

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

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| 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. 2473 of 1990 | IN THE MATTER OF an application by the Tasmanian Public Service Association to vary the Prison Officers Award |
| T No. 2587 of 1990 | IN THE MATTER OF an application by the Tasmanian Prison Officers' Association to vary the Prison Officers 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. 2516 of 1990

IN THE MATTER OF an application by
the Police Association of Tasmania
to vary the Police Award

T No. 2586 of 1990

IN THE MATTER OF an application
by the Ambulance Employees'
Association of Tasmania to vary
the Tasmanian Ambulance Service
Award

T No. 2594 of 1990

IN THE MATTER OF an application by
the United Firefighters Union,
Tasmanian Branch to vary the Fire
Brigades Award

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
principle

efficiency

FULL BENCH

PRESIDENT
COMMISSIONER GOZZI
COMMISSIONER WATLING

Hobart 20 February 1991
Continued from 4/2/1991

TRANSCRIPT OF PROCEEDINGS

unedited

PRESIDENT: Are there any changes in appearances? Mr Lane?

MR C. LANE: Mr President, members of the Bench, CHRIS LANE, appearing on behalf of the Tasmanian Teachers Federation.

PRESIDENT: Thank you.

MR D. HARDING: Mr President, Commissioners, HARDING T., appearing on behalf of the Amalgamated Metal Workers' Union, intervening.

PRESIDENT: Yes, thank you, Mr Harding. Any objections?

MR HANLON: No objection.

MR O'BRIEN: No objection.

PRESIDENT: No. Thank you.

MR J. LONG: Mr President, Commissioners, LONG J., for the Australasian Society of Engineers.

PRESIDENT: Thank you, Mr Long. You're intervening also? Any objection to that? You're intervening, I take it?

MR LONG: Yes.

PRESIDENT: Yes, thank you. Any objections? No? Thank you.

MS D. MONCRIEFF: Mr President, members of the Commission, DIANE MONCRIEFF for the Building Workers' Industrial Union, intervening.

PRESIDENT: Thank you.

MS MONCRIEFF: I seek leave to intervene.

PRESIDENT: Yes, thank you, Ms Moncrieff. Your intervention is granted. I'm informed you probably don't need leave to intervene, thank you, Ms Moncrieff. Mr O'Brien?

MR O'BRIEN: Thank you, Mr President. If the Commission pleases, the hearing was adjourned earlier this month to allow the Trades and Labor Council to convene a meeting of public sector unions to consider its position in the light of the developments at the last hearing and to respond, if possible, on a number of matters which were put at the last hearing, including a proposal from the government to, in effect, amend W.2 to change the process of negotiation.

There was also a request from the Commission to consider the question of special cases. And there was some comments made at that time about rationalisation of union coverage, which I propose to address.

The first thing that I should address is the outcome of the public sector unions' meeting, and I would tender a copy of the resolution which was endorsed at that meeting and circulated to affiliates who were not present, with a time line of response. And I understand that there's been no substantial objection from any affiliate that was not present at the meeting in relation to the resolution. So as ...

PRESIDENT: We'll mark this TTLC.1.

MR O'BRIEN: And if I can take the Commission to the resolution. The first paragraph reads:

This meeting of Public Sector Unions expresses its extreme frustration at the lack of progress with Public Sector Award Restructuring. Contrary to government assertions that this is the result of a lack of good faith on the union side, it is clear that it is the government side that has deliberately delayed negotiations, failed to meet agreed deadlines and sought to divide and frustrate unions.

We believe that the process envisaged in exhibit W2 has failed and that the PNG [Peak Negotiating Group] headed negotiation process has been a monumental waste of time. For the government now to seek to revise the process is to admit this fact. We equally feel ...

And I'll interpolate there, that the proposal from the government to change W.2 was, in our view, an admission of the failure of that process.

We equally feel that the proposed process is flawed [that is the process proposed at the last hearing by the government] and would not lead to a speedy resolution of the negotiation process.

Unions either individually or collectively will pursue their award restructuring agendas directly with the employer and with the assistance of the TIC. We remain committed to the Award Restructuring process.

The TTLC will continue to be available to affiliates to provide assistance in this matter, and the meeting, in particular, agrees that any matter involving conditions of service affecting members of other unions should be brought back through the TTLC, to all public sector unions.

And then there are a couple of additional matters which were dealt with. There was a report about Industrial Relations Act changes and the suggestion about the conflict between regulation of public sector conditions by regulation versus the determination of matters by this Commission. And we express there our view on any changes to that matter.

