IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. Nos 665 and 691 of 1987

IN THE MATTER OF applications by the Tasmanian Public Service Association and the Tasmanian Teachers' Federation to vary nominated awards to increase salaries to reflect movement in the Consumer Price Index for March, June, September and December quarters of 1986

FULL BENCH

PRESIDENT
DEPUTY PRESIDENT
COMMISSIONER KING

HOBART, 6 March 1987

TRANSCRIPT OF PROCEEDINGS

(CONTINUATION)

MR VINES: If this Commission adopts the decision of the Federal Commission to remove Principle 1 prior to the hearing of this claim being completed, that would be a question that we would have to raise with the Commission whether it would still rule on our application under Principle 1 or not.

PRESIDENT: Yes, I understand.

MR VINES: And that of course, sir, will be subject to what does happen over the next couple of weeks in the other jurisdiction.

PRESIDENT: Similarly, I suppose it's a question one might put to any other organization who made application to the Commission to change the Principles. I suppose this Commission would say, `Well, what of part-heard cases?'

MR VINES: That's correct, sir.

PRESIDENT: The usual procedure has been that cases whether part heard or not are determined in accordance with the Principles applicable at the time of the decision, not so much at the time of hearing.

MR VINES: That's correct, sir, but of course it all depends on what this Commission does in relation to whatever decision the Federal Commission does.

PRESIDENT: Quite so, and it depends on any application that might be before this Commission following announcements of the Federal decision - there may not be any application.

MR VINES: That's correct, sir. Well, I would suggest that there would be applications but they might not necessarily mirror those in the Federal Commission and what our application seeks to do is to have those benefits of Principle 1 awarded to our members as soon as possible.

PRESIDENT: Perhaps we should let you get on with

PRESIDENT: the job of persuading us then that that should be the case, Mr Vines.

MR VINES: Well quite possibly, sir, but I ...

PRESIDENT: No, wait on, Mr Willingham hasn't accepted all this.

MR WILLINGHAM: I have fully accepted what was said, Mr President, and indeed Mr Vines provided the answer that I sought but, as I recall it, I asked also if the Commission viewed this as a State wage case. Mr Vines, in response to my query, has said yes, it is a State wage case. My question to the Bench is also if they are going to continue to hear this matter on that basis.

I just want to make 2 points initially. First, no Government position has been reached in light of the continuation of the centralized wage-fixation system and its attendant Principles and no such decision will even be considered until the time of the National Wage Case decision being handed down. And I think it's fair to all the parties to indicate that if we're effectively responding to a State wage case submission from Mr Vines, there can be no expectation, with great respect, from the Commission or anyone else that we'll be in a position to respond until that time.

The second point I would raise, Mr President, is that if it is a State wage case, which I don't believe is widely understood outside of this room, I wonder how many parties not here are disadvantaged by not having had an appreciation of Mr Vines' intentions.

It seems to me that if this is a State wage case and the Commission is going to hear it on that basis, then it is absolutely essential that other parties at least be alerted to that so that they have the opportunity to stay away, come here, represent their interests or do whatever anyone else would do - any other organization

MR WILLINGHAM: would do - on the occasion of a State wage case.

PRESIDENT: Well Mr Willingham, so far as the second observation is concerned, this hearing has been publicized in the Press. At least one significant organization is here today with an application; I refer to the Teachers' Federation.

I think possibly that the T.P.S.A. and the Teachers' Federation between them would be looking after 13 or 14,000 members and they're both members of the Tasmanian Trades and Labor Council. If other organizations choose to stay away they do so at their peril.

MR WILLINGHAM: With great respect, Mr President, I understand what you've just said but I don't in any way agree with it. It has not been advertised - this particular case - as one that should be considered as a State wage case.

People were entitled, as indeed we were entitled, to assume that it was a sectional claim and indeed that was the way the application was written. It was sectional in its very narrowest meaning because it sought to apply any increases arising from this case solely to T.P.S.A. members.

I don't believe that reasonable construction of the advertised claim could have been deemed to have been a State Wage case and I simply pose the question to the Bench as to whether, in their view, they believe that people and other organizations particularly are being disadvantaged by not being aware of what Mr Vines has now specifically stated.

If the Bench believes that it's an appropriate thing to continue on the basis that you've just indicated, Mr President, then so be it, but that would be in my view almost tantamount to a denial of natural justice because people are not having the opportunity to be heard because they

MR WILLINGHAM: didn't know the full connotation of the claim that Mr Vines has now outlined.

PRESIDENT: Mr Lennon was present during the last proceedings and chose not to enter an appearance. Mr Imlach did enter an appearance, along with (I've forgotten who it was now) - he entered an appearance for the No. 1/No. 2 Branches of the Hospital Employees' Federation and Mr Imlach of course is an official of the T.T.L.C.

They are not here today; I think that's their problem.

MR WILLINGHAM: Well with respect, Mr President, Mr Imlach and Mr Lennon would have read an application, as indeed I did, that sought to confine the 9.7 percent increase to members of the T.P.S.A. and nominated awards. Nothing that transpired last Friday would have given anyone even an intimation, let alone a definitive statement, that this was to turn into a State wage case.

Now I can't say more than that, but that is my view and I hold it very firmly.

PRESIDENT: It may have been a poor choice of words on Mr Vines' part, but the T.P.S.A. is not authorized to initiate a State wage case - the T.P.S.A. can only make applications on behalf of its members the same as the Teachers' Federation. Mr Vines has called it a State wage case; I don't believe for one moment the case he's putting is intended to apply to, shall we say, ironworkers. Perhaps Mr Vines can answer that for us.

MR VINES: Thank you sir, I don't think I have actually said that this is a State wage case. I think I was referring to Principle 1 as a vehicle for State wage cases rather than National Wage Cases in this tribunal.

As to Mr Willingham's submission that this has not been advertised as a National Wage Case or a State wage case, I don't believe that these cases have ever been advertised as State wage case or National Wage Case.

And for that matter sir, if I could just read out the listing of the State wage case last year:-

> "In a matter of applications by the Tasmanian Public Service Association and the Tasmanian Trades and Labor Council to vary all public sector awards and to vary all public and private sector awards and agreements respectively."

That doesn't even mention the words `National Wage Case'. It is a matter of pedantics, I think sir, as to how a matter is advertised.

