

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. Nos. 432 and 435 of 1986

IN THE 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

And

T.No. 440 of 1986

IN THE MATTER OF an application by the Association of Professional Engineers Australia (Tasmanian Branch) to vary the Professional Engineers Award and the North-West Regional Water Authority Employees Award

re national wage 2.3% increase in salaries, wages and allowances

FULL BENCH

PRESIDENT
DEPUTY PRESIDENT
COMMISSIONER GOZZI

HOBART, 9 July 1986

TRANSCRIPT OF PROCEEDINGS

(CONTINUATION)

MR TAYLOR:

Sir, we say that it is important that the commitment to the no extra claims being made and upheld is important and we say that the awards should contain the no extra claims clause that was referred to you this morning by Mr Jarman when he was reading large segments from the statement of the President of the Australian Conciliation and Arbitration Commission.

I somewhat observed or gathered that the Commission doesn't have a copy of that statement at this point in time but the no extra claims clause that the Commission expects to be contained into Federal awards is set out on page 4 and Mr Jarman read that to the record this morning, sir.

PRESIDENT:

Would that mean, Mr Taylor (I hesitate to interrupt you while you are in full flight), that as awards of this Commission already contain such a provision that we should delete those clauses - those provisions - whether new commitments are given or not?

MR TAYLOR:

I think there's a dual tack being taken by the Federal Commission - and I would urge this Commission to do likewise - and that is to require the commitment and to record the no extra claims clause into the award. I think being in the printed document it is of value for employees to see and to note.

With regard to deleting what is there, I think ... I'm talking perhaps from an ill-informed position, but the commitment ... sorry, the no extra claims clause that is being required by the President to go into Federal awards of course has dates in it of June 1986 and reference to the decision of 26 June, if I remember correctly. It refers to that print No. G3600.

Now I think to that extent the no extra claims clause would need to be updated if it is in the awards as it

MR TAYLOR: is now.

PRESIDENT: Yes, I think you're probably right, on reflection, because we required of the parties, or the employee organizations on the last occasion, that a further commitment be given for 6 months or until such time as the Principles were themselves varied. If that happens ...

MR TAYLOR: Most certainly, sir. I don't recall ...

PRESIDENT: It's a new consideration.

MR TAYLOR: I don't recall the commitment in detail, but I do know and do recall that the commitment was given on the last occasion, was for a period of 6 months with some rider on it through to when these Principles were reviewed.

PRESIDENT: So those commitments would then lapse at the point that the Principles were renewed or revived or altered in some way.

MR TAYLOR: Probably, without being too technical, sir, they'd probably lapse as at today, I suppose, or some date around today, when the matter comes before the tribunal again as it were.

PRESIDENT: Well don't say that, Mr ...

MR TAYLOR: Well, perhaps I'll extend it by ...

PRESIDENT: ... at least extend them until the decision's given.

MR TAYLOR: If I extend it by two weeks and put you under the time frame to complete it within that, sir.

Sir, we have been discussing the matter of superannuation and how it does raise problems. As has been noted by definition, it is not an industrial matter, but nonetheless it is an aspect of the Australian Conciliation and Arbitration Commission's decision and an aspect that must be part of the Principles

MR TAYLOR:

of this Commission, if there is to be uniformity and sanity in the pursuit of superannuation by the unions, as undoubtedly there will be.

As I've indicated, we've been given to understand that the Government is to legislate to change the Act. Without that, we submit there are other mechanisms by which the Commission can control the matter and we would fully support the T.C.I. submission, that if there is any breach of that to which the T.T.L.C. has claimed, that is to vary the Principles (and I'm quoting, sir, from their claim), to vary the Principles in line with the decision of the Full Bench of the Conciliation and Arbitration Commission -and those Principles of course do include the superannuation.

And we would say, sir, that the Commission would be able to act in respect of gains that have been obtained as a result of this particular hearing, if indeed the Principles were breached down the track (as it were).

I think it would be quite open, on an application of an organization, to have an award rate reduced equivalent to the 2.3% from some appropriate operative date, sir.

We say that there is nothing really wrong with the Commission recording the desires of the parties in a statement of the principles, and we would invite the Commission to do so. Mr Lennon's suggestion, with regard to the operative date of superannuation, would appear to be practical in that sense, sir.

There's one or two other matters that I will touch on, and that is, the operative date. I must indicate that I didn't obtain precisely the wording which was proposed for Exhibit U.1, in terms of the operative date or a potential next national wage adjustment.

MR TAYLOR:

Now, sir, I think it's quite clear that it is not the intention of the Federal Conciliation and Arbitration Commission to have a firm operative date of 1 January 1987. I believe it is its intention to aim for that date, but it is not committed wholly and solely to that date. Simply, it says, 'Not before'.

And I take the Commission to page 16 of its recent decision in print G3600. And down opposite the paragraph with 'h' beside it, that last sentence :

"Further, in order to maintain the spacing of national wage adjustment at six-monthly intervals we would expect the next national wage adjustment not to operate before January 1987."

So they are saying, 'not before', but they're certainly not closing the door that it might be later, sir.

PRESIDENT:

That was said in their reasons for decision, but wouldn't the Principles that they finally settle upon be the result of their decision, Mr Taylor?

MR TAYLOR:

Well I think ... Well, no, I was going to move to page 55 which was the decision summary, but I think even ... I'd better not draw my gun yet, sir, I'm ...

It says :

"The Commission expects ..."

This is page 75 in Principle 1 (b)) :

"The Commission expects that decisions on national wage adjustments will be made prior to 1 January and 1 July to enable adjustments to operate from those dates."

Now it is saying, 'to enable', it's not saying they will necessarily

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PRESIDENT - TAYLOR

MR TAYLOR:

flow from those dates - simply, to enable.

I think if one goes to page 55 of the decision summary, then again ... opposite 'h', this is page 55. I did mention it, sir.

"The next national wage adjustment is expected to operate six months later."

And that's 6 months later from 1 July 1986, it is not firm and set in concrete (if I can put it that way, sir).

PRESIDENT:

But elsewhere - and I'm afraid I couldn't take you to it without some delay - I fancy the Commission made mention of the fact there was an in-built retardation (as it were) or delay inherent in their decision for relating to future national wage cases. I'm paraphrasing, but I fancy that's what they were saying.

We have, in effect, decided that henceforth at least for the next 2 years the operative date of national wage decisions, if anything is due, will be 1 January or 1 July.

MR TAYLOR:

Sir, I'm not aware of it being as firm as that. And I must admit that during the luncheon adjournment I did have a few things to do and I was only able to very quickly flip through the decision. I wasn't able to find anything there.

I had it fixed in my own mind - and I may have been led by the media - but I had it fixed in my mind that the Full Bench had said that there would be no increases prior to 1 January 1987. And I can't ... I must admit I was not able to find it within the decision, and I'd certainly welcome anybody putting my attention to that particular point.

PRESIDENT:

Well we will study the decision carefully and take on board your submission in this regard in any

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PRESIDENT - TAYLOR

PRESIDENT:

case, Mr Taylor.

MR TAYLOR:

I'm sure you will, sir.

Sir, with regard ... you raised a matter generally before the luncheon adjournment on operative date, really relating to superannuation, as I would have seen it, in terms of consent matters.

Now sir, I, again, didn't look at the Industrial Relations Act, but knowing your perfection, as it were, I'm sure you're right. Sir, I would simply say that if you are bound by that, as you are, that you must indeed record an agreement that comes before you, an agreement of the parties, you can't alter that agreement. I accept that situation.

I don't think that precludes the Commission from making some comment about the fact that it would not have endorsed, or if it had the ability it would not endorse that agreement, or had it been making the decision itself, it would not have made that decision.

Then that, sir, would become grist for the mill, I would suggest, for future national wage cases in terms of compliance. And I would think that that would be the more desirable approach to go, rather than to try and upheave the Act in that regard. If I could just leave the Commission with that, sir.