And further there is, in the last paragraph, a passage which asks that the government release duty members involved in the SEP negotiation process and to provide travelling allowance consistent with Public Service conditions to attend those negotiations and to provide secretarial assistance to unions where required, which relates to those organisations who are involved in negotiations which require rank and file attendance in particular, to allow those rank and file members who are necessarily involved in the process, to be properly available and have proper assistance to properly conclude the process.

Now, having said that that's the position, it ought to be said that it's not a position which has been arrived at lightly. The peak negotiating group met on seven occasions in 1990. And the Commission has heard the progress, or lack of it, that has come from those meetings. In addition, there were a variety of working group meetings take place around that time, although the unions' position is that the working group process did not lead to the results that were expected.

Indeed, when the peak negotiating group met on 12 October there was an agreement reached which was essentially a timetable for working groups to consider the proposed structures and to deal with them, and either determine whether agreement could be reached or not. And I would tender a - what was an attachment to the minutes of the meeting of 12 October, which details the

PRESIDENT: TTLC.2.

MR O'BRIEN: Mr President, members of the Commission, the attachment shows that agreement was reached, that all working groups would commence within the next fortnight. And I might say that for various reasons that didn't occur.

PRESIDENT: Sorry, just to clarify. This was the PNG of 12 October?

MR O'BRIEN: 12 October.

PRESIDENT: Thank you.

MR O'BRIEN: The second point: that they would consider proposed structures from unions to determine whether agreement was possible and details of disagreement and report back to the peak negotiating group.

The third point: the peak negotiating group would meet and review the working group position and give directions to the working group. In other words, if there were disagreements or if they, the PNG, found problems with the disagreements that they'd be referred back. And the working groups could then meet again, consider those directions and they would determine the matter in accordance with peak negotiating group's directions and report back.

Now, that should have led to - by the beginning of December when you see that it was proposed there'd be a 4 to 5-week timetable, that all working groups would have met and would have either agreed or disagreed to a proposed structure, and the peak negotiating group would have been in place to resolve those disagreements.

And the government required a proviso, which is set out: on the understanding that that process would deal with special cases and structural efficiency generally, that they would agree to the proposal. And further, that there would be consent adjournments on any new special cases before the Tasmanian Industrial Commission, on the understanding the five-point proposals deals with special cases and structural efficiency generally. And it went on to say that the TPSA advise: it will not join in asking not to list special case matters, but will not ask for listing of any new matters. So, that was the understanding at the time.

And I exhibit that so that the Commission can understand that at the beginning of October we did expect that by December there would have been extreme clarity on where we were going with regard to the structures - career structures, I think that's a reference to - to apply to the various areas.

Now, I might say that that expectation has not been met. That in a minority of cases there was difficulty in convening the working groups, and that in those minority of cases the government could not be blamed for not achieving their target.

On the other hand, in the majority of cases, the difficulties of working groups addressing the problem were not of the unions' making. And we reject, as is said in the first part of the resolution that's been tendered in TTLC.1 this morning, that we proceeded in any other than a proper way in trying to process the claims in a speedy and efficient manner and in a peaceful and orderly manner.

Indeed, going through the process the peak negotiating group agreed to in October, one would have thought we were seeking to achieve and bind ourselves to deadlines which were designed to enable us to meet the agreed deadlines that we'd reported to the Commission when it accepted W.2 and ratified the second structural efficiency payment.

So we were doing no more than attempting to provide an environment for the meeting of the deadline we'd agreed to meet.

So, having said all that, the position of the unions is that whilst we remain committed to award restructuring we feel that the process under Exhibit W.2 has - has not done anything than - than involve us in meetings which have been quite frustrating and have led to nothing but a failure to achieve any of the objectives we set out with and perhaps on the other hand failing to achieve any of the government's objectives.

But, nevertheless, the process has not led to a satisfactory resolution of the matters, and for that reason, whilst we're mindful of commitments given about Exhibit W.2, we don't feel that we ought to be bound to a process which is fundamentally flawed in its practice, which the government sees as flawed and there are some concerns about the government proposal, none - not the least being that it's somewhat open-ended about the number of working groups that would be created by its - at a - an agency level and many numbers have been bandied about but I think it's quite open-ended in that regard and also there's significant concern about further delays arising under that sort of proposal similar to the ones we exhibited under the W.2 experience.

So, in a nutshell, the unions' position is to reject the concept of the PNG as it was determined under W.2 because of its failure to deliver.

