

TASMANIAN INDUSTRIAL COMMISSION
Industrial Relations Act 1984

T No. 5455 of 1995

IN THE MATTER OF an application by the
Automotive, Food, Metals, Engineering,
Printing and Kindred Industries Union to
vary the Automotive Industries Award

re restructure conditions component of
award

COMMISSIONER GOZZI

HOBART, 19 June 1995
continued from 28/4/95

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER GOZZI: Could I have appearances, please - are there any new appearances?

MR P. TARGETT: Commissioner, TARGETT P.E., from the Tasmanian Chamber of Commerce and Industry, replacing MR EDWARDS.

5 COMMISSIONER GOZZI: Yes. Thanks, Mr Targett.

All right, this morning is really a report back. I think the last document I had was exhibit B.1, discussions between the unions and the TCCI. Is that right?

MR BAKER: Yes, sir, that was the last formalised document that was exchanged between the parties.

10 COMMISSIONER GOZZI: Right.

MR BAKER: If I may proceed, just to bring you up to date on what's happened.

COMMISSIONER GOZZI: Right.

15 MR BAKER: As I understand it, the employer organisations respondent to this award were going to have a discussion insofar as their position was concerned on a number of matters that arise out of the restructuring of the award and, likewise, the unions were going to have a discussion as well.

20 The discussions between the unions have occurred and basically the principal consideration was looking at a number of the provisions which apply in the federal Repair Services and Retail Award as to how they impact, or would impact, upon the state award; because in the RS & R Award, for example, there are a number of clauses which relate to flexibility of working hours or weekends and various tiered payments for people who work those shift periods, if you like, from Friday night to Monday morning.

25 We actually as a group came to the conclusion that we would look at revamping the award to give effect to all of that, and I have in fact done - I have a draft requiring some serious typing - and that, sir, is where we are at the present time.

30 We have no real disagreement amongst ourselves where we are going as far as it's concerned. The only area which I would make reference to, and my colleague Mr Noonan is not here from the SDA, but I would, sir, report to you, sir, that there is a disagreement as far as the penalty rates so far as they relate to sellers of automotive parts in stores attached to - sorry - in the areas which are attached to retail outlets, and they will be making a submission, I presume, insofar as that is concerned.

COMMISSIONER GOZZI: What, retail outlets attached to service stations, and so on, or -

35 MR BAKER: Yes. Those that -

COMMISSIONER GOZZI: Or K-Mart type of outlets?

MR BAKER: Yes, K-Mart type outlets, Repco, Sparco. Those that basically are retail outlets. But Mr Noonan will no doubt address you and -

40 COMMISSIONER GOZZI: Wouldn't those sort of places, like K-Mart and Repco and so on, come under the Retail Trades Award?

MR BAKER: No, they come under the scope of the Automotive Industries Award, because under (d) of the scope clause, 'The seller of motor vehicle replacement parts and accessories'.

COMMISSIONER GOZZI: Right, so that can comprehend anywhere?

5 MR BAKER: Yes.

COMMISSIONER GOZZI: Even if it's in a retail outlet. For instance, a Coles-Myer, for instance.

MR BAKER: Yes.

COMMISSIONER GOZZI: Would that be right? Is it intended to apply that way?

10 MR BAKER: Well, it does at the present time. If you look at the Coles-Myer situation the in that award applies to people who work in the K-Marts.

COMMISSIONER GOZZI: Yes?

MR BAKER: So I suppose that's a specific one. Whether that is desirable or not is another issue.

15 Certainly Mr - I have had a brief discussion with the TACC representative, Mr Joyce, about whether or not that's desirable or not, and he did -

COMMISSIONER GOZZI: I bet I know what he said.

MR BAKER: - indicate to me what his point of view was.

20 MR JOYCE: Commissioner, just as a point of clarity. In response to K-Mart Auto that company is a member of - is a respondent to the federal award - therefore their operations will be covered by the federal award.

With respect to Repco it may well be that some or all of those are indeed members of the TACC and respondent to the federal award. With respect to Sparco it may well be a similar situation.

25 I would just say for the moment and confirm that I have had discussions with the union with respect to a number of matters, but the point before you today with respect to the terms and conditions, and we certainly have had discussions among both the employers and the employee representatives, and our aim is that this could be achieved by consent.

