisations I represent this morning have adopted a position in that they will not oppose a flow-on of the \$6 National Wage Case increase awarded by the Conciliation and Arbitration Commission in the terms that have been announced to the Bench by Mr Lennon.

There have been consultations between our organisation and the TTLC and we have agreed not to oppose a flow-on of the increase in the precise terms of the Federal National Wage Case decision; that being that adult rates increase by \$6 per week. There would be a proportionate increase for juniors.

The minimum wage would be increased by an amount of \$6 per week. The operative date for those increases would be the beginning of the first pay period to commence on or after 5 February 1988, and that in circumstances where a shift allowance is expressed in monetary terms they should be dealt by way of a separate application.

On the question of determining the appropriate proportionate increase for junior employees, it would be our submission to the Bench that in circumstances where problems do arise because there is no percentage prescribed in an award, the Commissioner concerned in charge of the particular award should call a

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PRESIDENT - STEVENS - EDWARDS

MR EDWARDS: conference of the parties to settle the order in that particular award, so that it can be done on a consensus basis.

PRESIDENT: And would settlement in those circumstances envisage, among other things, inclusion in the award of the appropriate percentages to apply?

MR EDWARDS: I don't pretend to be authoritative in the area of each of the awards in question, Mr President, but that would seem to me to be a sensible arrangement to avoid this confusion in the future. If indeed, the parties can agree on that particular course, I think that would be an appropriate course to be adopted.

PRESIDENT: Meanwhile, if we do as you would have us do, is it the view of the Confederation that the principle now in place, remain in place until they are reviewed?

MR EDWARDS: That would be the submission of the organisations I represent.

The principles that were developed in March of 1987, we believe, should continue until such time as replaced by another system or, alternatively, until formally abandoned by the Federal and State Commissions.

In other words, they should continue on until either replaced or, indeed, we return to a situation where there is no centralised system per se which is surrounded by a package of principles if that, indeed, is the outcome ultimately of the deliberations between the various parties.

PRESIDENT: Yes. In the meantime do I take it that you solemnly engage yourself, or your principals, to faithfully observe those guidelines, Mr ... ?

MR EDWARDS: As we always do, Mr President.

PRESIDENT: That wasn't quite the question.

MR EDWARDS: I realise that wasn't quite the question. We, as usual, will continue to monitor the principles and ensure that the constituents of the Tasmanian Confederation of Industries will make their best endeavours to abide by each and every principle of the package.

DEPUTY PRESIDENT: What's the penalty for failure?

MR EDWARDS: I don't believe there is one, Mr Deputy President.

Mr President and members of the Bench, in indicating to the Commission on this occasion that we would not be opposing the flow-on of

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PRESIDENT - DEPUTY PRESIDENT - EDWARDS

MR EDWARDS:

the increase awarded by the Federal Commission, I believe it appropriate to say that we do not believe that the decision of the Federal Commission was an appropriate decision in all of the circumstances surrounding the hearing of the National Wage Case decision.

We do not believe that the economy of Australia, and indeed Tasmania, can afford the luxury of across-the-board wage increases which are not in some way tied to increases in productivity. Across-the-board increases that are not reflective of increased productivity, in our view, are totally counterproductive and do no more than harm Australia's international competitiveness which, in our view, will ultimately have an adverse effect on the Australian economy as a whole.

To that extent we support the submissions that were made to the Federal National Wage Case decision by the Tasmanian Government in respect of international competitiveness, and the folly that is being indulged in by members of the wage-earning community in Australia of seeking across-the-board wage increases which are not paid for by increased productivity.

It is our view that whilst we continue with that sort of exercise, we will do no more than fuel our current inflation rate, which is already far too high in comparison to that of our major trading partners. And it is our submission that we cannot afford the luxury of continually making ourselves less competitive compared to our overseas trading partners.

Notwithstanding that, we have elected on this occasion that it would be unrealistic to do anything other than adopt the course we have, of not opposing the flow-on, and I guess to some extent we have taken note of the

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EDWARDS

MR EDWARDS:

same quotation that Mr Lennon made earlier, on page 28 of the Tasmanian Industrial Commission's decision of last year, where you have indicated that there would need to be extraordinary reasons for a departure from a flow-on of the Federal decision.

We have taken note of that and we have decided that on this occasion the situation in Tasmania is perhaps no worse than it is for the rest of Australia and as such there were no extraordinary reasons for opposing the flow-on, and as a consequence we have decided not to do so.

Having said that, I'd like to thank and congratulate the Commission for the expeditious programming of this hearing which will enable, hopefully, an early decision to be made so that employers can in fact put in place the increase without the need for retrospective adjustment, which is a costly and time-consuming task which should be avoided to the greatest extent possible.

So we thank the Commission for bringing the matter on early and we ask the Commission for an early decision so that the matter can be put in place without undue delay.

If it please the Commission.

PRESIDENT:

Thank you, Mr Edwards.

Yes ... ?

MR CORDWELL:

Yes, Mr Commissioner.

I just concur with the submissions as outlined by Mr Lennon from the Tasmanian Trades and Labor Council.

PRESIDENT:

Thank you, Mr Cordwell.

Mr Neil, you have an application in, do you wish to say something?

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PRESIDENT - EDWARDS - CORDWELL

MR NEIL:

Yes. I concur with the words of Mr Lennon, Mr President, and I have no wish to add anything further. Thank you, sir.

PRESIDENT:

Thank you, Mr Neil.

That being the case, gentlemen, we will reserve our decision.

That concludes this hearing.

HEARING CONCLUDED