

**IN THE TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

T No TP82 of 1990

**IN THE MATTER OF** Conference -  
Public Sector Awards - Progress  
Report - Structural Efficiency

T No 2399 of 1990

**IN THE MATTER OF** an application by  
the Tasmanian Public Service  
Association to vary nominated public  
sector awards

T No 2457 of 1990

**IN THE MATTER OF** an application by  
the Tasmanian Teachers Federation to  
vary nominated public sector awards

re structural efficiency principle

**FULL BENCH**

PRESIDENT  
COMMISSIONER GOZZI  
COMMISSIONER WATLING

HOBART, 27 June 1990  
Continued from 13/6/90

**TRANSCRIPT OF PROCEEDINGS**

PRESIDENT: Are there any changes in appearances apart from my own in place of Deputy President Robinson?

Mr Willingham.

**MR C. WILLINGHAM:** Thank you, Mr President. In relation to matter T.2457, I appear today with **MR HARVEY PRICE**.

PRESIDENT: Thank you.

MR HOLDEN: Mr President, not for change in appearance; I'm somewhat perplexed about the introduction. There are a number of awards referred to there that have certainly never been specifically referred to previously and my appearance on previous matters was in respect of the general report-back. I now note that there is a specific reference to an application by the organisation I represent.

PRESIDENT: Are you concerned about that?

MR HOLDEN: No, I'm not concerned about it, I'm just not particularly clear on specifically what the procedure about that is.

PRESIDENT: Well, I don't think there's any problem with it. We've simply listed all the awards that are now before this Bench for attention.

MR HOLDEN: Well, in that respect I would change my appearance to appear in respect of matter, I believe it's T.2417 of 1990, rather than a general appearance in respect of the report-back in respect of the public sector.

PRESIDENT: Thank you, Mr Holden.

No other preliminaries? Mr Vines?

MR VINES: Thank you, Mr President. Sir, my report this morning will be fairly brief. We have, following the last two hearings of the Commission and the assistance that the Commission has been able to afford the parties, we have been able to have more detailed, and indeed over the last week to 10 days, quite successful negotiations with the government.

Unfortunately, sir, we are not in a position of total agreement in relation to the structural efficiency principle and a package relating thereto. However, we are, I believe, in a position whereby we will have that agreement wrapped up within the next few days.

Mr President, what we would be seeking this morning, and I would say that in view of the fact that we haven't yet reached final agreement, the PSA is prepared to show quite a degree of good faith in this matter, but what we would be seeking from

the Commission is agreement to adjourn those cases that relate to our applications - to the PSA applications - until somewhere around the ... sorry, somewhere around 12 July.

The reason we seek that, sir, is to enable us firstly to conclude negotiations with the government over the next few days and then, because of the important nature of this whole proposal, take the final package out for acceptance or otherwise by our members and come back to the Commission towards 12 July.

The package that we have been able to negotiate, sir, goes to the full range of issues that we have been seeking to encompass as part of the structural efficiency, including the efficiency and productivity improvements, the processes from hereon in with award restructuring and also in relation to operative date.

So we would seek agreement from the Bench to adjourn our matters to come back to you sometime around 12 July.

If the Commission pleases.

PRESIDENT: Yes, thank you, Mr Vines. It sounds most encouraging. Could I hear from other parties?

COMMISSIONER WATLING: Mr Vines, just before you go on, you said in relation to your applications, so you want an adjournment for 2399 plus all those applications relating to special cases.

MR VINES: Yes, sir, until 12 July and we at least hope to come back at that time with a final proposal, an agreed final proposal. If not, we would look for involvement of the Commission at that time in relation to all of those matters.

COMMISSIONER WATLING: Right. So that leaves three other applications before us, the Technical College Staff Society application and the two TTF applications.

MR VINES: From my understanding that'd be correct sir, yes.

PRESIDENT: Mr Lane?

MR LANE: Mr President, members of the Bench, the Teachers Federation has no problem with the PSA's application to adjourn the matters that they have listed before you. I would also seek at this stage to adjourn matter T.2456, which relates to the Teaching Service (Non-Teaching Staff) Award. Despite the fact that our proposal was before the Government some 9 months ago, we only received a response to that some 3 weeks ago and we have yet to negotiate on that award.

So we would seek an adjournment of that matter at this particular stage.

COMMISSIONER WATLING: What about 2457?

MR LANE: Well, Mr Commissioner, I was implying that I would like that matter to be continued today.

COMMISSIONER WATLING: Is that what you're asking, is it?

MR LANE: Yes, that 2457 be continued with today. I believe that we have sufficient agreement to access the 3%. That, I'm quite sure, will be opposed and so it will be necessary for a decision to be made, I would imagine, on that matter by the Bench, but we believe that we have sufficient agreement and we would like to test the water.

PRESIDENT: I understand your position, Mr Lane. Mr Warwick?

MR WARWICK: Mr President, members of the Bench, we have an interest in a number of the awards which are suggested be adjourned this morning.

For our part, we remain committed to reaching an agreement with the government on the fundamental principles of structural efficiency. We've had 10 meetings in all of the major health agencies around the State in the last 3 working days with our members and we've taken instructions from them on how we should approach negotiations and proceedings before the Commission.

The membership has passed a resolution at all of those meetings, unanimously, and in so doing they've expressed their view as to how future negotiations and Commission hearings should proceed. I seek to read that resolution onto transcript. It says:

Firstly, we, the members of the Hospital Employees Federation of Australia, Tasmania Branch, call on the Tasmanian Government to desist from its negative and improper stance on award restructuring. In this regard we demand that the government:

- a) negotiate within the parameters of wage fixing principles;
- b) cooperate with unions in implementing changes which will lead to simplified award structures, skill-related career paths, improved productivity and efficiency and a national training effort;
- c) we further call on the government to abandon its cost neutral approach to current negotiations.

The rank and file members of the federation are willing and prepared to participate in changes in our industry which are of benefit to employees, employers and the industry itself.

We are not, however, prepared to agree to the offset demands of the government.

Secondly, the rank and file members of the federation further call on the Tasmanian Industrial Commission to:

a) ensure that the true spirit and intent of the wage fixing principles are adhered to by all parties, to ensure that award restructuring in Tasmania proceeds in a manner consistent with developments in the Australian Industrial Relations Commission and in all other state industrial tribunals;

c) to ensure that the clear benefits of award restructuring become a reality in Tasmania.

We authorise the officers of the union to inform the members of the Full Bench of our confidence in the Commission to ensure that health industry employees participate in improved efficiencies, improved working arrangements, increased productivity and properly established career structures, training and wage ....

That is the end of that resolution.

PRESIDENT: What was the date of that, Mr Warwick?