I think it is quite clear from the statements the Public Service Association has made on this claim that we see this as an application in relation to Principle 1, or what is known as National Wage Cases or whatever one wants to call it.

As you have said other parties have had the option of becoming involved in this. Many other parties have been served with notice of the application. I think it is quite clear that it would not have only been the Teachers' Federation who was able to comprehend what was intended by that application.

MR WILLINGHAM: Mr President ...

PRESIDENT: You are going to read me section 21,

PRESIDENT: are you?

MR WILLINGHAM: No, Mr Vines referred to it as pedantic, I just don't see it that way and I think he's being totally semantic.

He refers to the `Notice of Hearing' which was dated 2 July 1986 in respect of applications T.432 and T.435. He doesn't bother to refer to the attachment thereto which says, `Statement of Particulars' (I'm now referring to his own application):-

> "An increase in all salary rates and allowances of 2.3% to take account of the September 1985 and December 1985 quarters C.P.I. movement effective from the beginning of the first pay period beginning on or after the 1 July 1986 in accordance with the decision of the Australian Conciliation and Arbitration Commission released on the 26 June 1986."

Now there wouldn't be one person in the whole industrial relations hemisphere of this State who wouldn't know that that's a State wage case.

PRESIDENT: Well then why aren't they here?

MR WILLINGHAM: Because it hasn't been, Mr President, advertised that way in this particular matter.

MR WESTWOOD: With respect, Mr President, everybody is waiting, in accordance with the Principles, for the conclusion of the current National Wage Case.

The start of the Principles sir, if you'll go to them and read them say:-

> "The Principles have been formulated on the basis that the great bulk of wage and salary movements ..." (and I'll go on) "... will emanate from national wage adjustments ..."

MR WESTWOOD: It then goes on to say, under Principle 1 `National Wage Adjustments´ ... now where on earth do they come from - they´ve got to come from the National Bench. And if the association is seeking to rely on Principle 1, it´s a farce, it´s a joke, and that´s why no other organizations are here. They understand the system and they know that a National Wage Case flow-on hearing will be convened in due course.

It is a farce - I repeat, sir - and the whole matter ought to be thrown out as such or at least referred to the National Wage Case flow-on.

If it´s not a national wage adjustment it can´t be in accordance with Principle 1, and I want the association to define what Principle, other than Principle 1, they intend to follow.

COMMISSIONER KING: Mr Westwood, your comments just beg the question, why wasn´t that sort of submission put at the commencement of these proceedings rather than the technical-type objections that were put in by your friend?

MR WESTWOOD: Well with respect, Mr Commissioner, that is really irrelevant. I did make the point, during my submissions in support of the Minister for Industrial Relations, that there were two matters, that there were technical objections, and there was the question of the Principles.

Now the Bench didn´t get to that point, it dealt with the technicalities.

There has been no further opportunity to raise the question of Principles until this time. We were in fact going to wait for the association to complete their submissions.

PRESIDENT: And don´t you think we should do just that, Mr Westwood, let them put their

PRESIDENT: case?

MR WESTWOOD: As long as we don't let the public come to the conclusion that this is a State wage case and that it is cloaked with the respectability of the Guidelines, because it simply isn't.

MR WILLINGHAM: Mr President, if I could just respond to the remark from Mr Commissioner King - the reason that the so-called technical threshold argument was raised, because that was one that we believed was legitimate and valid in the context of this case.

The reason that we chose not to pursue the matter that we are now currently alluding to is because despite some public speculation, Mr Commissioner, there was no hard evidence of precisely how the Tasmanian Public Service Association intended to pursue their claim within the Principles.

If you look at the application itself, you will look in vain to find any mention of a Principle or indeed a number attached to that Principle.

And I think I said, in some of my submissions going to the so-called technical argument, that I acknowledged the right of the T.P.S.A. to lodge a claim, given that it was within the Principles.

And it's really a `Catch 22' situation. Until you hear the association actually detail which Principles it intends to pursue its claim under, you're not in a position to raise a threshold matter as to whether that is a valid prosecution of their application.

And that is why the matter is raised now. That is why we regard the question of whether this is a State wage case or not as being so crucial.

COMMISSIONER KING: Mr Willingham, you've been around in

COMMISSIONER KING: the industrial arena for quite some time. I would have assumed that on your reading of the application it would have been very clear what this matter is all about.

MR WILLINGHAM: Well I've been around in the arena for a long time, as you say Mr Commissioner, and no it wasn't, and I've seen a lot of people make assumptions on how other parties are going to prosecute claims and get the old proverbial bucket straight across the shoulders.

I've been around long enough not to fall into that trap too unwittingly. I prefer to wait and discover precisely what the claim is about before jumping to assumptions, and it was important enough to make absolutely certain of the grounds - and that's what we've done this morning.

PRESIDENT: I think we'll continue to hear you, Mr Vines.

MR VINES: Thank you, sir.

PRESIDENT: We'll decide in our good time, whether or not there has been any transgression of the Principles and so far as reference to a State wage case is concerned, I'm not a betting man but I would venture to say, were we to adjourn these proceedings now and contact other peak organizations and apprise them of what's going on, I doubt that there'd be too many turn up.

MR VINES: I'm not sure what to make of that, sir.

I think the comments by my friends at the other end of the table bear no relevance whatsoever to what's actually happening before this Commission today.

I just noticed, for interest, sir, and I don't know how advertisements are normally placed in the paper for cases of national significance, but in fact the Commonwealth National Wage Case of last year was an application by the Amalgamated - the Storemen and Packers as well - but by the Amalgamated Metal Workers' Union to vary the Metal Industry Award 1984, Part I in relation to wage rates.

Now, if I saw that in the law list in the Age or somewhere, I wouldn't necessarily believe that that was an attempt of a National Wage Case either. Things, I don't believe, are advertised as National Wage Cases.

Principle 1 that I've referred to, sir, and also that Mr Westwood referred to, in relation to national wage adjustments, merely refers to them as to when those adjustments would operate from.

As I said before, this Principle has a heading of, `NATIONAL WAGE

MR VINES: ADJUSTMENTS' but it quite clearly is to an extent an incorrect adjustment because this Bench is not capable of awarding national wage adjustments. It's capable of awarding adjustments to awards under its jurisdiction, but not to all awards of the Commonwealth of Australia.