PRESIDENT:

Yes, thank you.

MR TAYLOR:

I think perhaps, sir, before I do depart from that I could go to that statement again that Mr Jarman referred to earlier - that's the statement of the President of the Conciliation and Arbitration Commission of yesterday. On top of page 3 (when it does come to your hand, sir) it says :

"There will also be a need to know the nature and extent of

MR TAYLOR:

agreements made outside the Commission. We would expect this information to be provided by the union peak councils."

And I think that which I've just been talking about, although it would be registered within this Commission, I think it is that type of grist that I'm talking about, that would be floated before the Australian Conciliation and Arbitration Commission in terms of compliance.

DEPUTY PRESIDENT:

It would be a very new and innovative thing to happen, for private agreements made not registered to be brought to the attention of a tribunal.

MR TAYLOR:

Private agreements not made ... I'm sorry, that doesn't seem to add up to me, sir. Private agreements not made.

DEPUTY PRESIDENT:

Well, obviously private agreements made being brought to the attention of a tribunal.

MR TAYLOR:

Yes, it may well be a new innovation.

Really, I was addressing myself to what the President said about this Commission being asked to record, or what could it do about agreements that it was asked to register, not being in conformity with the guidelines or the Principles on superannuation.

I would see nothing wrong with those being registered as required by the parties. It would be highly desirable if the Commission passed opinion on them and then that would be certainly something that could well come before the attention of the Federal Commission.

DEPUTY PRESIDENT:

I can see the considerable advantages in having that sort of information.

MR TAYLOR:

Sir, just reflecting on what you were saying before, probably agreements in detail, like unregistered agreements in detail coming before the Commission, might be a little new but certainly over-award payments are really fairly common. They reflect themselves into average weekly earnings; they seep into statistics, which all tend to influence the trend on things, or the judgement of the Federal Commission in terms of compliance.

Whilst the details of the over-award payment - the words that go with it - may not be coming before the tribunal, I think the results are quite clearly coming before tribunals.

DEPUTY PRESIDENT:

Well, I'm still of the view that there are plenty of deals done that don't get very wide circulation.

MR TAYLOR:

Oh, there are those of course, sir. There are those of course.

Sir, the final matter on which I would like to address you and your colleagues today, is Principle 12, 'Economic Incapacity'.

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DEPUTY PRESIDENT - TAYLOR

MR TAYLOR:

Now, the only reason why I am drawn into this today, is what Mr Hanlon had to say and I don't wish to enter into or argue on behalf of the Tasmanian Farmers' and Graziers' Association if indeed they are going to do what has been foreshadowed by Mr Hanlon. But I am a little concerned with what Mr Hanlon has put to this tribunal and one might find themselves in the situation of having to take that argument in the future and I think it is highly desirable that some guidelines, announcements or pronouncement be made about how they be handled.

Now I think, just going through the aspects which I would ask you to consider, I think you yourself, sir, referred to section 35 of the Act this morning and in particular section 35 (7) and (8) and I make the assumption, I think correctly, that we are here today under section 35 (7) and then of course section 35 (8) says:

"An order under subsection (7) by a Full Bench may be subject to such conditions as the Full Bench considers appropriate and as are specified in the order."

So I would suggest that that leaves it quite open to the Full Bench as constituted in its decision to - and indeed in its orders - make special provision for particular awards if such a prima facie case is drawn to the Commission's attention.

I think page 47 of print G.3600 - that deals with economic incapacity. I think if I take you more properly to page 48, you'll see there where my own organization ...

" ... submitted that if the Commission is not prepared to accept its proposal for no national wage increase, it ought to be made clear that there will be a real

MR TAYLOR:

opportunity to argue incapacity to pay on a case-by-case basis rather than what we have suggested to the Commission is an illusory opportunity which has been offered to date."

AMMA also argued that under the present Principle there was a "virtually irrebuttable" presumption that the national wage increase will be paid."

Okay, that is part of what Australian Mines and Metals Association put to you. If I go over to page 49 it says:

"As for incapacity applications designed to delay adjustments, such delaying tactics would be discounted by the fact that the prescribed ..."

PRESIDENT:

"Discouraged".

MR TAYLOR:

Discouraged - I'm sorry, sir.

"... by the fact that the prescribed date for national adjustments would prime facie be the date of operation applying to unsuccessful applications."

Now that, logically, has got to be concluded that that tribunal envisages that such matters will not be argued in conjunction with national wage cases. It is a provision provided for by Principle.

Now, as Mr Abey said to you, it's impracticable that such arguments have to take place, or should take place involving all of us that are here today and all those who have made themselves absent this afternoon.

One would envisage that the detail that would be being argued, would be

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TAYLOR

MR TAYLOR:

appropriate only to the particular parties that were involved in that particular matter.

Mr Abey also referred to the Building Trades and other awards that have been separated out of the national wage case hearings of the past. I think that is sufficient proof to indicate that this Commission has a track record, if that be the right word, sir, of seeing that it's not essential that all matters be discussed, debated or argued in this particular precinct, or this particular case matter.

As I have indicated, page 48 of the decision indicates that it is a 'case-by-case' matter and page 49 says that the operative date infers that there can be some separate hearing, or there will be some separate hearing.

The Tasmanian Trades and Labor Council has sought to operate under those very same Principles that the Federal Commission has adopted and we say that some practical approach should apply.

As I indicated, section 35 (7) and (8) suggest that the Commission can address foreshadowed applications made at national wage case decisions and can set the conditions to apply in respect of future hearings of incapacity to pay.

We would suggest, sir, that the Commission should give some direction as to how such cases should be handled in the future. If the Commission pleases.

PRESIDENT:

Yes. Thank you, Mr Taylor. Mr Taylor, while we are on a tidying-up exercise, as it were, would you care to address us as to how we might deal with an agreement between a private employer and his employees, who are not members of an organization, regarding superannuation. Section 55 of the Act says:

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PRESIDENT - TAYLOR

PRESIDENT:

"An employee organization may enter into an industrial agreement with an employer organization or any employer or group of employers with respect to an industrial matter."

I wonder if, in the event an employer entered into an agreement with his employees who were not members of a union, that agreement could be dealt with or even monitored by this Commission.

MR TAYLOR:

I would suggest not, sir. I would suggest that the Act requires application to be made by organizations and it would be then incumbent on the parties to approach the appropriate organizations if the matter is to indeed be registered.

PRESIDENT:

It seems, on face value, that an employer organization is unable to initiate proceedings before the Commission.

MR TAYLOR:

Oh, I see. I didn't quite take that point up.

PRESIDENT:

It is `union and employer organization' or `union and employer', but it doesn't appear to be ...

MR TAYLOR:

I think, sir, just drawing breath on it - section 55(1) says:

"An employee organization may enter into an industrial agreement with an employer organization ..."

Now, that is in a sense - the agreement is struck and then it goes on and simply says:

"An agreement made pursuant to subsection (1) may be filed with the Registrar if the parties agree."

Now, I don't see that that determines which particular party, if indeed it

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PRESIDENT - TAYLOR

MR TAYLOR: has to be one of the parties distinct from the two of the parties, has to make the application.

PRESIDENT: But if your organization entered into an agreement with some employees who were not members of an employee organization, ...

MR EVANS: Shame.

PRESIDENT: ...would you be able to have that agreement registered with this Commission, assuming a Principle 12 was included in the package?

MR TAYLOR: No. I don't think we could have that registered. No, sir.

PRESIDENT: Well, it's just as well it came out in these proceedings, isn't it?

MR TAYLOR: Yes.

PRESIDENT: Yes. Thank you, Mr Taylor.

MR TAYLOR: Thank you.

PRESIDENT: Yes, Mr Rice?

MR RICE: Mr President, members of the Full Bench, the Tasmanian Farmers' and Graziers' Association, with the exception of the agreement to the 2.3%, supports and adopts the comments made by Mr Abey and, not wishing to be the wet blanket in this organization - in this hearing today - the Tasmanian Farmers' and Graziers' organization opposes the 2.3% national wage flow-on being sought by this Commission today in all awards.