MR WARWICK: The date of the resolution?

PRESIDENT: Yes.

MR WARWICK: It was passed at meetings, as I say, in the last 3 working days.

PRESIDENT: In the last 3 working days, yes, thank you.

MR WARWICK: Our instructions from the membership are to continue to negotiate with the government. We intend to do that, but my purpose in reading the resolution out is that ... is to indicate to the Commission that the membership are very concerned about the sorts of things that have been on the table ... that have been proposed by the table ... been proposed by the government.

They change each time we meet. Sometimes we seem to make progress, sometimes we don't. But very clearly, sir, we are not prepared to trade off conditions of employment for this wage rise.

If the Commission pleases.

PRESIDENT: Do you have ... thank you, Mr Warwick. Do you have a program of any further meetings with government representatives?

MR WARWICK: Not at this stage, sir.

COMMISSIONER WATLING: Were you involved in the same discussions as Mr Vines, because they seem to be poles apart - your views and Mr Vines's views?

MR WARWICK: There was a meeting yesterday. Mr Vines may have made progress. We were unable to attend that meeting or to stay at that meeting. But we shall ...

COMMISSIONER GOZZI: But surely, Mr Warwick, the progress made with ... in respect to the TPSA applications encompasses awards where you have an interest.

MR WARWICK: That's correct.

COMMISSIONER GOZZI: So in respect to those awards, what's your view?

MR WARWICK: Well, if we see an updated version of the negotiating document in the next few days we may be able to change our position and our attitude.

PRESIDENT: And when you say an updated version - updated from what?

MR WARWICK: Yesterday's meeting.

PRESIDENT: So you've seen the results of yesterday's meeting?

MR WARWICK: No I haven't.

MR VINES: You were there.

MR WARWICK: I had to leave.

PRESIDENT: I think you've got some sorting out to do with the parties, Mr Warwick, perhaps.

COMMISSIONER GOZZI: Mr Warwick, I am also concerned in respect to the Hospital Employees (Public Hospitals) Award. As you are aware, there is no application before this

Commission, so that part of the resolution that goes to the involvement of the Commission of course only becomes relevant at such time that an application is before the Commission.

MR WARWICK: There was an application lodged yesterday, sir. It doesn't seem to have been processed as yet.

COMMISSIONER GOZZI: In respect of the hospital ...

MR WARWICK: That's right.

COMMISSIONER GOZZI: Thank you.

COMMISSIONER WATLING: Well, the resolution was actually carried before there was any application lodged. Is that what you're saying?

MR WARWICK: We took instructions from those meetings to lodge an application.

PRESIDENT: I do have ... I had handed to me this morning, Mr Warwick, some applications from HEF, which weren't in time to be listed, but they appear only to go to those ... it does include Hospital Employees (Public Hospitals) Award. It does include the Hospital Employees (Public Hospitals) Award and several other awards to which HEF is ...

MR WARWICK: All of the public sector awards that appear on our certificate of registration.

PRESIDENT: Right, well it has been received. Ms Moran.

MS MORAN: Mr President, I would like to make it clear that my appearance is also not on the general report-back but on the matter of 2457, the TTF application to vary the Teaching Service (Teaching Staff) Award.

PRESIDENT: Yes, thank you. Mr Holden?

MR HOLDEN: Mr President, as you will gather, I had some degree of confusion in the opening of this meeting and I still have a little.

The application 2417 is before the Commission and has in fact been referred to Commissioner Gozzi and the date set down for hearing, and I certainly was totally unaware that it was going to be raised here today.

I presume that, having regard to the fact, that it has been referred to Commissioner Gozzi and set down for hearing on 10 July, that the Full Bench really want nothing more than a very broad-brush report on the stage we've reached.

PRESIDENT: That's correct.

MR HOLDEN: Negotiations have been taking place between the society and the government representatives and I must say there is a serious fundamental difference as to what the structural efficiency principles mean. As far as the society is concerned, the government are looking at the exercise in a budgetary situation and saying it has to be a cost-neutral arrangement, and it certainly isn't the view of the society that that's what the ... either the Federal or State Commissions have meant in respect of award restructuring and structural efficiency.

Notwithstanding that fundamental difference of position, a number of avenues have been explored aimed at achieving a resolution of our absolute differences, and I am thankful to say that we are making some progress. However, I certainly wouldn't like to leave the Commission to believe that I'm particularly optimistic about the outcome.

It does appear that as the parties are moving towards some sort of settlement in terms of the public sector generally, that that may well provide a basis from where the discussions between the society and the Office of Industrial Relations develop in the future, at the same time having regard to certain other propositions that we have raised with the department.

I therefore see the position that negotiations will continue and, in fact, a meeting is set down for Tuesday afternoon of next week, and that we would be expected to report to Commissioner Gozzi on 10 July.

PRESIDENT: We would expect that that would be the way the matter would be processed, Mr Holden. Thank you. Mr Pyrke?

MR PYRKE: Thank you, Mr President. Sir, and members of the Bench, having participated in the discussions between the TTLIC representative team, and what's now become known as the government's A-plus team, I'd like to endorse Mr Vines's account of what's happened recently, and support his application for an adjournment.

If the Commission pleases.

PRESIDENT: Thank you.

COMMISSIONER WATLING: Mr Pyrke, I notice that your organisation has put in an application, which arrived on my desk yesterday, to vary the North-West Regional Water Authority Award.

I take it that through the adjournment that you and Mr Vines might get your head together on this particular application, because Mr Vines has got an application before us now on that

award. You've lodged another application, and you might use the time usefully to sort out your respective position.

MR PYRKE: Sir, I don't see any particular complications. It is just that we've .... an application there because we've taken a slightly different view in relation to the salary structure that should apply, and we want the opportunity to speak to that application.

COMMISSIONER WATLING: Well, if that is the case, maybe this Bench would have to consider whether or not it might be more appropriate then to hive off the North-West Regional Water Authority. Now, that's certainly not Mr Vines's position.

MR PYRKE: We don't .... the Water Board. We'd support the PSA's move, and we agree that the matter should be joined, because we indicated the last time we met that the salaried employees has to be done at the same time. It is just that ... and we'll be there when the PSA is there to present their argument, it's just that we'd seek to ...

COMMISSIONER WATLING: Well, if that award is currently before us in this list ...

MR PYRKE: Excuse me can I take ...

COMMISSIONER WATLING: Yes.

MR PYRKE: Mr Commissioner, my advice is that we'll get together and fix up this matter before we come back to you in July.

COMMISSIONER WATLING: Good idea. Very wise.

PRESIDENT: Anything more, Mr Pyrke?

MR PYRKE: No, thank you.