Principle 2 of those Principles, sir - again if I can quote, states that:

> "Any claims for improvements in pay and conditions other than those provided by Principle 1 must be processed in accordance with Principles 3 to 12 below. No application for a national wage adjustment to an award will be approved by the Commission unless all the employee organizations registered in respect of the award give an undertaking that until the next National Wage Case decision they will not pursue any extra claims, award or overaward, except in compliance with the Principles."

What effectively that means, sir, is that C.P.I. flow-ons allowed from Principle 1 are contingent upon unions giving undertakings in the terms of Principle 2 and as we have for the last few years, the P.S.A. is prepared to give that undertaking.

The P.S.A. has abided by the undertakings in the past and the Principles have worked relatively well. Nothing has happened since 22 July last year when that decision was handed down to demand a change to the current situation, when that decision was handed down, for those Principles to have a life of 2 years.

We seek the continuation of the current system and the Principles for their 2-year life.

MR VINES: The P.S.A. will, as required, give undertakings for a further 6-month period in accordance with the Industrial Commission direction at page 36 of that decision, as I quoted earlier.

For the Government to oppose this claim for the State sector employees, the onus is on it to prove beyond doubt that economic factors pertaining to this State prohibit the granting of the claim, or alternatively on the basis of public interest.

As I said before, sir, it is not up to us to justify our claim. It's already justified under Principle 1 and supported by Principle 1.

The Government of course must submit all relevant information related to any alleged economic difficulties. The Commission in turn must rigidly test that information.

As our application in our submission is made consistent with Principle 1 of the current and continuing Principles, it should therefore be determined in accordance with those Principles.

The main thrust of those Principles is that wages and salaries will be adjusted in accordance with the C.P.I., unless persuaded to the contrary because of exceptional circumstances. Exceptional circumstances do not exist.

Since the wage-fixation system was introduced in 1983 significant improvements have occurred in major economic indicators in Tasmania.

In relation to the two indicators referred to in Principle 1 to which the Commission requires special reference, namely the level of employment and the level of inflation, I'd hand up a further exhibit, being the `Australian

MR VINES: Bureau of Statistics Monthly Summary of Statistics for January 1987', catalogue 1303.6.

PRESIDENT: This will be V.2.

MR VINES: That exhibit is page 3 of that catalogue, table 1 being the principal indicators of business activity in Tasmania.

You can see from that, sir, in relation to those two factors, firstly the number of people employed in Tasmania has risen from 164,200 in January 1983 to 189,800 in December 1986, an increase of 15.6% over the period that these Principles have been in force.

MR VINES: Over the period that the current Principles, as amended last year, have operated ... Sorry - over the same period since 1983 that the current wage-fixing system has operated, the unemployment rate has dropped dramatically from 12.1% to 10%. This of course, sir, relates to Tasmania, not to the whole of the Commonwealth.

Even for the period directly related to that claim, that is from January to December last year, employment has increased from 176,600 to 189,800 and the unemployment rate has dropped from 10.50% to 10%.

Since 1983, sir, as can be seen on Exhibit V.1, the C.P.I. has dropped from 10.7% in 1983 to a current 10% and it was as low as 6.7% in 1983/'84, 4.8% in '84/'85 and 8.7% in '85/'86 - again relating to Hobart.

These two prime indicators selected by this Commission in the National Wage Case of last year, clearly demonstrate the positive impact that the current wage-fixing system has on those major economic factors of Tasmania.

A further exhibit from that same catalogue, sir, at page 11...

PRESIDENT: V.3.

MR VINES: ... which gives the `SUMMARY OF INDEXES: TASMANIA', which the Australian Bureau of Statistics have selected as principal indexes, shows that wages and salaries have been extremely restrained over the period of the current wage-fixing system, being from 1983.

Annual point increases prior to the system being introduced for wages were 12.3 for 1980/'81, 10.2 for '81/'82. With the introduction of the current wage-fixing system increases dropped to 9.5 points in '82/'83, 6.3 for '83/'84, 5.4 for '84/'85, 4.8 for '85/'86 - the last

MR VINES: annual figures available.

Looking at the table, even though those '85/'86 are the last annual figures available, sir, they do of course apply to half of the period in question with our claim - being the period from January to June 1986.

Looking at that table it is clear that wages have been restrained in relation to movements in C.P.I. Looking at the two other indexes the Bureau of Statistics has used on that table, sir, it is clear that the pricing of materials that they use as non-labour indexes have not to any degree been so restrained.

It is our submission that workers have shown extreme restraint in not keeping up with the cost of living increases and have not attempted to move beyond those cost of living increases as some other economic factors have in fact done.

Our members will continue to show that restraint, but the Government and private employers must do likewise if we are to maintain our standards.

I think, sir, it is interesting to note that we had calls in our telephone office this morning in relation to Government constraint, and the advice once again and similar advice that we put to you in a hearing in August and September last year, was excesses that are being shown in some Government areas.

The advice that we have received today, indicates that the Government is spending something around $300,000 in furnishing one office - not an office complex or a group of offices, but one office in a new central city building.

That sort of restraint, sir, is not being shown by Government. It is being shown by their employees and employees of the private sector, and

MR VINES: the employees have taken the brunt for too long.

Wages are a small part of the macro-economy of Tasmania and therefore restraint in other areas of the economy is required. There needs to be an equality of sacrifice; the Tasmanian Government has the capacity to restrain prices but it has not done so. It is not really interested in that sort of constraint.

It is clear that with this Government's policies only wage and salary earners are expected to bear the brunt of restraint, and they have done that, sir.

Our exhibits show the fall in wages relative to the increase in the cost of living. Our claim is not seeking to make up all of those losses. We are seeking to maintain a relatively decent standard of living. Our claim is showing restraint.

We seek only the minimum increase in salary necessary to maintain a satisfactory standard of living, albeit a much reduced standard of living to which we are accustomed.

The increase we seek is to cover costs already incurred. Our members paid those higher prices in the 12 months of last year. They have gone up again since that period.

Prices increased over that period, yet wage and salary earners have not had any offsets in relation to those increased costs.

Quite clearly our members are showing restraint. We are not seeking improved salaries before those costs are incurred. Our members are behind the 8-ball for the whole game.