It is inevitable that wage increases awarded to the community in general will eventually find their way back onto the farm by way of increased costs and charges. This places further cost burdens on the already over-burdened rural community.

We submit that the two rural sector awards, namely the Agriculturists and Horticulturists Awards be set aside

MR RICE:

from any decision emanating from this hearing.

We intend to argue under section 36 in the public interest, incapacity to pay.

MR RICE:

Sir, it is not our intention or wish to opt out of the present wage fixing system operating within this State nor is it our wish to delay any flow-on that may be handed down by this Commission. We will, as always, abide by any decision handed down by this Commission.

In reply to the A.W.U. statement, that this Commission should determine any matters opposed here and now, we believe that this question should properly be determined by the Commission. Whether or not the full argument should be presented at this Commission, or at this particular time, remains in the hands of the Commission.

In relation Mr Hanlon's assertion that no one group can opt out of a national wage flow-on emanating from a decision of this Full Bench, I believe section 35 (8) allows the Full Bench to allow any increase subject to any conditions that it thinks fit.

Section 35 (8) relates to, or states :

"An order under subsection (7) by a Full Bench may be subject to such conditions as the Full Bench considers appropriate and as are specified in the order."

Sir, in relation to the claim, again by the union, that this matter ought not be heard as part of the public interest from a Full Bench, I would take you to your decision of T.265/266, at page 17, where in your decision at that time relating to the dairy industry, where you state :

The T.F.G.A. properly drew our attention to its concern as to capacity to pay any increase to dairy shed hands. We are required to consider public interest considerations and be

MR RICE:

satisfied that any award or agreement is consistent with public interest before making such an award.

We do not agree with the A.W.U. that section 36 should not apply in common rule cases. Specifically we are required by section 36 (a) to consider the economic position in any industry likely to be affected by a proposed award or amendment."

PRESIDENT:

Or "agreement".

MR RICE:

Or agreement, sir.

In putting the incapacity to pay argument, I would seek direction from the Commission, in light of Mr Hanlon's statement, that only individual employers ought to be considered. It is not our intention to argue incapacity of individual employers, but it is our intention to argue on an industry as a whole basis.

I consider it most unlikely that individual farmers would wish to make their books available, and they would rather bear the additional wages and/or take the next appropriate steps, and for reasons of economics dispense with the labour component of their cost.

PRESIDENT:

Mr Rice, you want us to rule on that now, do you?

MR RICE:

I would seek some direction from it, sir, in the light that we believe prima facie we can prove a case of incapacity to pay at this particular time. And we would be happy then to appear before a Full Bench, or a single Commissioner, if the Commission decides.

But if the Commission, in its opinion, believes that individual employers would need to be subjected to scrutiny, or their books be

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PRESIDENT - RICE

MR RICE:

scrutinized, I am of the opinion that our case will fail in the extent that we won't get that sort of support from our farming community at this particular time, because of their (I would say) stubbornness or their pride, they are not likely to wish to admit that they are going as bad as perhaps what they are going and the costs imposed upon them are forcing them to the wall.

They are more likely to say, 'No, we'll take the alternative decision on any labour that we have.', or 'We will decrease our labour component.'

PRESIDENT:

That adds some credibility to the old cliché then - that pride comes before a fall, doesn't it.

MR RICE:

Yes sir, it does. But farmers being farmers I think that's what they'll do.

PRESIDENT:

Then do I take it from that submission, Mr Rice, that you would wish us to rule in favour of this application, but you are not prepared to make a - or your members are not prepared - to make a full and proper disclosure of their financial position as part of any inquiry that we might be prepared to conduct?

MR RICE:

Sir, we would see ... we would ask you to rule in favour of our submission that the matter be set aside, or to be dealt with on its own. I don't believe there would be a problem with, when you say, 'disclosing their full financial situation'.

It would be our intention to have an independent study of an independent witness, view our farmers or be able to go through them and discuss their problems with them, but to make them and make those findings available to the Commission. But I don't believe - I can't say unequivocally - that it won't happen, but I don't believe it would happen that we would have farmers appear before the Commission

MR RICE: and open their books up.

PRESIDENT: How many members do you have?

MR RICE: There are approximately 5,000 farmers in the State, sir, of our members.

PRESIDENT: Are they all your members?

MR RICE: Of our members. The farming community ... Well basically all the dairy farmers in this State are our members. The vegetable producers in our State are our members by virtue of point of sale funding, as when the crops are sold then that's when the contribution to our organization comes out ... with agreement.

...

PRESIDENT: Yes. Well now, how many of your members would be covered by Federal awards?

MR RICE: Approximately two thirds, sir.

PRESIDENT: Then any decision we might make favourable to your members, could only advantage one third, thereby creating an anomaly in respect to two thirds.

MR RICE: Well perhaps, sir, if I could inform the Commission that for the Federal Pastoral Industry Award - and this may be the way that we need to go - an application has been made already to have the 2.3 national wage increase reviewed under Principle 12 at this particular time.

If that were to happen and be successful, there would be people under the State awards at the present time, if this Commission's decision was to flow the 2.3 into agriculturists, for instance, and the National Award didn't sought to decrease that award and not allow that flow-on there would be people disadvantaged there.

There would be the shearers mentioned in our own awards and the new Goat Award - the new shearers under that

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PRESIDENT - RICE

MR RICE: particular award - would be disadvantaged, as their rate refers directly to the Federal award.

PRESIDENT: I take it, Mr Rice, that you are not in any case fully equipped to argue at length incapacity of the industry today?

MR RICE: Not here and now I'm not, sir. I believe I have information available to the Full Bench to prima facie state a case of incapacity, but I'm most definitely not in a position to argue here and now.

...

PRESIDENT: Mr Rice, if it's of any assistance to you we can tell you now that the Commission concerns itself with awards and the coverage of those awards, particular in the private sector. That means the industry as a whole and not individuals.

If that answers part of your question.

MR RICE: Thank you, sir. That answers my question, yes. One of my questions.

The other question would be, sir, having that in mind, does the Commission wish a prima facie case set now, or do you wish me to proceed, quite obviously, with what I can't do?

PRESIDENT: Well, I think that before we can make any decision on that, we'll need to hear a little more from you as to why the industry, as a whole, is in such a parlous state as to require you to make this kind of submission.

MR RICE: Yes, sir. Very good, sir.

PRESIDENT: And for my part, I would still like to know what the ramifications are, having regard for the fact that there is part Federal coverage and part State coverage.

MR RICE: That would possibly come out in my

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PRESIDENT - RICE

MR RICE:

submission, sir.

Without wishing to upset my Federal counterparts, it would appear that the two major areas of rural production at this time, or in the rural industry, are facing a major downturn, or major economic problems are the vegetable industry and the dairying industry.

They are the two areas in which this Commission has the bulk of its jurisdiction - where the bulk of the State award employee people are employed.

PRESIDENT:

In terms of numbers, how many persons would be employed?

MR RICE:

Sir, basically in the rural industry in Tasmania, according to Australian Bureau of Statistic's figures of 1981, there were approximately 10,000 people employed in the rural industry in Tasmania.

We have no real indication if this figure has increased or decreased in the intervening period, but we would believe it would possibly have remained static, if not, fallen slightly.

PRESIDENT:

Would that mean about 3,300 to 3,500 under State Awards?

MR RICE:

I would have said two-thirds of those - 40%, I would have imagined, sir, About 4,000 I would have thought, taking into consideration that there may be some people that would not, in smaller industries, that may be covered but would come in under the State Award like nurserymen and people like that.

The two major employing industries being covered by the State Awards would be the dairying and at 1981 that employed 2,200 in the dairy industry; and the vegetable industry, that was employing approximately 900 in 1981.

