



Tasmanian Industrial Commission
Industrial Relations Act 1984

T No. 9222 of 2000

IN THE MATTER OF an application by
the Australian Municipal,
Administrative, Clerical and Services
Union to vary the Barristers and
Solicitors Award

Re: Part III - Wages and Related
Matters, Clause 1 - Classification
Descriptors and Clause 2 - Wage Rates

DEPUTY PRESIDENT WATLING

HOBART, 8 NOVEMBER 2000

TRANSCRIPT OF PROCEEDINGS

Unedited

(WOULD PARTIES PLEASE READ THIS TRANSCRIPT CAREFULLY)
(ANY QUERIES SHOULD BE DIRECTED TO THE COMMISSION WITHIN 14 DAYS)

HEARING COMMENCED 10.37am

DEPUTY PRESIDENT: I'll take appearances please.

MR I. PATERSON: If it pleases the commission, IAN PATERSON
5 appearing for the Australian Municipal, Administrative, Clerical and
Services Union.

DEPUTY PRESIDENT: Good. Thanks, Mr Paterson.

MR J. O'NEILL: If it pleases the Commission, O'NEILL, J., appearing
for the Tasmanian Chamber of Commerce and Industry Limited.

DEPUTY PRESIDENT: Thank you. Mr Paterson?

10 **MR PATERSON:** If the commission pleases, just very briefly, the
history to this matter, in fact, goes back to May of 1994 when the
Federated Clerks Union first wrote to the employer's association. At
that time they were the Chamber of Commerce and Industry. That
didn't progress terribly far at that time.

15 In August of 1998, the union as it's now constituted, made application
to vary the award. The restructuring of the award was completed this
year operative from 11 April. That closed the matters in front of
Commissioner Imlach and this application has been made to progress
20 the wages and classifications matters that were left outstanding from
that previous application.

The union had previously put to the Chamber of Commerce and
Industry a proposal for a seven level structure based on the generic
Clerical and Administrative Award.

25 In June of this year the union, Mr O'Neill from the Chamber of
Commerce and Industry and representatives of the Law Society met on
6 June and at that time the Law Society put to the union a simplified
structure. We considered that and indicated a couple of days later that
we had in-principle agreement on that. The position put to us by the
Law Society at that time, on the basis of their work consulting with
30 their members, as I say, has formed the basis of this application, both
in terms of the descriptors and the wage rates and the relativities.

From there it has been a matter essentially in the hands of the Law
Society and I'll ask Mr O'Neill to report to you on what has happened
since then.

35 DEPUTY PRESIDENT: Good. Thank you. Mr O'Neill?

MR O'NEILL: Thank you, sir. I concur with those submissions
outlined to you by Mr Paterson in respect of the history of events with
the previous application and where we are to date with this application.

The Law Society have indicated to us - to TCCI - that the new award, or the proposed new award, was discussed at a meeting of the council of the Law Society -

DEPUTY PRESIDENT: That's this application you're talking about?

5 MR O'NEILL: Yes, that's correct, yes.

DEPUTY PRESIDENT: Yes.

MR O'NEILL: - on 9 September of this year and it was agreed that members of the council would consider the proposed award with a view to a final decision being reached at the next meeting of the council which was 28 October this year.

Now, at a meeting that I had with a subcommittee of the Law Society - a working party, if you like - that Mr Paterson had met with on a number of occasions, they'd indicated to me in early September that they had given in-principle approval to proceed with the new award. So, essentially, all I'm waiting for is just final instructions from the council.

I have, this week, tried to contact the Law Society. I've also sent them an e-mail requesting a response advising them that this matter was listed for hearing today before yourself and that I needed instructions before I could confidently say that we consent to the application.

As far as TCCI is concerned, sir, we do consent to the application but we just had to obviously consult with our membership and we've worked through the Law Society to do that. If it pleases.

DEPUTY PRESIDENT: So does it mean that you're requesting the matter be adjourned?

MR O'NEILL: Yes. Yes. I'm requesting that the matter be adjourned and I do apologise to Mr Paterson. He has been very patient throughout this matter. We have finally progressed it to a point that we've got a successful outcome and I'm just waiting on final approval and, yes, sir, I do request that this matter be adjourned to allow me to get that final approval.