This puts the worker at a severe disadvantage, yet our members accept this responsibility in their role in the Tasmanian economy.

MR VINES: They will not, and nor should they, accept falling further behind.

MR VINES: The success of the current wage-fixing system and Principles in industrial relations' terms cannot be disputed.

A further exhibit, sir.

DEPUTY PRESIDENT: Before you move to the next exhibit, Mr Vines, the present Exhibit V.3 refers to `Award rates of pay index, adult wage and salary earners all industries'. Were you not able to get some information in relation to the public sector only, because obviously this includes public and private awards?

MR VINES: Yes that is correct, sir, I don't have that information as it pertains to State sector awards only, although it is quite clear that the only increase that State sector employees have had is in relation to the National Wage Case before this Commission last year and in some isolated cases, increases in work value. There have been no other general movements in salaries for public sector employees apart from that 2.3 percent last year.

These increases in the weighted average minimum weekly awards rates are quite clearly generally related to increases outside the industrial tribunals and as you would only be too well aware, sir, those sort of increases do not apply to our members. Our members' salaries are very strictly regulated and they do not receive any over-award payments whatsoever.

PRESIDENT: Nevertheless, it's been said in recent times that there's been a disconcerting earnings drift discovered and that drift seems to be exceeding C.P.I. movements, doesn't it?

MR VINES: It's been suggested that, sir. There is no evidence to that and quite clearly it could not be proven ... it couldn't be shown it was possible in

MR VINES: the State service, not for people who are employed pursuant to awards because they are not given extra payments - it is not possible to give them extra payments, except for those who are on contract-type arrangements. But for those who are employed pursuant to the State Service Act under awards of this Commission, it is not possible for those salary increases to apply that haven't been through this Commission. And, as I said, they have only been in the area of a minimal number of work value cases, again with generally minimal increases, and National Wage Cases.

DEPUTY PRESIDENT: It would be interesting, wouldn't it, to look at the gross wages' bill divided by the number of employees at the beginning of the period under review and to carry out a similar exercise at the end of the period under review to see what percentage increase, if any, had occurred on average.

MR VINES: It would be extremely interesting sir. We would even be interested just to see the movement in staff over that period but it is not possible - the Government is not able to tell us, or for that matter, I understand, anyone else, exactly how many people they have on their books at any time. They do not know how many permanent/temporary/casual employees they have.

DEPUTY PRESIDENT: Well perhaps I could state for everybody's benefit that I certainly am interested in - or would be interested for one - in seeing the sort of exercise carried out that I've just suggested. I'm not quite sure what it would prove but it would be an interesting statistic.

MR VINES: I think the only way we could show that sir, would be to somehow attract every single State servant into one area at one time and count them, because there appears to ...

PRESIDENT: Sort of `round them up´ as it were.

MR VINES: Yes, sir.

DEPUTY PRESIDENT: Is there some phantom army too that needs to be looked at?

MR VINES: I don´t know if it´s a phantom army or what it is, sir, but there´s a lot of people who are, if you like, unaccounted for.

DEPUTY PRESIDENT: Well someone´s paying some people.

MR VINES: Well that´s the thing. Some are paid by this Government - others are paid by funds from other Governments and it is extremely difficult when we have sought figures to actually get accurate figures of how many people are employed on any one particular date.

I´m sure you would understand sir that we would also be extremely interested in those figures.

PRESIDENT: Would such an exercise include or exclude wage increases that are awarded in the nature of incremental accretion? How would you describe those?

MR VINES: I would describe those as quite the opposite sir, that there´s a reduction in salary for people who are not on the highest increment, so in effect the wages´ bill should always demonstrate the highest increment payable to a position. When somebody is on a lower increment they are not being paid the full value for that job. So when budgets are being determined it should always be determined on the maximum increment for that position.

PRESIDENT: In short you´re suggesting that the maximum of the range is the rate for the job, not the minimum.

MR VINES: That´s correct sir.

PRESIDENT: Then why are people paid the minimum of the range?

MR VINES: Well I don't want to particularly get into submissions on that argument sir, but in general because they recognize experience that is necessary in the development of skills in the first couple of years associated with some positions.

PRESIDENT: That would be like saying that a tradesman in receipt of S.I.P.S. should be paid ... or the true rate for a tradesman in receipt of S.I.P.S. would be the base tradesman's rate plus the maximum of S.I.P.S. then.

MR VINES: Quite possibly sir. It is some time that I've dealt with S.I.P.S. and blue-collar awards but that could quite possibly be the case. But I don't think it is possible to compare a trade with such general positions that apply in the State service. As the saying goes, `A fitter is a fitter is a fitter' and one cannot apply that to the majority of jobs that are in the State service.

DEPUTY PRESIDENT: Doesn't your association cover tradesmen?

MR VINES: We have the potential to cover trades, or the eligibility to cover tradesmen.

PRESIDENT: In fact you do, don't you?

MR VINES: We do have some, sir, yes, but my reference to that was only to the extent that I have not had personal dealings in that area for some time.

MR VINES: As I was saying, sir, I was about to hand up a further exhibit.

PRESIDENT: V.4.

MR VINES: Thank you, sir. As I was saying, the success of the current wage-fixing system and Principles in industrial relations' terms cannot be disputed.

Exhibit V.4 is page 2 from the Australian Bureau of Statistics' catalogue number 6321.0, `Industrial Disputes: Australia,' October 1986. This exhibit clearly demonstrates the change in Australia's industrial climate for the period of the current Wage Fixing Principles.

Table 3 shows that in Tasmania the number of working days lost due to industrial disputes has fallen from 67,800 in 1983 to 27,400 in 1986, a drop of almost 70%.

This drop in industrial disputes and working time lost, in our submission, bears no relationship to the Tasmanian Government's industrial relations policy. If anything, those policies would pre-empt industrial disputation and therefore the dramatic drop in industrial disputation is due solely to the restraint and goodwill shown by workers and their commitments to the undertakings required of the current wage-fixing system.

Should this current system be not continued, industrial disputation would return to its 1983 position and most probably go even higher.

The centralized wage-fixing system where workers are guaranteed improvements to their salary on a regular basis to compensate in part for increases in cost of living, removes the need for production to be lost and working time lost to achieve such increases.