The vegetable industry itself does not - or those figures would perhaps not be indicative of how many actually would be employed, not knowing how the census works in that particular area as regard to casuals. I would think it would be considerably more than that, because during the busy seasons - in the harvest seasons an enormous number of casual people are employed - admittedly only for small periods of time but they are employed during the harvest season, particularly with vegetables, so that figure could increase somewhat at that time.

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PRESIDENT - RICE

MR RICE:

As I said, the dairying and vegetable sectors are the ones that are basically affected. The farmers do not have the capacity to increase prices in line with increases in their costs of production.

I would like now to take the Commission to some of the matters that we have.

I have a pre-budget submission of last year. This was made to the Tasmanian Government by the Tasmanian Farmers and Graziers organization on the affects of Budget and any increases may have in our industry, dealing with a number of things but vegetables in particular at this time, and the dairy industry.

"This sector is going through an extremely lean time. Not only are peas and potatoes under extreme price pressure from overseas competition and/or over production, but onion exports are subject to variance at world prices.

The pea-growing industry, which is of vital importance to many communities in this State is suffering in all directions. Edgells have reduced the '84-'85 prices for peas by an average of 18%. This is best illustrated that in 1984-85 Edgells offered growers 26.36 cents per kilo for peas averaging, what they call M.1 of 226-230."

That is the measurement of how big the pea is, I believe.

"The price for 1985-86 for the same quality will be 21.67 cents per kilo. Pea growing is part of a rotational system and any adverse situations from peas could similarly affect other crops.

MR RICE:

Dairying: The health of the dairying industry will very much depend on conditional underwriting by the Federal Government of the previous formula which applied in this sector.

It is anticipated that butterfat prices should be maintained at current levels, whilst wholemilk sales will have increased by 2.3% during the past year.

It is anticipated that wholemilk sales will increase by a further 1% in '85-'86 with regular price increases. This should maintain a viable dairy industry. This may appear favourable to the dairy industry but it two-faces many pressures.

Foremost amongst these are the economic competition from undisciplined discounting, especially from the E.E.C. countries. There is also the distinct possibility that a national marketing plan could be forced on the industry by Federal authorities and this could have a negative effect on the health of the industry.

This, together with the destruction of orderly marketing arrangements by supermarkets and self-interested sectors seeking short-term gains should also upset the viability of the industry.

These factors, together with the movement out of the dairy industry, will see a net loss for operators by end of June 1986 of some 40 to 50 dairy units, thus the dairy base is contracting in the

MR RICE:

State and only by developing economies of scale will this sector be able to offset the cost price squeeze."

Sir, I have a publication - 'The Bureau of Agricultural Economics', B.A.E. Rural Economy, Volume 8, No. 2, May of '86. At page 116 in the overview:

"In 1986-87 the cost pressures faced by the rural sector are expected to ease substantially but the outlook for commodity prices has not improved and aggregate production is expected to decline by the 1985-86 level.

As a result, the real net value of rural production is forecast to fall by 18% in 1986-87. Aggregate farm costs are forecast to increase by 2% in '86-'87. This reflects the projected fall in the volume of purchased farm units of 1% due to a lower level of aggregate production and low farm incomes and expected increase in prices paid by farmers of 3% on average."

It goes on at page 129:

"Milk production to decline in 1986-87: Milk production is forecast to decline by 2% to 5,930 million litres in 1986-87.

The two major factors causing this decline are below average seasonal conditions in the major dairying States and continuing low unit returns resulting from low world prices by dairy products.

The average cost unit return for manufactured milk is forecast to be 13.3 cents per

MR RICE:

litre in 1986-87, down from 13.9 cents in 1985-86. This is despite the new dairy market arrangements which contain provisions for a milk levy on all milk for the purpose of supporting export returns.

The gross value of exports is expected to decline in '86-'87 for all dairy products, except condensed milk and casein. This reflects both a decline in the volume of exports and expected lower world prices for most dairy products."

Sir, I think at this stage Australia's economy is approximately 30% - 35% export on the rural industries and Tasmania's rural community exports is approximately 80%.

PRESIDENT:

80 did you say?

MR RICE:

80% of its products.

"Large stocks of dairy products in the European community and to a lesser extent the United States and a relatively weak world import demand are the main factors contributing to depressed international dairy products. In addition, the European community recently introduced a new system of export subsidies of butter, butter oil and skim milk powder."

At page 153, there was a paper by Dr Stokell, Director of the Bureau of Agricultural Economics.

"In the international market commodity prices are expected to remain depressed due to high levels of production, large stocks and subdued demand.

MR RICE:

In Australia, the general expectation of continued low prices, rising costs of production and reduced profits mean the outlook for many rural industries is depressed.

The outlook for the beef, wool, intensive meat and fishing industries is more reasonable and some recovery of prices from very low levels is forecast for lamb and sugar, with poor prospects for many rural industries.

The proportion of farmers facing financial difficulties has increased considerably since 1978-79. Over one-third of the B.A.E. surveyed farmers are estimated to have negative farm incomes in 1985-86.

It should be stressed however" (I don't know whether this goes to my case or not) "that even in relatively good times a significant proportion of farms have low incomes.

Despite the beneficial effects of depreciation of the Australian dollar on farm export returns, together with generally good season conditions over the past 2 years, the outlook for much of the rural sector is depressed.

In the short-term, the only bright spots appear to be in the wool, beef, fishing and intensive meat industries. Returns from other enterprises, most notably, wheat, coarse grains, sugar, rice, dairy products, sheep meat and some horticultural crops are likely to continue to be adversely affected by

MR RICE:

over supply and weak prices abroad.

The gross value of rural production in 1985-86 is forecast to be 15,300,000,000 which is 2% down from the previous financial year. The gross value of crops is projected to decline by 9% and livestock to rise by 6%.

In 1985-86 farm costs are expected to increase by 7% to 11,950,000,000, while prices paid to farmers should rise by 8%. The ratio of prices received to prices paid by farmers - their terms of trade - is expected to decline by 7%. This follows a 1% decline in the 1984-85 figure. Exports of the rural origin in '85-'86 should increase by 4% in value to \$10,800,000,000.

The net value of rural production - that is the difference between the gross value of rural production and farm costs is expected to fall to an estimated 3,300,000,000 in 1985-86, which is 24% below that of last financial year. This follows a fall of 9% between 1983-84 and 1984-85. So that the real net value of rural production this year, will be the second lowest level since 1950-51. The lowest on record occurring in 1982-83 as a result of the drought.

In contrast the non-farm sector is growing strongly with the economy overall expected to grow to around 4-5% in '85-'86. With the second successive annual decline in farm incomes, the proportion of farmers with negative incomes is expected to increase from the

MR RICE:

estimated 26% in '84-'85 to 35% this financial year. Details of the bureau's projections of farm income levels can be found in Hall, Backhouse and Fraser 1986."

PRESIDENT:

Excuse me. Was this material put before the Full Bench?

MR RICE:

As I understand, sir, it was. I wasn't privy to their submission before the Full Bench. It's only material that I've gathered myself.

PRESIDENT:

Yes. Mr Rice, having interrupted you, would you be greatly inconvenienced if we adjourned for 10 minutes?

MR RICE:

No, sir.

PRESIDENT:

Thank you. Then we shall do so.

...

PRESIDENT:

Yes, Mr Rice.

MR RICE:

Sir, continuing from the same publication, on page 157, it states :

"The European community is one of the main sources of disruption to agricultural markets. It stockpiles ever increasing amounts of grain, sugar, meat and dairy products while making only spasmodic unco-ordinated and relatively ineffective attempts to restrain production.

A recent study of the community's common agricultural policy estimated that it has depressed world prices by 9 to 17% for wheat, coarse grains, sugar and beef, and by 28% for butter.

The study found that the common agricultural policy costs Australia approximately \$1,000,000,000 a year."