In relation to a couple of other matters the Commission asked us to consider special cases, and I think I can say that although we didn't come to any formal resolution of the matter at our meeting and the - it seemed that many organisations were not prepared to address it at the meeting that we called because of the other issues that are on the table. It's the TTLC belief that special cases ought to be able to be dealt with in conjunction with the establishment of new career structures by agreement or otherwise and thereby remove the need for separate and special case proceedings. That's a matter of - a view of the TTLC and not necessarily a view of every affiliate.

There was a matter that I needed to respond to in relation to Mr Hanlon's comments about the government's document on the rationalisation of union coverage in the state public sector. In December the government was advised that in relation to that document the matter of union coverage was appropriate to be dealt with by and within the union movement.

In fact the ACTU has, as part of the process of restructuring the trade union movement, called meetings of unions to carry

out that objective in a number of areas including meetings dealing with the state public sector areas on a national basis, so that process has been commenced. At the appropriate time it will no doubt be completed and appropriate processes for rationalisation will be achieved.

We don't resile from our position that indeed in line with ACTU policy that the matter of rationalisation of unions is a delicate one and ought to be dealt with first by the trade union movement. There is a process in hand for doing that and we would not be proposing to enter into other processes.

We're further concerned over government suggestions in the metro area that section 118 proceedings will be used in that regard. I know that that's not an area of this Commission's jurisdiction but in view of reports made to TTLC by affiliates of the government has announced its intention to proceed under section 118 of the Federal Act in relation to union representation rights in the metro; that we say that's not conducive to the peaceful process initiated by the ACTU and would ask the government to withdraw suggestions as they're unhelpful. Now, going back to the ...

PRESIDENT: You might have to put that in another place.

MR O'BRIEN: Well, we may well indeed. I think that the issue of union rationalisation was raised here at the last hearing, Mr President, and it ought not be simply a propaganda point but one which can be processed with some chance of resolution.

Going back to the initial approach, I don't have authorisation to - to suggest how the matters ought now be processed other than to say that the resolution envisages either individual unions or unions collectively negotiating with the government about award restructuring and, with the assistance of this Commission, pursuing their claims.

And I don't think that you will find any of the organisations represented by the TTLC resiling from their commitment to process structural efficiency. What we are saying is we have gone down a path which has been extremely frustrating which has led us past the deadlines which were expressed as reasonable when the second structural efficiency payment was processed. We don't believe it's our fault. Indeed, we have been trying to push to achieve those deadlines as much as is possible overall, and we think the Commission ought to take that into account in the further processing of these matters.

PRESIDENT: Yes. Thank you, Mr O'Brien. Before you sit down, you say that W.2 is - the program established under W.2 has failed.

MR O'BRIEN: Yes.

PRESIDENT: If we go to page 5 of W.2, which is part of the decision of 6 August, where the dates, the schedules have been established. The schedule appears to require the establishment of the working groups and report-backs to the PNG by certain dates.

MR O'BRIEN: Yes.

PRESIDENT: Which one - I mean, have any of them been honoured?

MR O'BRIEN: Well, the first paragraph, 'no later than 15 August' that wasn't met. Indeed, I don't think the PNG was formed at that stage. None of the - well, it depends what you mean by 'report-back'.

PRESIDENT: Well, I don't know what it ...

MR O'BRIEN: I think a lot of them have reported back, reported that they've met and that they're considering matters. But if that's what the Commission was entertaining when it accepted this document, then I'm surprised.

PRESIDENT: Well, they aren't concluding dates, are they? I mean, they're really simply dates establishing a timetable - the commencement of a timetable.

MR O'BRIEN: Well, it certainly was that. It certainly was that because it was seen as a long term process. And, you know, we don't expect that every single issue of award restructuring could be dealt with within, you know, the 6-month deadline, for example.

On the other hand, the peak negotiating group was going to receive reports from the working groups, and I would have expected the working groups to be presenting final reports at that stage not preliminary reports. And, you know, maybe that isn't said in the document. Maybe I read into it an expectation that I thought that we had and the Commission would have had at the time that W.2 was before it. But perhaps I'm wrong.

PRESIDENT: Well, it - I mean, we were fairly well aware of the fact that the final date for concluding all these issues was 30 June 1992.

MR O'BRIEN: Yes, yes.

PRESIDENT: There's a fair way to go.

MR O'BRIEN: There certainly is a fair way to go, but I mean we're nearly halfway through the process and we've got nothing to show for it.