PRESIDENT: Thank you very much. Mr Willingham?

MR WILLINGHAM: Thank you, Mr President, and members of the Bench.

Just for the purpose of completeness, let me indicate to the Bench that we endorse the comments made by Mr Vines .... we've understood this morning's submissions reflects in great part the view of all other organisations that are currently conducting the negotiations under the banner of the Trades and Labor Council.

Just a couple of comments in relation to the Hospital Employees Federation and the Teachers Federation.

Mr President, I will not go long on this, but in relation to the Hospital Employees Federation, I really am getting a little sick of the comments that they are making to this Bench. This, I think, is the third successive occasion when something similar has fallen from the federation, and we've had four meetings with the Trades and Labor Council in the last 9 days - that is the A-plus team and the Trades and Labor Council.

I think I'm correct in saying that Mr Warwick, or his organisation, has been present at all of those meetings and, indeed, it is true that he didn't see the distance out yesterday. A number of us may have wished we could have had a similar opportunity but, nevertheless, he was there.

We have, as Mr Vines said, reached a position which is closer to resolution than at any time in the last 9 months, and if Mr Warwick has difficulty with that, I just wish he would tell us at the meetings and not choose this forum to express his grievances.

If he has got difficulties such as those that he has expressed to the Bench he ought to do us the courtesy of telling us about them, and can I just remind the Bench that the document that we tendered as W.1 on the last occasion is the document to which Mr Warwick is referring to, and that has been amended, and was presented to him yesterday morning, and I am sure by now he has an understanding of what transpired at that meeting.

And if Mr Warwick can point to those areas where we are, in what he refers to as 'negative cost cutting', and 'negative and improper stances', perhaps he could take the opportunity later this morning to express to both the Minister and to the Bench what it is he is talking about. I also make the point that the resolution which Mr Warwick has grandstanded here this morning didn't get a mention yesterday.

Now, in relation to the Tasmanian Teachers Federation, Mr Lane said that he imagined his application to proceed would be opposed, and he is quite correct, it will be.

Sufficient agreement, in our view, has not been reached which would justify even him mentioning an interim 3% increase, let alone putting an application to the Commission. But just so that everyone knows what our position is, that is it - we'll wait to hear from Mr Lane - if the Bench believes that that's appropriate, Mr President.

PRESIDENT: Thank you. And could you inform the Bench on your negotiations to date with the Technical Teachers Staff Society?

MR WILLINGHAM: I met with them yesterday, Mr President, and as Mr Holden says, I think we are due to meet early next week. I think the progress is all that could be reasonably expected at this point in time given, of course, Mr President, that the parties have been proceeding on the basis that we'll be before Commissioner Gozzi on 10 July.

PRESIDENT: I think that, yes, that's a satisfactory report on that particular issue.

Are there any other ... there are no other areas in which you have any dealings to date, Mr Willingham? The Professional Engineers?

MR WILLINGHAM: I beg your pardon, Mr President?

PRESIDENT: Professional Engineers, has there been any development?

MR WILLINGHAM: Well, as I understand it, Mr President, the Professional Engineers are content to rely on the major negotiations with the Tasmanian Trades and Labor Council, although we have, of course, been having discrete meetings with the APEA and with agencies, but I'd endorse what Mr Pyrke has put to you.

PRESIDENT: Yes. Thank you. Mr Vines, your application for an adjournment in relation to the matters that you've raised is granted.

MR VINES: Thank you, sir.

PRESIDENT: We will proceed to hear initially from Mr Lane and perhaps Ms Moran in respect of the Teaching Service Award.

MR VINES: Mr President, just in relation ... thank you for the adjournment on our applications. In relation to the TTF's applications that you are proceeding to hear, as a party to those awards, sir, we support the submissions which you will hear from the TTF.

We don't believe we will have anything to add to those, sir, so with leave of the Commission, if I can withdraw from proceedings at this stage to come back to you on 12 July.

PRESIDENT: Yes, well, in terms of date, we'd better look at the precise time.

OFF THE RECORD

PRESIDENT: Thank you for that brief discussion. The TPSA applications, and I suspect that includes ... will involve you, Mr Warwick, have been adjourned until the 16th and tentatively the 20th of next month. Commencing at 10.30 on the 16th. Thank you.

Now we hear from Mr Lane. Ms Moran?

MS MORAN: Mr President, I wish to raise a threshold matter at the start of the proceedings.

OFF THE RECORD

PRESIDENT: Ms Moran.

MS MORAN: Mr President, and members of the Commission, I wish to raise a threshold matter at the beginning of this hearing.

The Association supports the TTF application for the variation of the award, but I take account of remarks made by the Bench on previous occasions and again Commissioner Watling's remarks this morning about the unions getting their acts together and consulting one another on awards before they get into the Commission.

That has not occurred in this case and if there are differences between the position as we see it and the position as the TTF sees it, I'll be making that clear to you after the TTF's submission is made.

PRESIDENT: Could I ask whether or not attempts have been made to collaborate on the matter by either party?

MS MORAN: Both unions are involved in negotiations with the Education Department and the Office of Industrial Relations, but there has been no consultation about the timing, for example, of this application. The application was put in by the TTF without reference to the association.

PRESIDENT: Thank you. Mr Willingham.

MR WILLINGHAM: I just also make the point, Mr President, as we have explained to the Bench, as formally constituted, that we are meeting on virtually a weekly basis with the SCSA and the TTF. We met late last week, as is customary, and in fact included amongst the participants were the federal organiser of the ATU, or the ATF, who joined the discussions just to explain in greater detail what the view of that body was in relation to the national benchmarks.

We are scheduled to meet again this coming Friday, and in discussions with the general secretary of the TTF and, indeed, with Ms Moran, last week, there has been no indication until this morning that the federation intended to proceed today for an interim 3% increase.

I don't have a problem with them doing it, but we have made the point over the last couple of weeks that if they intend to pursue the case in the Commission then we needn't waste one another's time at extensive negotiating sessions, and all we've said to the TTF is 'Just make up your mind. Where do you want to handle the matter, in the Commission or over the negotiating table?'

So to the extent that they've made their decision, I don't mind, but I would like through the Bench to indicate to the federation that we are going to discontinue with the process of extensive negotiations on these matters, because we've got far too much to do with our resources than duplicate what I assume Mr Lane is going to be putting forward today.

PRESIDENT: Without having heard from Mr Lane, I would have thought that was a fairly reasonable position.

MR WILLINGHAM: I would hope, Mr President, that you will continue to believe that.

PRESIDENT: Mr Lane?

MR LANE: Thank you, Mr President, members of the Bench. I would like to thank you for the opportunity that has now been provided for the federation to put forward a submission with reasons why we believe that employees under the Teaching Service (Teaching Staff) Award should be granted an interim 3% salary increase.