I have the economic and rural policy of the Prime Minister and Minister for Primary Industry, Mr Kerin, April 1986 in which they state :

Australia's rural economy is faced with serious problems; problems which rebound on the economy as a whole. The real net income this financial year is expected to drop down to 21%, to the second lowest level since records began in 1950/51. It looks set to fall further in 1986/87.

These developments come just three years after farm incomes fell to their lowest level on record in 1982/83, as the result of a drought.

Many farmers have not had time to recover from the

MR RICE:

drought and now face serious financial problems.

The difficulties are unevenly spread and are worse in the grain, sugar, dairy, sheep, meat and some horticultural industries. Returns are more satisfactory, but by no means bouyant, in the wool, beef, fishing and forestry industry. In much of Eastern Australia, however, farmers are again beginning to feel the adverse effects of dry conditions.

We spoke of the strong performance of the non-farm sector of the economy in recent years.

The rural recession is a problem for all Australians, notwithstanding the poor returns from world markets.

Rural products still represent 37% of our export income. Improved export performance is needed to finance the expanding imports, to help reduce our excessively large current account deficit and to lift family living standards on a permanent and sustainable basis.

The farm sector is directly responsible for 7% of the nation's employment.

However, taking account of the manufacture, transport, handling, wholesaling and retailing and financing of farm inputs, the provision of contract services, the handling, financing, transporting and merchandising of farm products along with the supply of inputs of these downstream activities, the

MR RICE:

proportion of total employment related to activity in the rural sector is very much greater, perhaps in the order of 20%.

The proportion of rural employment dependent upon farming, forestry and fishing is much larger still.

It is important to recognize that the rural problem, serious as it is for many farmers, is not only a problem for the farmer or indeed a national problem, it is a serious problem also for the people in rural and provincial Australia who are not farmers.

Unemployment is already higher in these country areas than it is in our cities. It will be exacerbated by the farm sectors problem and of course some city jobs will come under threat if the decline in the rural is not arrested."

That's at page 6, sir.

PRESIDENT:

This material that you are putting before us, relates to the nation as a whole, doesn't it, Mr ... ?

MR RICE:

I would submit, sir, while it does relate to the nation as a whole, while Tasmania in its vegetable growing process and its dairying process represents a fair proportion of that as they're talking about it on the whole and the decline for Australia is also a decline for Tasmania. More so perhaps for Tasmania than the other States because of our transport problems and that, that we do have, once it leaves the farm.

PRESIDENT:

Yes. Yes, but have you got any figures that relate particularly or specifically to Tasmania to put

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PRESIDENT - RICE

PRESIDENT:

before us?

MR RICE:

Not out of these. Out of another paper we have in our potato industry, pea industry and the poppy industry. In the poppy industry in June '85, their growing price was decreased by 20% and a price increase was sought this year of an extra \$38 just to remain viable in the poppy growing industry. And there was no increase awarded in this year whatsoever, so they are further down the track, again.

The pea industry is in the same situation, where that has had, the impact there is such that ...

"It can be seen for a few" (this is potato - this one was potatoes, if we can come back to that) "It can be seen for a few years, prices paid to growers maintained a reasonable rate of interest. These prices would have generally kept pace with inflation until 1983 when potatoes began to fall behind.

For example : An example of average variable cost of production prepared by the Tasmanian Department of Agriculture shows that the '84/85 season costs increased by around 11% over the previous year '83/84. The price received by growers should have increased by much more than the actual increase of 4.6%.

Our calculations suggest that a figure of around 12% would be required to maintain a parity with the previous year.

The bean costs : Cost comparisons for the growing of beans for McCain, formerly General Jones, for the 4-year period '81/82 to '84/85 have

MR RICE:

risen dramatically in relation to price received for the crop.

For example, in '81/82 direct costs for growing 1 hectare of beans was \$823, that cost rose to \$1,141 per hectare in '84/85, representing an increase of 36.68% in the 4 years.

This does not include the increases for the '85/86 year, which will include expected increases of around 30 to 40% in cost of chemicals and large increases in cost of fuel.

In the same 4-year period price per kilogram received has increased by only 21.4%, from 18.95 cents in '81/82 to 23 cents per kilogram in '84/85.

The Peas : The impact of these increases increased imports was felt by pea growers last year, '84/85 when the price increase of 2.1/2% offered by processors was far behind growers costs increases for the year. The industry also suffered area cut-backs."

That's area in the amount of peas grown that they had their cut-backs.

"The present outlook for the '85/86 season is even more serious. All pea growers in Australia have been offered contracts ..."

And this includes the Tasmanian grower, we grow a fair percentage of the pea crop.

"... offered are below those which applied in the '84/85 season.

MR RICE:

Tasmanian growers are being hit the hardest because Edgell and McCain have offered price reductions of 18 to 20% respectively.

McCain Company originally sought to contract at a 30% reduction, but growers considered this to be excessive and reacting by refusing to sign contracts. A compromise has now been reached.

As far as area is concerned it is expected that Edgell will have a small reduction while McCain has advised of a proposed cut-back of between 20% and 30%."

PRESIDENT:

What about the new industry of pyrethrum?

MR RICE:

Sir, we haven't any figures on that at the present time to indicate what costs are... or I haven't any figures with me I should say. They may be available, of the cost and the cost structure and the returns related to that industry, and whether or not it is an industry where employment could be affected.

That is our submission.

PRESIDENT:

Well can you tell this Bench how many jobs have been lost this year, or how many farmers have gone to the wall?

MR RICE:

No, sir. I have not had that information. I don't have that information with me.

PRESIDENT:

Can we assume that no jobs have been lost and no farmers have gone to the wall?

MR RICE:

That would be a very optimistic approach, sir. I would suggest there have been farmers, there have been employees laid off, and by virtue of the dairy industry in the last few years there have been 40 to 50 dairy

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MR RICE:

farms closed down. Admittedly that has been brought about by economic conditions, but also by rationalization within the industry, that the small uneconomical dairymen will, by virtue of being uneconomical, go out of business, and he probably wouldn't have employed anyway, it had been a family-operated concern.

But I think you will find now, with more people going into a share-farming arrangements and those sorts of things, where they don't have the person that they have with them, is involved with the running of the farm and all the hours of the running of the farm and also shares the profits and the liabilities as they come along, rather than the employer/employee situation.

PRESIDENT:

Yes. Mr Rice, in the event that we felt that there was in fact an arguable case for consideration perhaps by another Bench or by the Commissioner concerned, is it likely do you suppose that in 6 months' time or less when the next national wage case decision could be expected, that you would be making a similar application, and the decision that is expected in July of next year?

MR RICE:

It would depend greatly, sir, on the outcome of these proceedings I would imagine and of any proceedings that eventuated as a result of the decision of this Full Bench. I could foreshadow perhaps an application if this application isn't successful, of an application under the new Principle 12 being made if this isn't successful. And from then on we would need to judge the health of the industry so to speak to see whether or not it could withstand any situation and if in fact a detailed study of people that were being laid off as a result of any of these decisions.

I can't answer your question. I would need to take instructions from

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PRESIDENT - RICE

MR RICE: the executive on that, sir.

PRESIDENT: Yes.

DEPUTY PRESIDENT: In the event, Mr Rice, that your present application was successful and the 2.3% did not flow to the 2 awards that you are concerned with, wouldn't the industry then have in all likelihood a double claim in 6 months time for the 2.3% to be at least then applied, together with any further movements in the C.P.I? So that it would have potentially a double impact in the event that both were restored at the one time.

MR RICE: That would be dependent upon the industry I would imagine, on its recovery. But I would suggest that could be, with respect sir, that may be better directed at Mr Hanlon than at me because I would imagine that's what he would be thinking - that we would need to double deal, or perhaps have a catch-up period at some time. But one could not discount that happening. No doubt it would...

DEPUTY PRESIDENT: I don't think you could discount it at all.

MR RICE: It would be a very real - and could become a very real problem.