One has the expectation that a lot of the things that are being developed on rationalisation of award structures would be ongoing. And I do believe that subsequent to W.2 it's already been reported that we extend deadlines because of the delay in the commencement of the peak negotiating group. But it was - those deadlines were immediately seen as unrealistic. But they've become so unrealistic as to indicate that the process the peak negotiating group was making, it might have been more realistic to say that we'd be receiving conclusive report-backs from all of those working groups by 30 June '92. And I don't think that that was something that this Commission would have envisaged.

PRESIDENT: No, it says, 'it will conclude its activities' by that date.

MR O'BRIEN: Which I am reminded by Mr Vines that the question of translation and training would have been an ongoing issue requiring the PNG to be meeting for an extended period, but not certainly the question of establishing career structures and other matters.

The deadlines for sick leave, special leave and span of hours, that's clearly been bypassed. In the multiple that we're talking about a very short deadline and it's now over 6 months hence.

PRESIDENT: Yes. Yes, we're well aware of problems with those three items.

MR O'BRIEN: So all that we're saying is that we feel that the process has been a vehicle for delay. And it's a matter of record that on the other side of the fence one of the main aims, apart from achieving an appropriate resolution, is to delay it as long as possible. And I think that we're very concerned that the delay is agenda item No. 1 in the process and we're headed down the same track if we continue it.

PRESIDENT: What would you think might be appropriate for a more appropriate timetable?

MR O'BRIEN: Well, what do I think would be a more appropriate timetable? Well, there's nothing wrong with the timetable, it's the delivery of it that ...

PRESIDENT: No, well, there appears to be a hole in the timetabling there, because obviously I didn't understand the significance of 30 June 1992, compared with 24 December 1990 for report-backs. Could it be made more explicit?

MR O'BRIEN: Well, it could be if it was going to be - if it was going to be met. I mean, there are two questions: first, we can ...

PRESIDENT: We might be able to help meet with the meeting of it ...

MR O'BRIEN: Yes.

PRESIDENT: ... if we get an idea of what the timing ought to be.

MR O'BRIEN: Well, look, I have to present a purely personal view on that because I don't have the authority to do anything more than that. And if I did, it would have to be completely 'without prejudice' and having my knuckles rapped for saying it, but at this stage ...

PRESIDENT: to the Commission, Mr O'Brien.

MR O'BRIEN: I've just taken a few bandages off, Mr President, so - I suppose I take a few risks occasionally, but I would have thought that given the process that we've gone down the question of structure should be worked out by the end of this financial year without a shadow of a doubt between the parties.

If, with proper negotiation - I mean, they should have been worked out by now and when the PNG met in October we envisaged a 3 to 5-week process, so given the period that we're at now, if we were to make real progress without undue haste, it's not an unreasonable expectation.

As for the questions of sick leave, special leave and span of hours, I would have thought that they could have been worked out on a much shorter timetable at least on an interim basis if there's trialing proposed, for example, for a no-credit sick leave scheme.

PRESIDENT: We've been saying that one for about 6 months.

MR O'BRIEN: Well, you've been saying the correct thing.

PRESIDENT: I always had some doubts about those particular items to begin with, but they may need some prodding from another place.

COMMISSIONER GOZZI: Mr O'Brien, I've listened very carefully to your report-back following the meeting with the TTLC and you emphasised process all the way through. Could I take it then that in the context of Exhibit W.2, what's outlined there is still on the table as far as the TTLC and the public sector unions are concerned? And I specifically talk about W.2 with respect to the career structures that are nominated there.

So are you really saying it's a question of process only that's slowing down or are the actual agenda items identified in W.2 also off the table or on the table?

MR O'BRIEN: We'll, we've not taken anything off the table. We do say that in relation to rationalisation of union coverage there is a process under way and we have a preference for how that's dealt with and we would like to - I guess if anything's off the table in that sense that's off the table so far as we're concerned. But it's not - it's off the table in the sense that there is a process dealing with it which we think is the most appropriate process.

With regard to the other issues, no, we've not taken any matter off the table that was properly there.

COMMISSIONER GOZZI: Well, let me be specific then. Are all the unions - public sector unions - agreed that the career structures that ought to be pursued are those outlined in Exhibit W.2 which the Commission endorsed in its decision in August 1990?

MR O'BRIEN: Yes, there were a couple of variations to that and in the main that's correct, and I think both sides have accepted that there may be a need to - as we work through the process diverge from that in absolute terms, but no-one's said at any meeting I've been at that W.2 is totally unacceptable. I mean, any development has been development from that base document.