Unfortunately, I must begin my ...

COMMISSIONER WATLING: Mr Lane, are you going to address the question first: why should we proceed today to go into arbitration on this matter? There have been comments made by Ms Moran; there have been comments made by Mr Willingham. Are you now saying that it is appropriate that we head down the line of arbitration from go to whoa on this matter?

MR LANE: No, I'm not, Mr Commissioner. I am going to put forward in my submission reasons as to why the unagreed matters - and I won't say 'disagreed' matters - the unagreed (mainly because they have not been addressed during negotiations), should remain on the table for further negotiations.

But I believe that the agenda - as I will point out during my submission - the agenda was put together not with a view of another 3% salary increase, but with a view to teachers gaining far more than 3%. Therefore far more has been asked than is necessary for us to gain the 3%.

And I think I will be able to show that the level of agreement we have reached so far, whilst it is not ... there is no agreement on all the matters put before us on the agenda, is sufficient to gain the interim 3% and that the other matters should be referred back to the parties for further negotiations in a move to heighten efficiency and productivity within the teaching service.

I think it would be a shame if we were not in a position to continue those negotiations even if we get the interim 3% because, as you are well aware, we have a special case application in and, as I will be pointing out during my submission, I believe that we should have the opportunity to continue negotiations on structural efficiency matters as part of the ongoing process of getting a better teaching service and, hopefully for teachers, better salaries.

COMMISSIONER WATLING: Are you telling us then that you have totally exhausted your avenues of negotiation? And if you are not telling us that you have exhausted them and you have reached a stalemate, why is it that we should proceed to arbitrate this issue, because you heard what Mr Willingham said, that from hereon in - and I don't want to misquote him - but certainly the inference was that the negotiations are off now if you are wanting arbitration on all the issues.

MR LANE: I have pointed out I don't want arbitration on the issues. I want to show that we have enough on the table to get the 3% and that if Mr Willingham wants to play games of 'no-talkies', then I'd be coming back to the Commission asking for an order that negotiations proceed on the other matters.

COMMISSIONER WATLING: Well, if you don't want us to arbitrate, are you saying that you and Mr Willingham are going to reach agreement on the 3%?

MR LANE: No, I'm not, because I believe that Mr Willingham expects us to agree on every matter that has been placed before us, and that every matter that has been placed before us is worth a lot more than the interim 3%.

COMMISSIONER WATLING: So you are asking us then to arbitrate?

MR LANE: I am asking you to arbitrate on the question: has enough been put on the table, or has it not? That's what I am asking you to arbitrate: has enough been agreed to by the Teachers Federation to gain access to the next 3%, or is it necessary that more be granted to them, or more be agreed to?

It seems to me that the agenda - as you will see if I get the opportunity to put before you in the form of an exhibit - the agenda that has been put before us is an agenda that had in mind a lot more than a further 3% salary increase. And consequently, I don't believe that the Teachers Federation should either have to agree to all the matters on that agenda, or have them arbitrated, before we can access the 3%.

And I will be using ... I will be highlighting the case of the Teachers Salary Board Industrial Commission in South Australia in which a similar situation occurred. The Bench acknowledged that in fact full agreement had not been reached on the items that had been placed on the table, and yet they believed that sufficient had been done to access the 3%, and then sought that the parties go back into negotiations on the matters still unresolved.

And they even admitted, as I will point out if I get the opportunity, that it is likely that many of the issues will, just by further negotiations, will still not be agreed upon. Now, they were granted their second 3% (that is South Australian teachers) despite the fact that not all matters had been discussed or agreed.

Now, I believe that we are in a similar situation where we are being asked far too much for an interim 3%. And I believe that we have given enough in the forms of agreements on certain matters to gain access to it.

PRESIDENT: Mr Lane, your wording of interim for the 3%, does that mean it's interim in terms of further structural efficiency negotiations or that it's interim in terms of preceding whatever might flow from a special case?

MR LANE: The latter of those, Mr President, but we believe that in prosecuting our special case, anything that is done or any agreement that is reached in going for that special case, should be in line with the structural efficiency principle.

I believe that there is room for, ultimately (but it's going to take a lot of talking) ultimately, though, for further agreements to be reached on matters which relate to structural efficiency but I believe if we have to sit down and have agreement on those issues before we can come and try and access the 3% it will Christmas time, or if we have to have them arbitrated, to be quite frank, we have far too much to lose to have those arbitrated because of the extreme nature of the demands made upon us.

PRESIDENT: So you're prepared at this point in time to have all the issues that are on the negotiating table in respect of the Teaching Service Award arbitrated.

MR LANE: No. I pointed out, Mr President, that what I would be seeking is to inform you as to the level of agreement that we have reached and then pose, if you like, the question to you: is that enough in your opinion to gain the 3%? Now, if you believe it is, then I would be requesting that once granted the 3% that negotiations continue on the unagreed and undiscussed matters, because we haven't had time to discuss the matters because the agenda is so large and has so many items on it, and that we would be prepared to sit down and continue negotiations to see if we can make further efficiencies and productivity measures which we can then, of course, put before the Bench as part of our special case.

Now, if the government is fair dinkum about getting more efficiency and productivity out of the public sector and in particular in this case the Teaching Service, then I see no reason why they should resile from continuing those type of negotiations in an endeavour to create better efficiencies and greater productivity.

Now, if you believe that we have not got enough on the table for the 3%, then I would be hopeful that you would order us back into negotiations for further discussions on the matters. As I say, if we have to sit down and wait until Mr Willingham is ready to agree that we have enough on the table for the 3%, it'll probably be Christmas time.

COMMISSIONER WATLING: We said on previous occasions, when we were here, that the parties go away and discuss all the issues and highlight all the issues and if they didn't agree we would arbitrate the matters. Right?

MR LANE: Yes.

COMMISSIONER WATLING: Now, you're back here today saying that you haven't completed your discussions and you don't want us to arbitrate on the issues but you want a quid each way and say, 'Give us a bit now and then we'll go back and discuss it later'.

Now, if you've got discussions coming up on Friday, and I've taken Mr Willingham's submission on board here, when were you going to inform the employer that discussions had broken down and you were going to seek to have certain matters arbitrated, because you are wanting arbitration because you're asking us to give you 3% for a certain number of offsets. So when are you going to tell the employer that discussions have broken down?

MR LANE: For a start, Mr Commissioner, I'm not asking for 3% because we have given a certain number of offsets. We have given no offsets. We will give no offsets for the 3%, but we have agreement on structural efficiency and productivity measures which will increase the skills of the teaching force, the flexibility of the teaching force, and thereby create a better teaching service for the benefit of students.