Since June 1985 the C.P.I. has increased in excess of 14%, while

MR VINES: salaries have increased by 2.3%. That 2.3% of course relates only to the September and December quarters of 1985.

It is necessary, sir, at this stage I think to look at what the Government has said in the recent past in relation to the need to continue with the current wage-fixing system.

Firstly, sir, I would look back 8 months ago in relation to the National Wage Case, or the State wage case heard by this Commission in 432 435 and 440 of '86. At page 46 of that transcript where Mr Willingham representing the Minister for Industrial Relations states, and remembering, sir, that this is half-way through the period applying to our claim:

> "Now, having said these things and outlined the seriousness with which the Government views its current economic strategy it is also the Government's policy to firstly, be consistent within the spirit and the intention of the centralized wage fixation system.
>
> It has made a commitment not to oppose the 2.3 increase at the national wage case Bench, and neither will it.
>
> It is also concerned that if it were to have opposed the 2.3 increase, it would have an adverse impact on those people who are least able to bear that sort of burden..."

Further on in that transcript, sir, at page 51, Mr Willingham goes on to say in response to a question from yourself:

> "We believe so, Mr President, for reasons that I've already outlined to you. The strategy for 1986/1987 by the

MR VINES: Government in respect of its budget has already taken into account the effect of this Commission passing on the 2.3 national wage increase.

... whilst it was a difficult decision for the Government to make and of course the Government recognized the apparent contradiction, it has on the balance of probabilities, decided that it is more within the public interest than without it, for Tasmanian wage and salary earners to be deprived of the 2.3 national wage case flow-on."

MR WILLINGHAM: ... another one, Mr President.

MR VINES: "The Government is also concerned that any deferment or non-flowing of the 2.3 percent national wage increase, could have quite serious effects on the conduct of industrial relations throughout Tasmania.

The Government would have to view with very, very grave concern, such a radical departure from the centralized wage fixation system and to assess as best it can, the consequences of what would flow from that.

That has to be a major consideration in the Government's thinking about the public interest.

On the balance of probabilities it is clear to you, Mr President, that the Government has chosen not to follow that path, as being more contrary to the public interest than by its action of not opposing the 2.3 and seeking the Commission to

MR VINES: pick up the centralized wage fixation package for the next 2 years."

That statement was made by Mr Willingham on 9 July last year, as I said earlier, that date being just over half-way through the period to which our claim relates.

At that time, Mr Willingham, as the representative for the State Government was fully aware that the centralized wage-fixing system and the Principles would be in operation, or were proposed to be in operation for 2 years.

PRESIDENT: Was he wearing that hat at the time?

MR VINES: From what I understand, sir, unless he changed it part of the way through the hearing.

PRESIDENT: Or was he representing the Minister for Industrial Relations at the time? What hat were you wearing at that stage, Mr Willingham?

MR WILLINGHAM: The Ministers for Industrial Relations and public interest, Mr President.

PRESIDENT: Minister for Public Interest?

MR VINES: At that time, sir - 8 months ago - they did not oppose the operation of the Principles for 2 years. They knew what had happened in the previous 6 months of 1986 - 6 months that relate to our current claim - yet there was no opposition to the continuation of the Principles at that time.

They knew what had happened up until then and they were accepting the continuation, or the establishment of those Principles for 2 years at that time.

MR VINES: It would be our submission that there has been no instance that would require (in Mr Willingham's terms) `a radical departure from the centralized wage-fixing system', and therefore that system in its entirety should continue to operate.

It is quite apparent, sir, that even up to very recent times the Government still holds that view.

In their submission to the Federal National Wage Case, presented in November 1986, which of course is almost at the end of the period to which our claim refers, the Government stated, and I quote:

> "We question the need for a system which allows for two separate and distinct approaches to gaining wage increases. We also question the logic of the proposal when all it would do, if proceeded with, is compress relativities and create problems in the longer term.
>
> This view was supported by the Tasmanian Public Service Association, an A.C.T.U. affiliate ..." (which off-quote we are not) "... in its November 1986 Journal.
>
> Why do we need to move from the existing system? No. 1 of the current wage-fixing principles allows for parties and interveners to oppose the granting of wage increases in line with C.P.I. movements on grounds related to the state of the national economy. This principle also permits the Commission in exceptional circumstances to award increases other than those based on percentage C.P.I. movements.
>
> We submit that although this principle is not entirely as

MR VINES: we would want it to be, it nevertheless contains adequate scope for the purpose to argue for flat rate increases below what may normally have been expected. That increase is based on C.P.I. movements."

Further in their submission the Government goes on to say:

PRESIDENT: That was the entire quote, was it?

MR VINES: Yes, sir.

PRESIDENT: I am sorry, could I take you back? I thought you had broken away from that when there was some reference to the T.P.S.A.

MR VINES: Yes, I did briefly, sir, and then came back on after that. It was just that in their submission the Government had stated the Tasmanian Public Service Association was an A.C.T.U. affiliate and I didn't want the Bench here to be under that impression as well, sir, because in fact ...

PRESIDENT: You are an affiliate of the T.T.L.C., aren't you?

MR VINES: We are an affiliate of the T.T.L.C., sir, and we are affiliated to a peak council which is affiliated with the A.C.T.U.

PRESIDENT: Yes. The T.T.L.C. is not necessarily bound by decisions of the A.C.T.U., is it?

MR VINES: Not to my understanding, sir, no.

PRESIDENT: There is a popular misconception that that is the case.

MR VINES: There is a popular misconception that we are also bound to the policies of peak council, sir, which of course we are not.

Further on in the Government's submissions to the Federal National

MR VINES: Wage Case, they state:

> "It is also our submission that any increase awarded is done so in percentage terms in order that relativities are maintained.
>
> The current wage-fixing principles have by and large served us reasonably well. We do not believe that radical change is required."

In relation to Principle 1, the Government went on to say:

> "We say the parties should continue to be permitted to argue in opposition to any claimed wage increases. Such arguments being based on the criteria currently prescribed in sub-clause (a). It is our submission that wages be adjusted on an annual basis rather than six-monthly as prescribed in sub-clause (b). We strongly submit that economic wage increases be awarded in percentage terms to avoid longer term problems created through the compression of relativities which can be brought about by the determination of flat rate increases."

