

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

- 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. 2511 of 1990 **IN THE MATTER OF** an application by the Federated Engine Drivers' and Firemen's Association of Australasia, Tasmanian Branch to vary the Boiler Attendants Award
- T No. 2504 of 1990 **IN THE MATTER OF** an application by the Association of Professional Engineers, Australia, Tasmanian Branch to vary the North West Regional Water Authority Employees Award
- T No. 2506 of 1990 **IN THE MATTER OF** an application by the Association of Professional Engineers, Australia, Tasmanian Branch to vary the Professional Engineers Award
- T No. 2508 of 1990 **IN THE MATTER OF** an application by the Hospital Employees Federation of Australia, Tasmania Branch to vary nominated public sector awards
- T No. 2605 of 1990 **IN THE MATTER OF** an application by the Federated Miscellaneous Workers Union of Australia, Tasmanian Branch to vary the Miscellaneous Workers (Public Sector) Award
- re structural efficiency
principle

T Nos. 2467, 2469, 2470
2471, 2472, 2474, 2475,
2476, 2477, 2478, 2479,
2480 and 2481 of 1990

IN THE MATTER OF applications by
the Tasmanian Public Service
Association to vary nominated
Public Sector Awards

T No. 2653 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Ward Clerks

T No. 2655 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Maintenance Staff

T No. 2656 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Trade Instructors

T No. 2654 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Laundry Machine Operators

T No. 2657 of 1990

IN THE MATTER OF an application by
the Health Services Union of
Australia to vary the Hospital
Employees (Public Hospitals) Award

re Attendants

T No. 1844 of 1989

IN THE MATTER OF an application by
the Tasmanian Teachers Federation
to vary the Teaching Service
(Teaching Staff) Award

re recreation leave allowance

T No. 2264 of 1989

IN THE MATTER OF an application by
the Secondary Colleges Staff
Society to vary the Teaching
Service (Teaching Staff) Award

re recreation leave allowance

T No. 3200 of 1991

IN THE MATTER OF an application by
the Tasmanian Public Service
Association to vary the Inland
Fisheries Commission Staff Award

re Coxswain's Certificate
Allowance

PRESIDENT

Hobart, 22 July 1992
Continued from 1/7/92

TRANSCRIPT OF PROCEEDINGS

unedited

PRESIDENT: Well you understand, of course, this report back is before me as one member of a full bench. I will hear what the parties have to say and ask questions if necessary, and report back to other members of the bench in due course. Who would wish to lead off? Do we want to take appearances in this report back?

MR: They haven't changed.

MR REES: The appearances haven't changed in so far as the Health Services Union of Australia is concerned.

PRESIDENT: You are probably right Mr Rees. Mr Jarman?

MR JARMAN: Thank you Mr President. If I could report that the parties that are involved in the Memorandum of Understanding negotiations have met on several occasions since the last report back hearing. We are not yet in a position to be able to table any documentation before the commission, however I can say that our negotiations have been productive; we have a document in its final stages of completion, and it would be my intention to submit that document to government in the very near future for their consideration and approval.

When that approval has been given it is the intention of the unions to take the document to their members for their consideration. It would be at the completion of that process that we would return to the commission to put the documentation to you and proceed from there. That's basically the situation that we're at at the moment, Mr President. If the commission pleases.

PRESIDENT: You're not in a position to give me any advice as to the matters that are canvassed, or to be canvassed, in the document?

MR JARMAN: Well I can give you an indication that we have adopted a package approach, that the Memorandum of Understanding goes to the creation of a single health industry award; it deals with budgetary issues that are currently being faced by the Department of Health. It also deals with establishment levels and maintenance of jobs in certain areas within the health agency.

PRESIDENT: They're all relatively peripheral to award matters?

MR JARMAN: That is correct. However, we, as I have said to you previously, have adopted a package approach to the negotiations. We believe that you can't look at one issue without looking at the others.

PRESIDENT: No, we'll be in pretty much the same condition when the document is tendered to us for consideration.

MR JARMAN: I understand that, sir. Thank you.

PRESIDENT: Yes, thanks Mr Jarman. Mr Rees?

MR REES: Well we support what has been said, sir. The parties have been working fairly consistently and with a genuine approach to bring about an agreed document that could be presented to the commission, but, as Mr Jarman has put, the government will need of course to approve or otherwise the areas of agreement reached to date, and it would be a breach of confidence if we analysed the document in public prior to that happening and prior to those who will either enjoy or suffer the document, or the intention of the document - that is the employees of the government employed in Health should have the right to endorse their officials in respect of proceeding or not proceeding along the path that was submitted to the full bench on the 17th of June and subsequently reported on by Mr Richard Warwick on behalf of our union on the 1st of July.

Mr Jarman spelt out in a very broad sense that the document does contain a statement of intent and various objectives, the process of achieving those objectives and of course we'll deal with the budget initiatives and inflation, subject of course to endorsement by the commission.

We are very confident, Mr President, that this document if approved by the government will be the working tool in respect to the obtainment of a new health industry award. If the employees in the industry overwhelmingly support the intent of the Memorandum of Understanding then of course it is a lay down misere that we would be most confident in reporting to you that the health industry award is in fact an award of reality.

PRESIDENT: Will the document set out in any detail what the proposed award conditions will be?

MR REES: Conditions?

PRESIDENT: Conditions and rates.