DEPUTY PRESIDENT: Mr Paterson?

MR PATERSON: There's one matter that we haven't - the application doesn't go to and if I can maybe for the record just speak to the application and if it would expedite the proceedings make the submissions in terms of why the application should be granted in terms of the requirements of the Act and other things you are going to consider.

The application itself inserts a new Part 3 - Classification Descriptors for six grades. It inserts a new wage rate clause - Clause 2.

5 The subsequent pages after, I believe, page 5, are really - and I believe they were - I seek your confirmation - I believe they were attached to the application.

DEPUTY PRESIDENT: No.

MR PATERSON: They weren't?

DEPUTY PRESIDENT: No.

MR PATERSON: Schedule of MRA attachments.

10 DEPUTY PRESIDENT: No.

MR PATERSON: And the translation document?

DEPUTY PRESIDENT: No.

MR PATERSON: My mistake. I can provide those in the original form to the commission.

15 DEPUTY PRESIDENT: That's just showing me, is it, the foreshadowed MRA application?

MR PATERSON: It does two things and I may need to get advice from Mr O'Neill as to whether he believes any or all of these should be appended to the award.

20 The first of the pages is actually a translation schedule which identifies the translations for the existing positions to the new grades. There's a schedule - or second sheet is a schedule of MRA adjustments which identifies relativities, base rates at commencement and base rates on finalisation and a total MRA adjustment and a figure for each
25 minimum rates adjustment and then there is a schedule of intended two further MRAs which would be the intention of the union to subsequently progress.

The matter that I was actually getting to is that we haven't got any
30 confirmation of the position put by the union in terms of compression of the minimum rates adjustment. Again, I believe that we had an in-principle and without prejudice agreement that the MRA adjustments would be done in three instalments over 12 months.

If we are, in fact, adjourning today, then I'm happy to provide that
35 relevant documentation as perhaps exhibits in the proceedings rather than attachments to the award and I can provide that at subsequent hearing if we're looking to re-list this matter to finalise it.

DEPUTY PRESIDENT: I'd probably make the suggestion on that -

MR PATERSON: I seek your advice on that.

DEPUTY PRESIDENT: - the order arising out of any successful application should contain a translation provision because it will then give some indication to the parties as to how this new system is going to work. The other MRA adjustments - I think they could be tendered during the course of the hearing for information of the commission, keeping in mind that separate applications would have to be made for each one, but it could form part of the record that that's your agreement at this time.

10 In terms of the adjournment, what do you say about that?

MR PATERSON: Well, on one level I'd make the comment that the Law Society would probably have amongst its members the most avid readers of the law lists in the Mercury and relevant newspapers so I believe they'd have no excuse for saying they weren't aware it was on as well as the fact that Mr O'Neill has communicated with them.

I refrain from taking a hard line position on this and accept that Mr O'Neill needs to have instructions. The point of this exercise, and as I understand it, part of the reason of the failure of previous exercises was that the industry wasn't carried with the industrial process. I'd be loath to see any inordinate delays on this account and, if it is adjourned, I request the earliest opportunity for it to be re-listed and on the presumption that it would be a relatively short matter.

DEPUTY PRESIDENT: What do you think, Mr O'Neill? Any view on resuming this matter?

25 MR O'NEILL: Seven days, sir, from today's date.

DEPUTY PRESIDENT: Right. How about Wednesday afternoon on the 15th?

MR PATERSON: Probably late in the afternoon. I've got a Training Authority meeting which is being held at Cadbury's which would conclude at around two thirty.

DEPUTY PRESIDENT: Yes.

MR PATERSON: So -

DEPUTY PRESIDENT: Three o'clock.

MR O'NEILL: That will be fine.

35 DEPUTY PRESIDENT: Right. Good. So we'll proceed on that day, Mr O'Neill whether you get instructions or not. The Law Society is not a respondent to the award. I'm interested in the TCCI's view. I understand you can take instructions from whomever you like but in terms of the hearing, it's the TCCI that's the respondent to the award.