PRESIDENT:

On the other hand of course, if your application failed, I've no doubt that you'd be back in 6 months' time with renewed vigour, because you'd have a further 2.3% to worry you.

MR RICE:

Perhaps I wouldn't be as nervous, sir, and I'd have had a little bit more experience in that time too.

It may well be so. We would need to look at the situation. It is not our intention to deprive the workers of the 2.3%. If the industry picks up, I'm sure our members - the farmers, the employers - would be only too happy to pay the 2.3%. It's not a great wage, as you realize, at the present time.

If the industry becomes viable, I'm sure that they would sooner cut their hours down and employ more people - cut their own hours down, the input into the farm and employ others to help on the farm, if of course there was a recovery in the industry.

PRESIDENT:

Yes. Thank you. Mr Rice, we will rule on your application tomorrow morning.

MR RICE:

Thank you, sir.

PRESIDENT:

Mr Blackburn?

MR BLACKBURN:

Mr President, members of the Bench, the Retail Traders Association of Tasmania agrees with the submission as presented by Mr Abey of the T.C.I.

We are particularly keen to support the commitment to no extra claims. We feel that is part and parcel of the deal.

I would like to tell the Bench of the concern and disappointment that the Tasmanian retail industry and the Australian retail industry had when the Federal body handed down the 2.3% increase.

The A.R.A. did make a strong submission for the first time in

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PRESIDENT - RICE - BLACKBURN

MR BLACKBURN:

national wage history. They had made submissions before, but this is the strongest one they had ever made and it was with some concern.

I believe it is important that I tell this Commission of the present Tasmanian retail position and the implications that a decision to flow-on the 2.3 wages and allowances would have on the Tasmanian retail industry.

In the past few months, the Tasmanian retail sales have dropped well below the national average. I'd like to quote some A.B.S. figures on total retail sales to show how the Tasmanian scene has changed in the past 9 months.

These figures are based on actual sales in dollar terms, minus the C.P.I. goods component to reflect a real change figure in a plus or minus situation. And for clarification, I might say that, the calculations done on the previous quarter sales cross balance with the same quarter sales of the previous years, in order to give a truer picture.

In June 1985 the national increase in sales was 3.46 and Tasmania was 6.31, and they are the figures which were quoted last time we were at the hearing of the national wage here. That also was the time when my friend, Mr Lennon, was quoting with confidence the predictions of the State Treasurer and Premier on the Tasmanian economy.

In September '85 the national figure had risen to 5.2 - Tasmania had dropped to 2.95. In December '85, the national was 4.82 - Tasmania 2.69. In March '86 the national figure dropped to 1.64 and Tasmania went to -3.84. In actual fact, that means that at the end of March Tasmania was 5.48% below the national average.

I also note at this time - I noticed

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MR BLACKBURN:

that our union friends didn't quote what Mr Gray had been saying about the Tasmanian economy today.

MR LENNON:

We don't know what he's saying. That's why.

MR BLACKBURN:

The April figures are showing even a greater decline on the March figures.

I believe this reflects the state of the Tasmanian economy at present and the concerns of the people of Tasmania. People are not spending their surplus money. It is going to savings banks, building societies and cash management funds and statistics will prove that.

People are doing this - (a) because of high interest rates which are being offered and (b), fear of the future, with the present economic climate nationally and in this State.

There is no evidence that the November 3.8% increase found its way into increased retail sales. I'd like to draw attention again to some A.B.S. figures, taken from catalogue No. 5301 to show how the various sections of the industry in Tasmania have their sales reported in real terms for the March quarter 1986, taken against a comparison of a previous 3 months and for the same 3 months of a previous year, as I said before.

In groceries, confectionery and tobacco (grouped together) the figure is -2.3; for butchers -1.9; specialty foods 17.8; hotels/liquor -.3; clothing -9.9; department stores -3.2; footwear -4.7; hardware has gone up, +18.3; electrical -5.1; furniture -31.9; floorcoverings -54.1; chemists -15.4; newsagents -8.4.

And I might add, even those sections that went up, such as hardware and specialty foods, in all sectors they were below the September '85 levels.

Mr President, the retail industry in

MR BLACKBURN:

Tasmania in particular and in Australia in general is not in a healthy state at the present. Whilst the industry cannot claim 'incapacity to pay' a wage increase, the industry is faced with only three options open to it if a wage increase is made and if they are to remain viable.

The three options are: 1. to reduce the employment levels, and by that I don't necessarily mean that people would be retrenched, but what it would mean is that it would lead to more casualization of the work-force, which I personally don't believe is a good thing and I'm sure the S.D.A. don't think its a good thing.

The second way they can do it - they can increase prices. This does not help the economy and it does not generate increased sales and increased business.

The third option they've got, is to close the doors or go slowly broke. Unfortunately the results will be a combination of all three. However, as the labour represents 50% of the base retailing sales cost, it is more likely to be the first avenue looked at and adjusted.

There is one other major factor that affects the retail industry at this moment and that is the falling level of the Australian dollar. The majority of non-food items - by majority I mean over 50% and I would say in some items it is as high as 75% - are produced and purchased overseas and paid for with reduced value Australian dollars.

This in turn increases the shop selling price. Unfortunately, it is still cheaper to purchase off-shore because of the Australian high wages and conditions that apply in this country.

This fact does not improve our

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MR BLACKBURN: balance of trade figure. It does not help the Australian economy and it does not create Australian jobs. We would ask the Commission to be aware of the effects of any wage increase on the retail industry and on its employment levels. If the Commission pleases.

PRESIDENT: Thank you, Mr Blackburn. Are there any other employer advocates who wish to address us tonight?

I didn't know you were an employer advocate.

Did you want to say something, Mr Hanlon?

MR HANLON: I thought you were calling the unions up.

PRESIDENT: No. I said, 'Are there any other employer advocates who wish to address us tonight'?

MR LENNON: I was only going to suggest that Mr Hanlon is ready to proceed in rebutting the Farmers and Graziers approach.

PRESIDENT: I thought he did.

MR HANLON: I was just topping it off.

MR LENNON: His initial submissions, I think were in support of my application, Mr President.

PRESIDENT: Mr Hanlon, we will be rising at 4.45 in any case.

MR HANLON: We've agreed at the Bar Table, that we will rise by a quarter to five, Mr President, as well.

PRESIDENT: Ready or not, Mr Hanlon.

MR HANLON: The issue that the farmers and graziers have put before you in terms of the content of the argument, as distinct from their right to do it, which I ... rests on that Principle 12 and in putting their argument, I

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MR HANLON:

failed to hear in it the two requirements that are necessary. In Principle 12 of page 8 of the National Wage Case it states:

"Any respondent or a group of respondents to an award may apply to reduce and/or postpone the application ..."

To take that into its proper context, because they are an association of members, the equivalent of that is to have some person or group of persons in an industry, have a case before the tribunal. It doesn't matter who puts the case in terms of the association or an independent agent, but that's the test that has to be met.

It isn't enough for a State branch of an association to run a case in a National Wage Case on the Australian economy, then to come before the Bench and say, 'Well, we want to talk about our industry'. In talking about their industry, they then went to a number of statistics to suggest that the rural economy was not as healthy as it could be.

Despite questioning from yourself, they were asked, 'Were there any Tasmanian figures?' And I happen to have with me an Australian Bureau of Statistics publication called, 'Trades Statistics Tasmania 1984-85', which was issued on 23/5/86 and in looking under a number of tables in that at what are Tasmanian trades statistics and in Table 3 of page 4 under the heading 'Quantity and Value of Interstate Exports by Sea and Air Tasmania' - I was looking at the table that refers to dairy products and we see in 1983-84, that the value of dried milk went from 1,400,000 to 2,752,000 in '84-'85. That's a significant increase of over 1.3 million from a base of 1.4.

Butter went from a value of 5,247,000 to 5,537,000 - a 300,000 increase. In 'Dairy Products - Other', it went

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HANLON

MR HANLON: from 12,352,000 to 16,737,000 - an increase ...