MR REES: Well -

PRESIDENT: I mean, the union wants to opt out of the current proposals of the commission and establish its own - own version of the - an award. Will the details of that award be spelled out in this document? I mean, that would be the only way this commission, I would think, would be able to make a judgment as to whether or not the parties should go off on their own and do their own thing as

MR REES: I feel sure that once the employees of the industry have approved the foundation of the award, that is the principles that will be espoused in the Memorandum of Understanding, the structure of the award will quickly be put together.

PRESIDENT: Well does that mean then that there is agreement as to what the award is going to look like in terms of detail?

MR REES: There is basic agreement as I understand the process of negotiation that - of a salary structure.

PRESIDENT: And that will be in the document that goes to the parties?

MR REES: Which parties?

PRESIDENT: Well to the government for endorsement and to your members later.

MR REES: Well if the principles of the confidential Memorandum of Understanding is adopted by the government that will be a green light for the parties to produce, openly, their basis of a health industry award that would contain the salary rates for all the employees.

PRESIDENT: And they will be agreed rates?

MR REES: Well I can frankly state, from where we stand, the will be yes.

PRESIDENT: Because it would put the commission in some difficulty if there was - this statement of intent went towards something that finally the parties weren't able to achieve, and I can see the commission being asked some time down the track to arbitrate it again.

MR REES: There may be some matters that the commission will need to arbitrate. No more, no less than the issues that will probably be put to you - the commission for arbitration in respect of the rest of the public service.

PRESIDENT: It makes one wonder why you need go down the track you're on at the moment.

MR REES: Well one can wonder why after the conclusion, I would hope, of a successful negotiations for our industry. We would hope to have it concluded and back before this commission, that is an award document, before the end of the year.

PRESIDENT: Yes, thanks Mr Rees. Mr Mazengarb?

MR MAZENGARB: Mr President, the Public Service Association has been involved in the numerous discussions referred to by my colleagues Mr Jarman and Mr Rees. We are in a position where we support and endorse the comments made by both those gentlemen on behalf of their organisation, and we will be in a position shortly once we have further information from the government to have meetings with our members to put the document for their consideration. So I endorse the comments made previously by my colleagues.

PRESIDENT: And you would respond in the same way to the questions I've asked of other advocates?

MR MAZENGARB: Very similar comments to Mr Rees', Mr Westwood, but I would indicate that the association would not be particularly interested in having disparate conditions of service in relation to the health industry in relation to other areas, but we're quite happy to work our way through that with a view to coming up to a degree with a commonality of clauses with - relative to conditions and other related issues. Thank you Mr -

PRESIDENT: My response to that is the same as my response to the last comment of Mr Rees, Mr Mazengarb.

MR MAZENGARB: I envisaged the response would be that, Mr President.

PRESIDENT: Well any other? No other comments? So everything is going along quite swimmingly at the moment, is it?

MR JARMAN: It would appear so, Mr President. We're quite satisfied with the discussions we've had with the other parties to date and we would hope that that continues.

PRESIDENT: Well I think - I should put on the record at this stage, so that there's no confusion about it later, the commission will want to see a detailed document before - to enable it to make a decision on whether or not a health award should be created. It concerns me, and I'd have to refer this to other members of the bench, it does concern me a little that it seems it may only be a statement of intent to do certain things and if that's the case I can see difficulties being created down the track if those statements of intent are unable to be finally put into place and recognised were they a completed document.

You're all aware of the circumstances that have been before the commission in recent years over statements of intent between the parties. My experience with those has not been good and I do hope that this will be a different exercise.

MR JARMAN: Well perhaps -

PRESIDENT: The other thing - if I could conclude -

MR JARMAN: Yes.

PRESIDENT: - the other thing is I am concerned about the loss of time. If this exercise fails it's going to put a tremendous amount of pressure on everybody to achieve the stated operative dates contained in our November '91 decision.

MR JARMAN: If I could, on that last matter, indicate that that has been a factor in the discussions between the parties. We are aware that there is a lot of work to be done before the commission's November 1991 decision can be implemented, as far as the introduction of the streams is concerned, and that is regardless of whether a health industry award is finally put in place.

I would just respond to your comments if I may, Mr President, about statements of intent. I endorse some of those comments. I understand exactly what you're referring to, however, what I would say is that the parties have negotiated a blueprint of what hopefully will happen over the ensuing months.

It would be fruitless at this point in time to do a lot of work, to go into a lot of detail only to have the government disagree with the concept and to ultimately have the members knock it back. What we have done is set out the parameters of what we believe is appropriate for a health industry award and for the management of the health agency over the next financial year, and if government approves of our intended course of action and the members are supportive of that course of action then we will proceed with all due haste. If the commission pleases.

PRESIDENT: Yes, thanks Mr Jarman. Well when do you think you will be in a position to report back with some degree of certainty on progress?

MR: Three weeks.

MR: Three weeks.

MR JARMAN: Three weeks, if that's suitable to the commission.

PRESIDENT: How are we situated? Is that the week of - say the week of the 17th of August? Monday or Tuesday morning.

MR JARMAN: Either morning is fine with me, Mr President.

MR MAZENGARB: Tuesday the 18th would be more appropriate.

PRESIDENT: Tuesday.

MR JARMAN: Tuesday at 10.30.

PRESIDENT: That time might be altered depending on circumstances, but you will be notified in plenty of time. All right, thank you for your contributions and, all other things being equal, we'll see you on the 18th of August.

HEARING ADJOURNED