Now, that's what we have agreed to. Now, I'm saying we have had 17 or 18 structural efficiency negotiation meetings. Now, if Mr Willingham thinks he will wave the magic wand on Friday and suddenly produce the goodies we've been waiting for, and we'll be able to reach even greater agreement, then I'd be interested to hear that that's what he's proposing to do, because I can't see that one more, two more, or three more negotiation sessions, which will take another 3 or 4 weeks, would make that much difference to the level of agreement we have been able to reach so far.

It would simply deny the teachers, or delay further for teachers, their access to the interim 3%.

COMMISSIONER WATLING: But you're talking in terms of the teaching service collectively, and we heard from Ms Moran earlier that her organisation, which I would think is an integral part of the teaching service, has had no discussions with you on the issues.

MR LANE: They have had discussions during the negotiations, and I think that the Teachers Federation, after listening today, I am more convinced than ever that union amalgamation should be one of the first things on the agenda for structural efficiency.

PRESIDENT: Can we do it? Will you let us do it?

COMMISSIONER WATLING: Can we arbitrate this now?

MR LANE: I'll let you do it any time. I'll let you do it any time.

MS MORAN: I won't.

MR LANE: But the fact is that I have been instructed by the membership through the stop-work meetings that were held last week that we must press on because there is a belief out there in the membership that we have enough on the table to access that 3%.

PRESIDENT: A couple of questions. The last time you met in negotiations was Friday - last Friday?

MR LANE: It was an informal meeting, Mr President, because in fact Mr Willingham was unable to be present at that particular meeting, so it was between some representatives of the Education Department and the teachers, so it was, in effect, 'an informal matter'.

PRESIDENT: And no inkling was given at that meeting that you would be proceeding today to seek ...

MR LANE: Well, I thought an inkling had been given last time this matter was on, on 13 June, Mr President, that the teachers were at that stage ready to proceed and would have proceeded if at the time all matters before the Bench were not adjourned. We were ready to go 2 weeks ago.

PRESIDENT: Could I hear from ...

COMMISSIONER GOZZI: The thought that's crossing my mind is that the TPSA applications are coming back before us on 16 July.

Now, what's your opinion if we were to give you that additional time to reach agreement, and if agreement wasn't reached in respect of that first ... or the second instalment increase, the Commission entertain, the same as it did in respect to the TPSA applications, arbitrating on an operative date?

MR LANE: Mr Commissioner, it was my understanding that today was the ... it was the intention of the Commission to arbitrate on an operative date. That was the impression I was given 2 weeks ago ...

COMMISSIONER GOZZI: In respect of the TPSA applications.

COMMISSIONER WATLING: TPSA applications.

MR LANE: ... all matters before us.

COMMISSIONER GOZZI: Well, we really hadn't heard from you in respect of anything.

MR LANE: That's right. But I would be most disappointed if you decided to put our matter off until 16 July. It again provides that implication that the Teaching Service Award - or the application relating to that award - is similar to those provided by or put forward by the TPSA. As I was going to point out in my submission, we have during ... right from the beginning, the Teaching Service Award (Teaching Staff), that is, has been dealt with in a completely separate way.

Different proposals have been put forward, different responses and different agendas and different negotiation sessions. We are ... the Teaching Service Award should be seen as separate

from the TPSA's applications - completely separate - and should be dealt with separately, as I understand was the intention of the Commission that at this particular time for the second 3% it would be award by award.

Now, I believe that we are not dissimilar, and I realise that you can only ... I can only put forward what happens in mainland industrial commissions for your information, and you will of course ... you don't have to follow that, you will take it merely as guidance or at least something to consider, but I believe the situation of teachers in Tasmania now find themselves in is very similar to that which the South Australian teachers were in and I believe we should be afforded the same opportunity to at least allow you to see whether or not we have enough on the table.

We have agreed in total, or we have agreement in total on, I think it's at least nine different items which relate to structural efficiency and productivity.

Now, I believe that they are more than sufficient for us to be granted the 3%, plus the fact that we have shown a willingness (and that will be reiterated during my submission) we have shown a willingness and we will guarantee continued involvement in negotiations to increase further the efficiency and productivity of the teaching service.

COMMISSIONER GOZZI: The other question I have is seeing as we're dealing with the Teachers ... Teaching Service (Teaching Staff) Award in isolation, is it necessary that it ties up a Full Bench?

MR LANE: I must admit, Mr Commissioner, I was somewhat surprised (a) by the fact the matter was joined to the TPSA applications initially; and secondly that it was referred to a Full Bench. But that's ...

COMMISSIONER WATLING: If we could just straighten that out. They haven't been joined. They are there being mentioned separately. And if you recall, on the first occasion we came together we did say at some stage there will be a need to address the question as to whether or not certain awards be hived off to individual members of the Commission, and the parties will be given an opportunity to address that.

But all matters were referred to the Full Bench to keep them together at the start before we got into the hiving off. We haven't heard any submissions in relation to your applications. And indeed, I would think that even when the TPSA applications come back, there is still going to be a need to address whether or not this Bench continues to hear all the matters, especially those 15 matters related to special cases.

But I would think, and I don't want to pre-empt what Mr Vines might have to say, but I'm sure he is going to address the question somewhere along the line as to what happens with the other applications. We might have a view on that as well, as to whether or not certain awards should go off to individual commissioners.

MR LANE: Mr Commissioner, I am somewhat perplexed, because in our original application we made it quite clear that this application is not considered to be a Full Bench matter. We didn't ask for it to be referred to the Full Bench. And if the Full Bench now wishes, or deems it necessary or appropriate for it to be referred back to a commissioner, fine, but ...

COMMISSIONER WATLING: Well, no, you are misinterpreting what I'm saying, and I would ask you to listen to what I am saying.

When the applications came in, they were all kept together and they are still together now in the public sector and, so much so, there are a couple that have come in in the last 24 hours which probably on the next occasion might be referred to this Bench to keep them together. However, there will be a need to discuss at some stage what happens with them.

It is not a matter of whether you make a request it goes to a Full Bench or whether it doesn't. The Commission has decided, for the purpose of keeping them together at this stage of the game, it would be more appropriate. That has been the decision taken: to keep them together.

But we were prepared to hear submissions from the parties - and keeping in mind that you are only one of them - as to whether or not they ... any of them or some of them should be hived off. We are going to give people the opportunity.

MR LANE: Well, Mr Commissioner, as far as I am aware, last time I in fact did allude to the fact that I would have preferred the matter to be dealt with by a single Commissioner.

COMMISSIONER WATLING: You got no ruling on that though.

MR LANE: I know I got no ruling on it.

COMMISSIONER WATLING: No.