In concluding their comments, the Government further said:

> "Why then do we need to change the existing system if it is the intention of the Commonwealth to protect and revitalize the faltering economy? Surely the existing system does that much better than a two-tiered system which at best does nothing more than award wage increases in two instalments. We submit to the Commission that the proposals put forward by the

MR VINES: A.C.T.U. and the Commonwealth should be disregarded and the current system with some minor adjustment to the principles be retained."

DEPUTY PRESIDENT: You've lost me, Mr Vines. What is the relevance of that?

MR VINES: The relevance, sir, that these statements were made towards the end of the period to which our claim relates. I am just trying to show the Commission that at that time the Government (the employer of my members) had this attitude. It was a generally known attitude, known by its employees.

DEPUTY PRESIDENT: What, that the Principles should continue and that Principle 1 should be part of it?

MR VINES: That the Government opposed the two-tiered system and that they sought the continuation ...

DEPUTY PRESIDENT: But are we debating the two-tiered system?

MR VINES: No, sir, we are debating ... Well, I would anticipate that we will be debating the continuation of the current Principles, and I am trying to show ...

DEPUTY PRESIDENT: In the context of your application we will be debating the continuation of the system?

MR VINES: To the extent that Principle 1 refers, yes.

DEPUTY PRESIDENT: I am surprised. I didn't think we were here for that purpose.

MR VINES: Well, as was said earlier, if the Principles are to be changed for reasons out of our control, through the hearing of this application, we want it known that our application is made in relation to those Principles and we want those Principles to continue.

DEPUTY PRESIDENT: Well that's interesting.

MR VINES: I agree, sir, it is extremely interesting.

MR VINES: So that I don't give the Commission too much more irrelevance, I'll endeavour just to summarize the Government's position with their summary to the Federal Commission.

The Tasmanian Government supports the retention of the current wage-fixing system; opposes the concept of the two-tiered wage system; supports the existing Wage Fixing Principles with the adjustments outlined in this submission.

It submits that wage increases should be determined with reference to an external bench mark such as the average inflation rate of Australia's major trading partners; opposes flat rate wage adjustments and supports the abolition of the 17.1/2% leave loading.

MR WILLINGHAM: We are consistent Greg.

MR VINES: Yes you are, and I am sure that comes as a surprise to no one. And in this particular case, of course, leave loading does not bear relevance.

In the main, the P.S.A. fully supports the summarized position of the Tasmanian Government, even to the extent of some adjustments to the National Wage Fixing Principles. However, we do not propose that the Principles be adjusted to any degree, at this stage.

An area we do, of course, oppose is that wage increases should be determined by reference to an external bench mark that has no reference to the internal economy of Tasmania and only slight bearing on the macro-economy of Tasmania.

To reinforce our opposition to that, I'd like to hand a further exhibit to the Commission which is a further catalogue of the Australian Bureau of Statistics - No. 5402, Foreign Trade, Tasmania 1985/1986.

PRESIDENT: V.5.

MR VINES: Given sir, that for some reason this Government has indicated that it would like to look at what is happening in other countries rather than in its own State, and given that for some reason a lot of import is put on foreign trade figures, it is clear from that table, from the Bureau of Statistics, that Tasmania is quite the reverse in terms of foreign trade to the rest of Australia.

While the rest of Australia has a severe trade balance problem, in 1985/86, Tasmania exported goods to the value of in excess of $900,000,000, and imported a relatively minimal $300,000,000 worth of goods.

PRESIDENT: Where do we find that on the exhibit, or don't we?

MR VINES: You do, sir, `Exports', the third column along at the bottom of the page 902, 931. Sorry, 921. Imports, the last column at the bottom of the page 299, 398.

PRESIDENT: I'm looking for Tasmania. Is that listed in here?

MR VINES: `Foreign Trade by country, Tasmania' is the heading of that document, sir.

PRESIDENT: I beg your pardon. It's the whole, that's what the document relates to.

MR VINES: Yes.

PRESIDENT: Now, I interrupted you, would you go back a little and repeat your submission.

MR VINES: I was saying that it is quite clear from this that the situation in Tasmania with foreign trade is quite different to the rest of the country. While the rest of the country is suffering a deficit, Tasmania is exporting goods in excess of $900,000,000 per annum and importing goods at around

MR VINES: $300,000,000 per annum: A factor of three to one in favour of exports.

Tasmania has a good economic relationship with those major trading partners to the extent that it exports three times as much as it imports.

PRESIDENT: When you get to a convenient point, we'll adjourn for lunch.

MR VINES: Well I'm happy to stop there, sir, if that would help the Commission.

PRESIDENT: Very well, 2.15.

...

PRESIDENT: Yes, Mr Vines.

MR VINES: Thank you, Mr President.

Prior to the adjournment, Mr President, I had referred the Bench to submissions the Tasmanian Government had put before this Bench and before the Federal Commission in the latter part of last year, and I concluded this morning's proceedings with Exhibit 5 which gave the Bench information in relation to Tasmania's foreign trade.

Going back to those submissions of the Government, I want to stress the fact that both of those submissions referred to were made during the period which is affected by our claim or to which our claim relates; one was in the middle of that period and one was towards the end of that period.

In both cases, the Government was fully aware of the proposed and later accepted Principles. They knew that unions would be seeking and, in fact, had the right to seek flow-ons of C.P.I. movements for the next two years, and they supported that concept.

They supported that concept as recently as November 1986, and for them to argue otherwise at this stage they must produce substantial evidence that drastic changes in the Tasmanian economy have occurred between November and December 1986.

It is not our responsibility to prove that those changes have not happened, and we do not believe that such changes have occurred. It is the only grounds on which the Government can genuinely oppose this claim. And we would submit that those grounds do not exist.

In the later half of the period applying to our claim, on 17 September last year, the Premier of Tasmania presented his second reading

MR VINES: speech for the Consolidated Fund Appropriation Bill. On page 2557 of Hansard, Mr Gray, the Premier, states:

> "Expenditure on wages and salaries accounts for about 55% of the recurrent budget, and it is expected to grow by only 6.5%, a reduction in real terms of 1.5%. This will be achieved by reducing staff in the non-essential areas by more than 400 full-time equivalents, through natural attrition, continuing to maintain tight control over filling of vacancies within the State service and the deferment of the 17.1/2% holiday leave loading for Government employees."