COMMISSIONER GOZZI: Mr Hanlon, are the volumes mentioned there as well?

MR HANLON: Yes. The quantities. I didn't want to quote the quantities, simply because we then would have had - the argument would have been put about value.

COMMISSIONER GOZZI: Well, just simply as a guide. What do the volumes indicate?

MR HANLON: The quantity had gone from 828 tonnes for dried milk to 1,311; butter - 2,223 tonnes - that declined to 2,090.

COMMISSIONER GOZZI: We'll do the exercise correctly then. You'd really have to work that back to the figures you're quoting now, wouldn't you?

MR HANLON: I am. I'm quoting the quantity as against the price.

So that in terms of butter, they sold fewer tonnes of butter and got more for it.

COMMISSIONER GOZZI: I understood it the other way around.

MR HANLON: No. Not in terms of butter. With cheese - they sold 5,640-odd tonnes of cheese in '83-'84 and 6,531 in '84-'85 and they received approximately one-third more for an increase of 20%. The total increase in value from '83-'84 was 233,000,159 to 318,300,077. Now that's a significant increase in value. Of course it ranged across live animals, fish, dairy products, vegetables, hops et cetera.

The argument that we would put and there are tables included in this - they even go to exports, both interstate and foreign. We believe the case that should have been put to you, those that have been alluded to - the dairy industry and vegetables, well then the comparison should have

MR HANLON:

been the Tasmanian economy.

The Act requires the test is the Tasmanian economy and the Act also requires the test to be in regard to the industry.

MR HANLON:

Now, the industry should have been defined, capable for the Commission to look at that industry.

What wasn't put to the Commission in the series of quotations about peas et cetera, is that the majority of Tasmanian farms are mixed. They are not single-product farms. So that in many instances, they may receive a reduction in poppies, they may receive a reduction in peas but could actually be exporting more onions. They could actually be selling more beef and they are farms that are mixed.

Without that overview, in terms of defining what sort of farm, which member of the Tasmanian Farmers and Graziers and who employed, then the Commission isn't in a position to say, 'Well it is this aspect about the Horticultural Award or the Agricultural Award that, on the prima facie case, is worthy of further consideration.'

All that we've had is an overview of the agricultural industry, which could best be described as oblique, because it isn't good enough for people to come along and say the rural sector has got it tough, when the two largest export commodities are grain and wool and Tasmania as a grain producer is almost non-existent in national terms.

So the greatest impact in Australia in the rural sector has been in single-product grain farms. So they distort the picture - the Australian, overall. They do not take away from the general impact that's had on Australia's economy as a whole.

We now have a sectional case based on the Australian figures which were considered by the Full Bench and I say, to meet the criteria to have an exception made, then they should have specifically addressed that sector of the industry - those employers who are in terms of Principle 12 on the

MR HANLON: ground of very serious or extreme economic adversity.

PRESIDENT: Of course Principle 12 doesn't apply yet, Mr Hanlon.

MR HANLON: No. But the argument that's being used is that that gives them a case to be answered, because that's the ground that's going to justify other people now arguing, when in the Federal sphere people can argue that particular Principle. So that's the case that's being mounted, even though that Principle yet hasn't been included.

COMMISSIONER GOZZI: Mr Hanlon, I thought it was very clearly a section 36 argument that has been mounted.

MR HANLON: But that's part of my argument - the argument that's being advanced is about the Australian economy. There was nothing put to you about Tasmania and there was nothing put ...

COMMISSIONER GOZZI: Well, with respect there was. My notes indicate that the question was asked of Mr Rice to give some information on Tasmania, which he then proceeded to do and he did indicate that 80% of dairy products in Tasmania are exported. He did give some figures about the poppy industry; he did give some figures about bean production and the dollar amount '81-'85, being over a 4-year period a 36% increase in that price versus the costs, and various other bits of information.

Now, what weight the Commission puts on that in terms of its deliberation on section 36 is yet to be determined, but he did give some information in respect of section 36 as it applies to the Tasmanian industry, as I understood it.

MR HANLON: But he didn't give us that over particular years and he didn't give it to us over a range of products and

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MR HANLON:

the point that I am making - I'm quoting from the Australian Bureau of Statistics, the trade statistics for 1984-85 - and in my looking at those figures, because I don't see what is being quoted from, it is an entirely different picture.

COMMISSIONER GOZZI:

Well, Mr Hanlon, can I just interpose there just to get it correct in everybody's mind, that I thought Mr Rice was indicating that there are 10,000 people approximately employed in the industry in Tasmania, two-thirds of which are federally employed and he estimated about 4,000 locally employed, of which he said 2,200 were in the dairy industry in Tasmania and 900 in the vegetable industry which made it 3,100, as I got my arithmetic.

And his subsequent comments were in respect to the dairy industry and the vegetable industry.

MR HANLON:

Well, can I just say, Mr Commissioner, I've yet to see a list of members for the Tasmanian Farmers and Graziers. This same point was raised in last year's hearing, where the same questions were directed. Who actually employs labour and what is the definition? The Australian Bureau of Statistics' definition is not 'an employee is a wage earner'. That's a person who is listed as in receipt of a salary.

There are an awful lot of farms that are set up as trusts and companies, so that people are actually employees, but there aren't any persons outside the farm who are members of another family. Now 80% of farms in Australia do not employ labour.

Unless that question and unless that information is put up, then what we are left with is broad statistics of what people are doing. You can be a person surveyed by the bureau as a person employed on a farm, but whether or not you're an employee

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COMMISSIONER GOZZI - HANLON

MR HANLON:

covered by the Agricultural Award is another question. And whether or not the proportion of people in which industry they are covered - because I raised the question of the mixed farm; because you could be engaged in fruit, hops, pig raising and covered by Federal awards. You could be covered by the Pastoral Award, but the same property could be covered by all four depending on the season of the year. There is also the factor that's not given, is the number of people employed seasonally.

Now, the matter was debated last year and I think the point that we make this year is that this is the major forum. If a major case is going to be put on the basis of the Tasmanian economy, Tasmanian Farmers and Graziers have to do something specific because they haven't yet put a case based on the Tasmanian economy that their position vis-a-vis other sectors and vis-a-vis Australia-wide is any different.

It is for those reasons that we believe you should reject the application. I am a little conscious now as to whether or not Mr Lennon's going to follow me and whether you'll hear him out, or whether I should take the time and go through the statistics in some detail. If you're satisfied to look through the statistics that I will supply a copy to the tribunal - put up the trade statistics - I'm satisfied you'll see there that the position is not one of doom and gloom at all.

PRESIDENT:

Do you intend to tender that document, Mr Hanlon?

MR HANLON:

Yes, Mr President.

PRESIDENT:

Tomorrow, will you?

MR HANLON:

I've written on mine. I'll provide a clean copy to the Commission tomorrow.

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PRESIDENT - HANLON

DEPUTY PRESIDENT: Yours might be better.

PRESIDENT: Mr Evans.

MR EVANS: I was going to be next, but I will only be a few minutes and Mr Lennon indicates he'll only be 5. I wonder if it would be possible if the Full Bench would continue through till about 5 to 5.00, rather than everyone reassembling?

PRESIDENT: We still have to rule on ...

MR EVANS: Oh yes, we'll come back for that.

PRESIDENT: Yes.

MR EVANS: We wouldn't miss that for the world.

I'll be fairly brief, Mr President.

PRESIDENT: Yes. Very well.

MR EVANS: I just touch on some of the matters raised by Mr Willingham, particularly.

I note with interest his statement that the Government's pleased to put its views on the flowing-on of the 2.3 in the appropriate forum, but I would point out that it was his - the Premier of Tasmania and indeed it must have been some Ministers who indicated, but particularly the Premier, who indicated to the world at large through the forum of the media, what it was considering doing in respect of the 2.3 and certainly no union indicated that it wished the 2.3 not to be flowed on.