MR LANE: And I also, when I initially brought up the matter of matter T.2456, which is the Teaching Service (Non-Teaching Staff) Award, initially that had been referred to Commissioner Gozzi. But within the space of 10 minutes it was suddenly referred to the Full Bench.

COMMISSIONER WATLING: Once again, to keep all the applications together.

MR. LANE: Well, is that going to happen to the TAFE Staff Award?

PRESIDENT: It may be re-allocated to exactly the same commissioner, Mr Lane.

MR LANE: Well, Mr President, I am somewhat perplexed that we again seem to be running into another possible delay to us being able to get our members that 3%.

PRESIDENT: We are hearing you on your submission as to whether or not you ought to be permitted to proceed with your so-called arbitration of an interim 3%. And I think we understand your position. We have a view on it as well.

But Ms Moran, you were going to ...

MS MORAN: I was simply going to support what Mr Lane was saying earlier about the number and complexity of consultations that have already been carried on, and to support that part of his argument very strongly: that there have been long and very detailed meetings, that we are still awaiting further information from the Education Department on specific issues which we have agreed to discuss; and that we are in rather a different position in that regard from the TPSA.

PRESIDENT: So your negotiations virtually are still continuing.

MS MORAN: They are still continuing but they have been extremely long. As Mr Lane said, 17 or 18 meetings, usually of 2 hours or more duration and lots of paperwork done in the intervening period by the unions and by the department. It's an extremely complex area.

PRESIDENT: I don't think you are on your own in those sorts of things.

MS MORAN: No, I realize that. But it is an extremely complex area and we have ... both unions have participated with goodwill and with considerable effort. And both unions believe that their members are entitled at this stage to get the 3% because of the amount of work that has already been done and the amount of agreement that has already been reached.

PRESIDENT: Thank you.

MR LANE: Excuse me, Mr President. If I may, I'd seek your indulgence to have a short adjournment of 5 minutes so that I

may sit down with Ms Moran and talk to her about (a) what's happened so far this morning and, (b) just to make it quite clear what it is that the Teachers Federation is doing on this particular matter and I think 5 minutes should more than clear the air ...

PRESIDENT: Could I suggest to you that we may hear from Mr Willingham first and then we might all adjourn and consider the position.

MR LANE: Thank you Mr President.

MR WILLINGHAM: Thank you Mr President and members of the Bench. I'll again try to resist the temptation to answer all of the matters that Mr Lane has put in, or put forward in what I take is virtually a threshold submission as to whether he should proceed.

Again, if he wants to run his argument I'd be the last person to deny it but I want to make it quite clear to the Bench and to Mr Lane that we will be seeking arbitration as part of this process, should it proceed, of those matters that we regard as legitimately ours to advance in respect of the government's negotiating agenda and Mr Lane will not want to lose sight of that. Of course, if the Bench determines that I can't, that's another matter altogether.

We are not going to permit Mr Lane, or any other organisation, to come along and pick cherries off a without prejudice, uncompleted agenda and pop it up to this or any other tribunal and ask at varying stages of live negotiations whether they can just carve up that part which suits them and ask for 3% or any other part of the amount that they're seeking in relation to their special case.

So I say to Mr Lane, and with great respect to this Bench, that if the Bench is prepared to let the federation and the society (I beg your pardon) the association proceed today, we will be running our case on the basis that we will seek arbitration from this Bench on all of those matters to date that the federation and for that matter the association have not seen fit to come to an agreed position with us on, and that is our simple and, I hope, quite clear message.

COMMISSIONER WATLING: So you'll be putting in an application to be heard at the same time.

MR WILLINGHAM: I have one ready to go, Mr Commissioner Watling, if it meets the convenience of the Bench and I can assure you, members of the Bench, that not all of those matters have yet been put before the TTF, but if we are compelled to argue our case under the rules that Mr Lane wishes to proceed, then he's going to have to expect that we'll try and invent a few rules of our own and if they're

within the terms of the Industrial Relations Act and the national wage fixing principles, he is going to have a job persuading us to deflect from that course.

PRESIDENT: Thank you, Mr Willingham. We'll adjourn for a short period, perhaps 5 to 10 minutes.

#### SHORT ADJOURNMENT

PRESIDENT: I trust everybody has taken advantage of that short adjournment.

Mr Lane, your submission that you should be allowed to proceed has been considered and we want to put on record that we are prepared to allow that sort of process and for you to have the matter that you're ... matters that you're seeking to be arbitrated.

We want to also put on record that we would be prepared to also hear and deal with an application from the employer which would also go to those issues which ought to be considered in terms of structural efficiency.

We do not believe that one set of items from one party ought to be the sole determinant of structural efficiency arbitration.

Just to the first point, we are ... we also suggest to you that there is an alternative which would envisage continued negotiations and report-back on the 16th, and we think that those two ... they are the only two alternatives that are available to us.

If you wish for a short adjournment to consider that position we are prepared to grant some time.

MR LANE: Mr President, I probably will seek a short adjournment but could I ... I'm surprised that you've only put two options in front of us at this particular stage. I was wondering whether the Bench would consider the option of having the matter adjourned so that at least the negotiation session on Friday can take place and the matter referred to a single commissioner for early hearing.

I'm just somewhat amazed that after 18 weeks of negotiations that the government people are going to stand up and say that nothing has been agreed to. After 18 negotiation sessions - nothing's been agreed to?

PRESIDENT: I don't think that's the point, is it?

MR LANE: Well, it is because obviously then it's a matter of having a situation where basically you're going to be told that no agreement has been reached at all, and so it puts us in a very awkward position.

PRESIDENT: The situation is that there's either an agreement or the matter's got to be arbitrated. If there is an agreement there's not so much of a problem, is there? It's just simply a matter for this Bench to determine whether or not the agreed package is satisfactory in terms of the structural efficiency principle.

If you haven't got an agreement, the matter's got to be arbitrated. You obviously haven't got an agreement.

MR LANE: We have obviously ...

PRESIDENT: You have an agreement on part of a package.

MR LANE: That is correct.

PRESIDENT: And it's not ... but it's not an agreement in toto.

MR LANE: Well ...

PRESIDENT: And I don't think you can split it up that way.

MR LANE: Well, I'm amazed to hear that, you know, that we have to sort of give ...

PRESIDENT: If you want the matter arbitrated ...

MR LANE: ...away the world for 3%.

PRESIDENT: If you want the matter arbitrated that's fine and it can be done, but we cannot deny all the parties the opportunity to put on the table the issues which they consider are relevant to the structural efficiency principle, and then the matters ... those matters will be arbitrated.