Mr Gray has achieved his reduction in staffing and, we would suggest, that more than 400 full-time equivalents have been reduced through natural attrition. Excessively tight control has been introduced over the filling of vacancies resulting in a dearth of unfilled positions and a subsequent drop in Government services. And also the Government has succeeded in the deferral of the 17.1/2% holiday leave loading.

Taken together, the Government has more than achieved its real term reduction in wages and it can more than afford the C.P.I. flow-on sought by its employees.

Further on in the Budget speech, the Premier stated:

> "While the Federal Government's funding cuts to Tasmania make it extremely difficult, the Government is determined to build further on the outstanding successes of our first four budgets. In those four years my Government rebuilt the Tasmanian economy. We

MR VINES: created record numbers of jobs; we kept State taxes down; we developed the State's economy and social infrastructure. We restored confidence to the private sector and we brought the State's finances under firm control.

Since the Liberals came to office, employment in Tasmania has grown by 10% compared by 8% nationally. The number of unemployed has fallen compared with an increase of 30% nationally. Retail sales have grown by 45%, compared with 41% nationally. The number of new dwellings approved has increased by more than 50% compared with just 1.5% nationally. And new private capital expenditure has grown by more than 20% - more than 3 times the national average."

It is clear from this speech that the Tasmanian Government, as at September last year, believed that Tasmania was in good shape. Mr Gray tells us that the State's finances are in firm control and confidence has been restored in the private sector. Our major economic indicators have improved significantly compared to the nation as a whole. It is clear that this prosperous State can afford the increase in salaries requested and should it attempt to argue otherwise it will only succeed if it shows this Commission that there has been gross mismanagement of the State finances, its appalling record as an employer and the enormous amounts of money that is spent on winning votes while workers of this State have suffered severe cutbacks in real salaries and drastic decrease in the spending power of their take-home pay.

So, as well as supporting the

MR VINES: continuation of the current Wage Fixing Principles in July and November of last year, the Premier has boasted the achievements of his Government as recently as September of last year.

I wish to reiterate, once again to the Bench, that all of these statements and submissions have been made during the period to which our claim relates.

It is clear that the Government cannot argue against salary increases which apply to the period prior to which all of these comments were made and I would submit that the Commission would need to rigidly test and question any alleged changes in the economy since those statements and submission have been made.

In conclusion, my association requests that the Commission reiterates its decision of 22 July 1986 wherein it decided to introduce Wage Fixing Principles which would have a life of two years.

We seek that the Commission re-endorses those Principles and decides that they shall continue in their current form.

We request that the Commission, in the light of Principle 1, grants to our members a 10% increase in salary in line with the increase in C.P.I.

We submit that the Commission should only consider submissions which relate to alleged economic difficulties as they relate to the period after the Government made submissions to this effect before Parliament and this Commission and also the Full Bench of the Australian Conciliation and Arbitration Commission.

And we further seek an operative date of these increases of the date of lodging our claim being 2 February

MR VINES: 1986. If the Commission pleases.

PRESIDENT: Mr Vines, do you seriously believe that this Commission should decide to maintain the package of Principles currently in place before being made aware of likely occurrences across the rest of the nation flowing from the anticipated National Wage Decision?

MR VINES: No, not necessarily, sir. Quite clearly it would possibly be to the benefit of this Commission to see what does happen in the Federal jurisdiction. It is our submission, though, that the guidelines that are in force at the moment ... it is now, and it will be in the future our submission that those guidelines should continue. We are putting that on the record at this stage, and further that those guidelines are in operation at the moment. And we request that our application be considered in the light of those guidelines that are operative now.

PRESIDENT: Even if, in pursuing that course, which of course is your undoubted right, that puts your organization off-side with the balance of the work-force, or a significant part of the Tasmanian work-force who may hold a different view.

MR VINES: Well, sir, I don't necessarily agree that we would be off-side with even a significant part of the Tasmanian work-force.

As I stated this morning, there are many other unions who are now opposing what they believe will possibly come out of the Federal Commission's decision, and I think it's important to note that it was the day after we lodged our application that the A.C.T.U. in fact indicated that they were increasing their claim from the $10 and 3% to $20 and 4%.

I don't think that we are out of step with the main of the union movement.

MR VINES: I believe that the next couple of weeks will see that other unions will come more into line or will publicly voice their support for the principle that we are following.

PRESIDENT: Then from that I assume that so far as your organization is concerned, you don't apprehend a general support for what has become known as the two-tiered system?

MR VINES: It's very difficult to say at this stage, sir, but the opposition to it does appear to be growing.

PRESIDENT: Yes, of course none of us know quite what that means until the Commission in fact hands down its judgement do we? It's only conjecture at this stage.

MR VINES: That's correct, sir. But from what I understand, several large unions have indicated that they will not accept the two-tier system, full stop. That is my understanding anyway. And others have stated that they would not accept a decision below a certain level.

PRESIDENT: It would be unfortunate if such a decision, when handed down, became so divisive that some unions rejected it and some accepted it. I suppose only time will tell.

MR VINES: That is correct, sir. And it would be extremely unfortunate, and I would suggest that that would be a major consideration of the Federal Commission in their deliberations on this matter. We don't want to see the same situation occur in Tasmania. It's our strong belief that the current Principles have served us well; have served the Commission well; have served the employers well, and that they should be allowed to continue.

PRESIDENT: Yes, thank you Mr Vines.

DEPUTY PRESIDENT: Mr Vines, if I could keep you on your feet a little bit longer.

We are of course obliged to follow section 36 of the Industrial Relations Act which says in (1):

> "Before the Commission makes an award under this Act or before the Commission approves an industrial agreement under section 55, the Commission shall be satisfied that that award or that agreement is consistent with the public interest."

And if I could move on, inter alia, it says:

> "In deciding whether a proposed award or a proposed industrial agreement would be consistent with the public interest, the Commission shall -
>
> (b) consider the economy of Tasmania and the likely effect of the proposed award or proposed agreement on the economy of Tasmania with particular reference to the level of employment; ... "

Had you thought about the aspect of the economy of Tasmania as a whole and the possible effect on employment?

MR VINES: I had, sir, and I understood those to be part of my submissions in showing that while this system has operated it has had an extremely positive effect on those 2 factors in particular.