So I am grateful in fact that Mr Willingham indicates that this is the proper forum because this is one of our major arguments about what is occurring.

He also asserted that Tasmania had a \$91 million reduction in its revenue from the Commonwealth. Well, that is not quite the picture. In fact there

MR EVANS:

is quite a different picture which could be put, if Mr Willingham was minded on behalf of his Minister to argue before this tribunal the rationale for any variations in the salaries and wages of public sector employees.

He also asserted that the prime concern, even though they were agreeing to the 2.3% wage flow-on, was jobs and he mentioned particularly some 800 jobs which would be at risk if the Government was not able to achieve a reduction in its wages and salaries bill of some \$20 million.

But I would note that in fact during the period since May 1982, under the direction of this present Government, we have seen a reduction of 4.75% in the number of employees in the public sector which equates to over 2,500 public sector employees no longer in the system. And I find it passing strange in fact, that in July 1986, we find the Government extremely concerned about some 800 jobs, when in the past 4 years they haven't been particularly concerned about some 2,500.

And also, the picture is further developed when the Premier has indicated that there will be some 400 jobs go out of the system this year anyway, in spite of whatever else may occur. So we suddenly find ourselves, as I said, in July '86 hearing an argument from Mr Willingham about the Government's prime concern of 800 jobs.

It is our view, Mr President, that this Commission is the appropriate forum to determine whether there shall be any variation whatsoever in the wages and salaries received by public sector employees under awards of this Commission.

We find it extremely abhorrent and indeed a gross insult, not only to this Commission but to its own employees, that the Government would

MR EVANS:

suggest that it will approve the flowing-on of the 2.3. It may, if it is so minded, leave the Commission to do that function, but then legislate at some later stage to remove that 2.3 increase granted by this Commission, based on the very arguments put by Mr Willingham on behalf of the Minister.

MR EVANS:

We believe that if the Government has an argument about its capacity to pay, about the Tasmanian economy and about the effect on employment, then it has a duty to come before this tribunal and present information to this tribunal in detail about the state of the economy because what we have here is a Government saying, 'We do not have the money to pay our public sector employees; we need to reduce our salaries and wages bill by \$20 million'. It doesn't indicate what the overall picture is; it doesn't indicate how it's going to split up its revenue and spend it; it doesn't indicate what it sees as priorities - it just says, 'Our priority (and don't ask any questions) is we will reduce the salaries bill by \$20 million'.

I would suggest it is analagous to someone manufacturing a motor car and finds that it is not selling because it is some \$20 or \$30 dearer than a rival car, but it happens to have an AM/FM stereo radio in it whereas the other one doesn't but in order to bring its costs below its rival competitor, instead of taking out the radio and putting a cheaper model in it says to its employees, 'You will have to work for less so that I can reduce the cost below my competitor'.

I really believe that this Commission should make it plain to the Government that it cannot come here and play footsie with this Commission, on the one hand supporting the flow-on of the 2.3 and on the other hand saying that if it so desires and it so wishes it will legislate not only to reduce the salaries of public sector employees by amounts ranging from 1% to 5% but, if necessary, remove the 2.3 which this Commission, we hope, will award to employees covered by awards of this Commission in the State public sector. Thank you.

PRESIDENT:

Thank you, Mr Evans. Mr Lennon?

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PRESIDENT - EVANS

MR LENNON:

Thank you, Mr President. Initially, can I indicate that inherent in our submission of course in asking for the 2.3 in line with the Full Bench decision, we are also seeking the operative date in line with the Full Bench decision, and I take it that that is clear to all the parties, the first full pay period on or after 1 July.

In addition to that it is also inherent in our application that we are also seeking that the minimum wage should be increased by the 2.3% where appropriate in awards as well.

I just briefly go to the submissions from the employee organizations.

I always find myself somewhat bemused with national wage increases when we have employer organization after employer organization standing before this Commission saying that wage increases are going to cost jobs and I have yet to see an exhibit from any employer organization put before this Commission to substantiate the claim.

I do say to them quite seriously that if they are going to come here and make those sort of accusations about the level of wage costs, when we are looking at the lowest wage costs in this country for some 2 decades, then they should be prepared to substantiate them to the Commission and provide the exhibits and provide the information. It is not good enough, in my view, to just stand up here and make the statements, case after case, and never be prepared to substantiate them.

This takes me quickly to the Tasmanian Farmers and Graziers submission for an incapacity to pay.

I think the most important thing that was said by that organization today was that on the one hand we want to argue incapacity to pay but on the other hand we are not prepared to open our books and prove it.

MR LENNON:

Now, prima facie, if an organization wishes to argue incapacity to pay before this or any other commission, they must be prepared to co-operate to the fullest extent.

I fail to see how this Commission could justifiably come to a decision on incapacity to pay if the organization and the members of that organization aren't prepared to open their books to the Commission so that they can be examined to show clearly whether or not the organization in fact has an incapacity to pay and, to me, that was the most important thing that was said by that organization today. On the one hand it claims an incapacity to pay and uses in support of that broad figures from various submissions made to Governments and other organizations, but indicates quite clearly to the Commission that they can't give an undertaking that their members will assist the Commission in examining the industry to see whether in fact it has a capacity or not to pay.

The other point that ought to be made was that they are seeking to set aside the Horticulturist Award and the Agriculturists.

I believe that the Horticulturist Award has a much wider application than just the farmers. I believe no mention was made of the fruit pickers and the people in that area that may be covered by that award. I am aware of some that are and also I believe the landscaping is covered by that award - no mention was made of them in their capacity.

So I do ask the Commission to take into account those couple of comments that I have made with respect to the Tasmanian Farmers and Graziers because I don't think that it is fair or equitable to grant the setting aside of those awards in the knowledge that we have been told to day by the organization itself that they may not co-operate.

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LENNON

MR LENNON:

With respect to the submissions by the intervener, the Government, I am very pleased that they put on record that they believe that this is the appropriate forum for dealing with wages and conditions for its employees and one hopes that they adopt that approach in total.

We have heard a number of submissions today suggesting that the union should be giving commitment to the Principles. Well I put it to the Commission that maybe it's time for the employers to give a commitment as well because what, in my view, we have clearly seen with this Government is that they have gone outside the ambit; they've made an extra claim. They are not prepared to come to the Commission and have it dealt with in the place where we are expected to do and I believe quite sincerely, and I have made the point quite sincerely and quite tersely to the Government, that they must be prepared to operate under the legislation that they themselves enact and, if on the one hand, they are prepared to come here and require commitments of us that we abide by the rules of the game, one would expect that they would be prepared to abide by the rules of the game themselves.

Much was made of the statement of the President of the Conciliation and Arbitration Commission by the Government today and I take it by all the comments that they made that the Government fully endorses the statement by the President of the Conciliation and Arbitration Commission relating to superannuation. If that is the case, we hope that they take particular note of the fact that if we are being asked to live within the system, which we are quite prepared to do and we have said that we are today, then they themselves ought to be prepared to do the same.

With those comments, Mr President, I

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LENNON

MR LENNON:

would just like to finish briefly on the comments made by Mr Abey with respect to the giving of the commitment.

There has been no indication, and there shouldn't be any indication, that the union movement is not prepared to give a commitment to any national wage increases that may flow. The giving of our commitment will be made, as it was at the last time, by organizations individually and I don't see why we should be required to give a commitment before a decision has been made. I think that is the suggestion that was being made today. But I'm sure if the decision is made then all ... then unions will be prepared to come before the Commission to give a commitment, if that's requested. We have done that clearly in the past and I don't see any reason - any suggestion - why anyone should be suddenly suggesting that the trade union movement wouldn't be prepared to give a commitment. We are certainly not prepared to give any commitment before the decision is made. Thank you.

PRESIDENT:

Thank you, Mr Lennon. We will adjourn until tomorrow.

HEARING ADJOURNED