MR LANE: Well, I would seek leave for an adjournment - 5 minutes - whilst I hopefully can discuss that with the SCSA and if possible even contact the office, but I am just quite amazed at the turn of events and the teachers again are going to be denied that 3% which they justly deserve.

COMMISSIONER WATLING: Mr Lane, I think our decision in coming back to you, really says that you have two options. You can't expect this Bench just to hear your side of the argument and arbitrate on the bits that you want. If it's all up for arbitration we would be denying natural justice to the

other side if we didn't hear what they had to say. They're entitled to a view the same as you are.

MR LANE: I don't disagree with you, Mr Commissioner. What I do disagree with is that this Bench will be asked to arbitrate on matters which are undiscussed during negotiations, that we have not had the opportunity to even talk to the government side about and yet they're going to be arbitrated.

COMMISSIONER WATLING: Well, I think ... isn't that the point that we're really trying to get across to you, that if there are other things to discuss maybe you should discuss them, and I did ask you earlier, when did you tell the employers that you were ceasing negotiations?

MR LANE: I don't want negotiations to cease. We've never told them that we're ceasing negotiations. I can't fathom why we can't put before a Bench whether or not we have enough on the table for the 3% and you tell us yes or no, and after listening to the other side ...

COMMISSIONER WATLING: It's probably a non-prejudice package at the moment, is it? You probably discussed a number of issues that have been put up on a non-prejudice basis looking towards a package and, if that is the case, I agree with the comments coming from the President's lips that you haven't got an agreement and therefore if you haven't got an agreement, there is nothing left for us to do than to arbitrate each of the issues - your issues as well as the employer's issues.

COMMISSIONER GOZZI: So you're not being denied the opportunity to proceed, Mr Lane. Simply what we're saying is ...

COMMISSIONER WATLING: No. We're more than happy to arbitrate.

COMMISSIONER GOZZI: ... if we do proceed the way that you are indicating that we should, then we are duty bound, we believe, to allow the other side to put their application in respect of the 3% and to arbitrate the matter in that way.

MR LANE: Thank you.

PRESIDENT: Do you wish an adjournment?

MR LANE: Yes, thank you, Mr President.

PRESIDENT: 5 minutes?

MR LANE: Yes.

SHORT ADJOURNMENT

PRESIDENT: Mr Lane, are you in a position to respond?

MR LANE: Mr President, on behalf of the Teachers Federation, I wish to state our concern at the turn of events today. I believe that the Teachers Federation has been put in an impossible situation, a situation not of its own making, and a situation which, unfortunately, may have consequences which I dread to contemplate within this Industrial Commission.

It appears to us that the government is determined, at all costs, to ensure that the teachers of this State have their 3% application delayed for as long as possible because they know, they certainly know, that we will never agree to everything that is on the agenda that they have placed before us and therefore, at some stage or other, whether it be now, 5 weeks' time or 10 weeks' time, they will more than likely come in here and say that there is no agreement and that all matters have to be arbitrated.

COMMISSIONER WATLING: We said we're prepared to hear your arbitration now.

MR LANE: I realise that, Mr Commissioner, but it is our preferred option, if possible, to escape that fate because of the unjust demands that have been made by the government and we do not want the delay, if possible, that arbitration before a Full Bench would bring about.

PRESIDENT: Mr Lane, do you really believe the federation and indeed (you can't speak for the association), but the two employer organisations are being discriminated against in terms of the government's dealings with those organisations?

MR LANE: I certainly do, Mr President. I certainly do.

PRESIDENT: Even though you're having meetings once a week?

MR LANE: Yes. The other groups have been handed one agenda, which is W.1. Now, the federation was handed an agenda some 6 months ago, an extensive agenda. On 30 May, or about that time, we were handed W.1 and told that we had to agree to that as well. Now, we find that rather off, that every other union virtually has one agenda in front of them, namely W.1, and now the teachers have an education agenda which is discrete to the Teaching Service (Teaching Staff) Award, plus W.1.

Now, we believe that's placed us in an impossible situation of ever reaching agreement with the government on their demands for award restructuring which will result in the likelihood of all these matters going to arbitration, thus delaying further that 3%.

As I said earlier, I believe that this Bench did have the opportunity to at least see whether or not there was enough apparent agreement for us to access the 3%, but of course the government is now going to tell us ...

COMMISSIONER WATLING: Mr Lane, I want to pull you up on that. The tenor of your submission is that we're denying you something. I want to let you know quite clearly, from where I sit, we're not denying you a thing. In fact I, as a member of this Bench, and I'm sure the rest of my colleagues, will be more than happy to arbitrate the matter. You're saying to us that you don't want it arbitrated and on the other side of the coin you're also saying that you want arbitration in a limited way and you don't want the employer to have a say.

MR LANE: I'm not saying I don't want the employer to have a say, Mr Commissioner. What I am trying to say is that the matters which are not agreed should not be arbitrated because it would be far better if negotiations continued on those matters and agreement, if possible, was reached.

It's far better if we're able to reach agreement after we get the 3% than to have the matters arbitrated. The government position is going to be such that you will not have a choice but to arbitrate, because that is what they are intent on doing and I believe if that's the way the industrial relations game is played by the Government of this State, then it's about time that certain steps were taken to ensure that this government either changed its mind or there was a change of government.

COMMISSIONER WATLING: So you want to embark on arbitration then? Because you're saying that you're going to go to arbitration anyway and you're foreshadowing that the government will go to arbitration in 5 weeks' time, it's your submission to us that you want to go to arbitration now, is it?

MR LANE: No. We will, hopefully, be able to do some work at the political level to see whether we can get the attitude of this government changed so that in fact they will start being reasonable about what level of agreement is necessary for a union to access the 3%. I mean, there has to be some commonsense come into this whole business.

PRESIDENT: Well, obviously some sort of assessment's been made of that and that's why there isn't an agreement. Now, the normally accepted process, as I mentioned earlier, is for there to be an agreement which can be measured by this Commission.

If there is no agreement, then the whole issue has to be arbitrated. I mean, you can't escape that. To try and escape from that is to try and set a totally new set of rules.

MR LANE: Mr President, with all due respects, I realise that that appears to be the thinking at the moment, that either you agree or there will be arbitration, but I would submit that this is not necessarily the case, or it needn't necessarily be the case, and I would put before you that in fact in another industrial arena - granted, I'm only putting it forward for your information - it was decided by the Teachers Salary Board of South Australia, Teachers Salary Board Industrial Commission, by His Honour ... and I think it was Judge Allen, who's the Deputy President. He made the following comment when the South Australian teachers found themselves in a similar situation.

He was talking about the expectation they had, that a full agreement would be reached.