Through the period since 1983 there has been a drop in inflation; there has been an increase in the level of employment and a decrease in the level of unemployment. There is no reason sir, unless my friends at

MR VINES: the other end of the table can advise you of it, why that wouldn't continue. It is our submission that that has happened in the past under this wage-fixing system and that it should be allowed to continue into the future.

PRESIDENT: Miss Backhouse, do you wish to address us on your claim?

MISS BACKHOUSE: Yes thank you, Mr President, I do wish to make some remarks on the subject of my claim.

The application ...

DEPUTY PRESIDENT: I'm sorry, I was just wondering whether your submission would be properly recorded if you weren't near a microphone.

...

MISS BACKHOUSE: The application by the T.T.F. for a 10 percent increase is based, like that of my colleagues in the P.S.A., on Principle 1 of the current Wage Fixation Principles adopted by this Commission in July 1986.

This Principle provides for, prima facie, adjustment of wages based on movements in the Consumer Price Index.

At the last State wage case before this Commission the Federation, along with other unions, gave a commitment with the understanding that the Principles adopted by the Commission would have a life span of 2 years. In its decision T.432 and T.435 of 1986, the Commission itself stated on page 36:

> "... the package of Principles that we now introduce will have a life of 2 years with effect from the beginning of the first full pay period commencing in July 1986."

MISS BACKHOUSE: Furthermore, in a statement read by the President of this Commission to public sector unions in T.432 of 1986 on 6 August, 1986 he clearly recognized the fact the system would be with us for 2 years and I quote from page 177:

> "I am mindful of the fact that neither the Government nor the trade union representatives opposed extension of the centralized wage-fixing system for a further 2 years."

And I would remind you that no one opposed adoption of the 12 Principles of wage determination that go to make up that arrangement. There was general support for that.

Despite the fact that the Federal Arbitration Commission is currently considering a claim put forward by the A.C.T.U., which certainly originally was couched in somewhat similar terms to the claim before this Bench, the Principles accepted by all parties are still in force. They have not been, at this point of time, superseded and although we might hypothesize on what might happen next week or the week after, at the moment those Principles are still in force. Therefore it is logical and right for all parties to continue to process or oppose claims under these guidelines regardless of what may appear to be occurring on the national front.

The Conciliation and Arbitration Commission itself has recognized this very fact in the decision of G.6400 on 23 December, 1986. The Commission stated, and I quote from page 8:

> "Pending the outcome of these discussions and final proceedings before the Full Bench the Principles laid down in the National Wage Case decision of 26 June, 1986 will continue in force."

MISS BACKHOUSE: So it is our submission that the Principles still stand as they are and I think there is some irony in the fact that in the current case before the Federal Commission the Tasmanian Government supported the retention of these very Principles with some slight modification and conceded that a system espousing these Principles would be far better than an alternative system which has been supported by many although, as my friend Mr Vines said, is now being opposed also by many.

On page 5 of the decision quoted above, G.6400:

> "Only Tasmania and the ..." (A.C.T.) "... supported continuation of the present system: Tasmania in particular expressed the view that the system promoted by the A.C.T.U. and the Commonwealth is `too flexible for today's economic climate' and proposed the retention of the current system with some minor adjustments to the principles."

So, apart from what is currently occurring at the national level, we have here in Tasmania a situation that the unions, the Commission and the Government all support the Principles and have agreed to abide by them.

The foregoing application is founded on the existing Principle 1(a) which reads:

> "Subject to Principle 2, the Commission will adjust its award wages and salaries every six months in relation to the relevant quarterly movements of the eight-capitals C.P.I. unless it is persuaded to the contrary by those seeking to oppose the adjustment on grounds related to the state of the Tasmanian

MISS BACKHOUSE:

> economy and the likely effects of any adjustment on the economy, with special reference to the level of employment and inflation."

And I would like to give some emphasis to 2 words in that quotation. It says,

> "... the Commission <u>will</u> adjust its award wages and salaries ... <u>unless</u> it is persuaded to the contrary ..."

And I believe that indicates that the very clear onus is on the Government to say why the wages should not be adjusted. It is not for the unions to have to argue for their adjustment - it is for the Government to say why this should not happen.

Clearly the application before you is not an extra claim. We are not asking for something outside the guidelines. The claim seeks adjustment to wages in line with the C.P.I. movement outlined in Principle 1(a) and is neither more nor less than that claim.

PRESIDENT: Well it is, Miss Backhouse isn't it, because you, along with your colleague Mr Vines, are seeking an adjustment based on the movement of the C.P.I. in Tasmania, not the 8 caps.

MISS BACKHOUSE: That's right. We are looking to Tasmania because we are talking about the Tasmanian economy but, like Mr Vines, I would have no objection if the Commission decided that it would be preferable to look at the 8 capitals' average, but we believe that as this is a Tasmanian Commission our argument in the first instance should relate to the Tasmanian economy.

We contend that the claim falls fairly and rightly within the confines of Principle 1(a). As Mr

MISS BACKHOUSE: Lennon, who appeared for the T.T.L.C. at the last State wage case submitted, and I quote from page 2 of T.432, the decision:

> "... Principle 1(a) makes it clear that it is not the task of the unions to show why award wages and salaries should not be adjusted by 2.3 percent but that the onus is on those who might seek to oppose the flow on adjustment."

No parties in those proceedings, disagreed with the T.T.L.C.'s submission and by implication it can be assumed they agreed. In fact the Commission would no doubt be aware of the Conciliation and Arbitration's distinct reference throughout its decision that the onus of proof is on those who oppose claims and not those who seek them.

It is our submission that this claim before you must succeed unless the Minister can substantiate an argument on the following grounds: (1) That the Tasmanian economy will be adversely affected and special reference would need to be made in that regard, we believe, to the level of employment and inflation and (2) that in accordance with Principle 12, such increases would cause `very serious or extreme economic adversity.' In doing so the Minister must be prepared to put arguments that shall, in accordance with Principle 12, be rigorously tested. If the Minister is not prepared to do this then we contend that the application must be granted in full. The elusive public ...

PRESIDENT: Excuse me, Miss Backhouse, but doesn't this Commission also have an overriding obligation to consider the public interest in any case?

MISS BACKHOUSE: Yes indeed and that is the very thing that I wish to talk about in a moment.