30 Certainly what has just been raised are quite interesting points about whether certain awards should have comprehensive coverage, but with respect that's not the issue currently before the bench at this moment.

COMMISSIONER GOZZI: Well, no, it's not, but by the same token at the end of the day I think it is important that we all know where the award applies or where it
35 doesn't apply. I mean, I quite candidly would have some problems if this award applied, say, in Coles-Myer. I don't think it has hitherto. I can understand the K-Mart Auto situation because that is a distinct operation, but I really couldn't understand in respect of Coles-Myer or maybe goodness knows where else.

40 I mean, there may be - I don't know, it might be something that, you know, may not be a problem, might only be a hypothetical problem - but there may be shops particularly in country locations where you've got the old general store and a pump out the front,

that they may sell parts. I don't know. Traditionally, they have been covered by the Retail Trades Award.

5 MR JOYCE: Perhaps, commissioner, but I think just for the moment we will address the point that is before the bench, and perhaps later on if a problem does indeed exist, perhaps we can address that point down -

COMMISSIONER GOZZI: Well, you keep saying whether it is before - it is before the bench in the context of the proposed scope.

10 Now we may have accidentally stumbled onto a problem, but you are asking me to make the award in terms of exhibit B.1, subject to further discussion and refinement or whatever, but I don't anticipate that you are looking to do anything further with the scope.

MR JOYCE: Indeed.

15 COMMISSIONER GOZZI: And, quite honestly, I think it is important to know where it applies, particularly if there is a problem between the SDA and the metals union in respect of penalty rates that might apply. So it is before me, Mr Joyce, that's the point I am making, and you can't duck shove it under the carpet by saying it is not before me.

20 MR JOYCE: Indeed, commissioner. My intention was never to duck shove anything under the carpet. It is just that it appears though that perhaps my colleague was perhaps discussing points that as yet we have not had the privilege of his discussions with the other union colleagues.

COMMISSIONER GOZZI: All right. Well, I'm prepared to let it go at that point, but obviously some further comment will be required in the future.

25 MR BAKER: Yes, well it certainly is a vexed question, because obviously with some - particularly the country service stations who may or may not join the TACC - it does raise a question or two. But they are hypothetical questions which need to be addressed perhaps at some stage later.

30 Insofar as we are before you today, as I've indicated to you there is a document - B.1 - which in fact was as a result of discussions between ourselves and that of the employers. I have, on behalf of the other unions, following a meeting refined our position insofar as I now have documentation which is requiring some typing, and we are still, you know, in a position to sort of proceed down that course.

35 What I would request from the commission today is that the matter be adjourned into a conference where we can look at setting some dates so that we can bring this matter to a final position, so that we can come back to you, as Mr Joyce indicated, with a consent position. We can wrap it up.

40 I mean, most of the things I think don't require too much discussion at all. I mean, most of the clauses in the award are fairly straightforward and apart from sort of perhaps looking at the wording of them to make sure the wording is correct, there is not much else that needs to be done to them.

The real areas which obviously cause some concern are these issues relating to the working arrangements over weekends and penalty rates, and those sorts of issues, but the rest of the matter I don't believe that it should give us too many problems at all.

COMMISSIONER GOZZI: All right. Well, that sounds good. Mrs Dowd.

5 MRS DOWD: Mr Commissioner, Mr Baker has actually reported quite accurately on our position at this stage. The meeting that he referred to in relation to the unions was actually held early in May, and at this stage I haven't seen the documentation that he referred to in relation to the - being tidied up with the typing, but I believe that it would reflect our discussions in relation to that meeting. If the commission pleases.

COMMISSIONER GOZZI: Thank you. Mr Joyce.

MR JOYCE: Commissioner, I've had brief discussions with the TCCI and it is indeed our aim to see if it is possible to have this matter concluded as quickly as possible by consent.

10 I would adopt the proposal suggested by the union this morning to see if it is possible to adjourn this matter into conference for possible timetabling in the near future - perhaps two to three months from today.

COMMISSIONER GOZZI: Thank you. Mr Targett.

MR TARGETT: I have nothing further to add, commissioner.

15 COMMISSIONER GOZZI: All right, we'll adjourn into conference. Thank you.

INTO CONFERENCE

COMMISSIONER GOZZI: These proceedings are adjourned to 14 August at 10.30 in the morning. Thank you.

HEARING ADJOURNED