COMMISSIONER WATLING: Well, quite frankly, I don't think that's an issue right at this moment. We've given you the right to go to arbitration; we're prepared to start now. You are saying to us (I don't know what you're really saying to us at the moment) but all I'm saying to you is that if you want to go to arbitration now on the issue to see whether you have enough in the kitty to get 3%, I'm more than happy from where I sit but all I say is, don't tell the employer that he's not entitled to put up his list as well, and I think there is a big difference between what you're asking and what Judge Allen may have decided. I'm sure he didn't deny the other side to put a point of view.

MR LANE: That is correct. I'm quite sure he didn't, Mr Commissioner. I am not denying that they have a right to put forward a point of view. What I do object to is that after 18 meetings, the government representatives are going to stand up and say no agreement has been reached.

COMMISSIONER WATLING: Right. Well, go to arbitration then.

PRESIDENT: And it might be the quickest solution.

MR WILLINGHAM: Mr Deputy President, if Mr Lane will allow me, with the indulgence of the Bench, I don't know perhaps whether I can assist in some measure but perhaps I can.

I'm going to ignore all of the intemperate remarks that fell from Mr Lane about the Government of Tasmania, although my normal fashion would be to demand an opportunity to speak to that, but so that we can get to the heart of the matter, let's proceed.

We are not making unjust demands on the Teachers Federation. We have reached at a confidential and 'without prejudice' level a number of 'in principle' agreements as we have with every other trade union organisation in the public sector.

You have heard today and you have heard on previous occasions that a number of those organisations don't particularly care for what it is that appears on the government's agenda but, nevertheless, all of those organisations both in this jurisdiction and indeed in the federal jurisdiction are prepared to continue with the process of negotiation and discussion, and you heard from Mr Vines today a very strong expectation from his organisation that these matters would be resolved in the next few days.

Now, there is no suggestion - there is no suggestion that all of the matters attaching to structural efficiency will be finalised in relation to the second instalment of the structural efficiency increase, the so-called 3%.

There's no suggestion of that. That was conceded, Mr President, by me before the last occasion that this Bench, as then constituted, had this matter before them.

We recognise that a great deal of structural efficiency agendas are going to have matters - substantial matters - which will require working through over a period of time, and which will be associated directly with the award restructuring - that is, the restructuring of the awards. And Mr Lane knows this and his organisation knows it.

Now, I'll say on record that there is on a 'without prejudice' basis a number of points of salient agreement between us and the federation and between us and Ms Moran's organisation.

And Mr Commissioner Watling I think hit the spot about an hour ago, when he said that those 'in principle' points of agreement are predicated on the basis of a total package. You work your way through point by point in the hope that eventually all of the issues that need to be resolved at this point in time can be agreed to such an extent that we would come before this Bench and, on a consensual basis, say 'Yes' to what it is that Mr Lane is seeking.

Now, every other organisation in the public sector - every other organisation - is doing that. There can be no argument about that. And every other organisation in the public sector has been content to accept those sorts of guidelines.

Now, all I'm saying to Mr Lane in a ... as cooperative mode as I can summon, is if his organisation is prepared to continue the negotiations, which are scheduled for Friday, and no doubt will be scheduled for the following week, I have some confidence that the sort of position that he wishes to achieve

and which I'm sure will be achieved in other areas can be accomplished.

Now, if he can't take that on board and basically do what everyone else seems to be doing, and everyone else seems to be agreeing to, then he must understand that those areas of 'in principle' agreement that we have reached, if they don't suit our total picture, must be regarded as just what they were - 'in principle' components of an overall package, and if we feel that what he's putting forward as 'in principle' agreements which, in his view are sufficient to justify the second instalment, don't match our views, then we will put on the table what we think is necessary.

Now, if Mr Lane has a problem with that and he thinks that's going to cause some sort of cathartic revolutionary disruption to industrial relations in this State, well then, he calls the shots and he can let it go. But if he can't proceed on that basis and he can't acknowledge that, then he's calling the shots, it's his application.

Now, Mr Lane knows the rules. I don't know what sort of game he's playing here today, and I don't know why he's playing it. I remind the Bench that 2 weeks ago - 2 weeks ago - Mr Lane was invited to stand up and put his position. I ask the Bench - I ask the Bench to ask that question of Mr Lane. He stood on his feet for about 30 seconds and refused to proceed. He refused to proceed with the Teachers application for an interim 3%. And it's no use him sitting saying that he would have proceeded but this Bench pulled up stumps and adjourned, he was given every opportunity by direct request to proceed.

We had a meeting as recently as late last week; he gave no indication that he was going to proceed today. And this morning he says 'We want to go. We want justice, we want this, we want that.'

Okay, he's got it. I'm here to respond to his case, but I offer to him the option that everyone else has got - come back on the 16th and maybe he won't be getting so hot and bothered about everything. Maybe he will. Maybe he will. But my view clearly, Mr President, members of the Bench, is that Mr Lane might be advised to consider talking with us between now and the 16th and maybe he'll be less angry and less disappointed than he is today, but if he wants to proceed, please don't tell the department or the government or the Minister what rules we shall be playing. We'll play the rules that are available, which are the National Wage Principles and the Industrial Relations Act 1984, and everything we do, we will submit, will be within those two pieces of legislation and guideline.

PRESIDENT: Yes, thank you, Mr Willingham.

Well, Mr Lane, we have yet to hear from you as to whether or not you're prepared to adopt one or other of the options that we ...

MR LANE: Well, I did ask that ... oh, one of the options, well, if I may, I'd just like to say, Mr President, that I'm amazed that I was asked to proceed last time. We were discussing at that particular time the TPSA's application. They were not my applications and therefore I did not wish to comment on them. I was waiting my opportunity to speak on the Teaching Service one. It's a different application.

Mr President, at this stage, I will seek to have the matter adjourned and held over until 16 June. It is with a great deal of disappointment that I do that (July, sorry), because I believe that because of the number of applications that will be dealt with at that time it will necessitate not just 2 days of hearings but considerably a lot more than that and I would ask that the Bench does consider very seriously the possibility of having the Teaching Service matter put over to a single commissioner so that this matter can be dealt with as expeditiously as possible.

Let's hope that in the meantime that the government negotiators have a little more thought to making some rapid progress than they have in the last 18 meetings that we've had on this matter. Thank you.

PRESIDENT: Yes, thanks, Mr Lane. We have certain regard for your wishes to progress your matter as expeditiously as possible and we've come to the conclusion that we should bring that matter on at 9.30 on the 16th for your report.

Are there any other comments or submissions?

MS MORAN: I have no further comments at this stage.

MR WILLINGHAM: No, Mr President.

PRESIDENT: Thank you. This matter is adjourned until 9.30 on 16 June. ?

HEARING ADJOURNED