COMMISSIONER GOZZI: So when you say June 1991, and it's a personal view, I acknowledge that, as being not a too unrealistic timetable, that coincidentally coincides with the government's position as put up in Exhibit H.2 for the completion - or the objective being the completion of structures by June 1991.

MR O'BRIEN: Well, I guess we were more unhappy with the way that it was to be processed in that document. We, from my understanding of the meeting, have been frustrated by delay in timetable and envisaged that there was no real guarantee that that wouldn't continue past that deadline the same as W.2 is considered continued past its deadlines.

COMMISSIONER GOZZI: See, I suppose what I'm trying to explore is simply this, that it makes our task a lot simpler if what was agreed to be put forward in 19 - in W.2 which we endorsed in August - in our August decision, is still the framework that parties are negotiating around as opposed to saying that the content of W.2 is apart from processes also disappear.

MR O'BRIEN: Well ...

COMMISSIONER GOZZI: Because it's important for later in the proceedings no doubt to what others might say about structures and so on.

MR O'BRIEN: Well, I'm not aware of anyone resiling from the content of W.2 in that sense. It's the process that has failed in our view.

PRESIDENT: Thank you, Mr O'Brien. Mr Vines.

MR VINES: Thank you, Mr President. Sir, the association reiterates the submissions that we put to the Commission 2 weeks ago in view of - or outlining the frustration that we've been subject to right through this process and our decision to not continue on with a negotiation process for as much a reason as anything is that my organisation can simply not afford to have half a dozen of its industrial staff sitting in meetings 2 or 3 days a week that don't achieve anything.

I've got an obligation to serve my members and it's been very evident to us since August of last year that we are not serving our members by sitting around in these processes related to the peak negotiating group.

Sir, before I go on to that in more detail, just in relation to the questions you were putting to Mr O'Brien on page 5 of W.2 ...

PRESIDENT: Yes.

MR VINES: ... in my mind, sir, there is no doubt whatsoever, and if the Commission recalls the association was one of the key negotiators in this document, there is no doubt whatsoever that those report-back dates of 24 December last year were the dates on which those working groups would come back to the peak negotiation group with either an agreed or non-agreed position.

The intention was that they would work between August and December to come up with an agreement on our four-stream proposal or on the career-stream proposals or, alternatively, a response to them.

I note that hasn't happened. It wasn't simply a matter of the date that was there to give some report-back on progress, they were end of the line report-back dates, as far as we were concerned. And it was acknowledged that the peak negotiating group would need to continue until June 1992 to implement what those working parties had agreed by the end of last year.

Because, as we've indicated all along, we see the implementation as being possibly an 18-month process. But once we have agreement on the structures it's then a matter of

looking at the 80-odd public sector awards to see how they would translate into the structures and, probably most importantly, to go through the massive job of redesigning some 25,000 jobs in the State Service to fit in with the structures as agreed.

There is no doubt in my mind, nor in my members' mind, and I would state that, at the time, there was no doubt in the government's mind, what those deadlines were. In fact, I have on my file a series of circulars that we sent out to our members at that time indicating that we would have formal responses to the award restructuring by 24 December - or by Christmas, I think we had said - and at no stage has the government suggested that there was any inaccuracy in those circulars. And as this Commission would know, the government is never hesitant in pointing out any inaccuracies in any PSA publications, all be they very rare.

Sir, so our position on it is that the proposals that were established or that were agreed in the Commission last year have not been met. And W.2, whilst it started out in our minds as a very good document, it set up a very good process, there has only been good faith on one side of the negotiating table, and that has been the union's side.

We took on board the Commission's suggestion of a fortnight ago and considered our position, or reconsidered our position on what we would like to happen from here. We attended the meeting of the public sector unions convened by the TTLC and supported fully the resolution that came from that meeting. We have also considered the exhibit that was put up by the government at the last hearing and have rejected that totally out of hand as nothing more than a cynical attempt to further delay this whole process.

To ensure that I would be able to come back to the Commission, not only speaking as the secretary of the union, but speaking with the decision of my members and my council behind me, we have convened a series of meetings through this week of both our council, our workplace representatives and members generally, and each of those meetings has endorsed a resolution which fairly clearly summarises our response to this issue, which I would tender to the Commission because I think it is necessary that the Commission sees that these are issues that are very important to members of the PSA.

PRESIDENT: I believe this is your fifth exhibit in this case, Mr Vines, so we'll label this V.5.

MR VINES: Thank you, sir. Mr Commissioner - Mr President, sorry, and members of the Bench, this resolution, as I indicated, has been put to meetings of our workplace reps, to our council, which is the supreme governing body of the PSA, and also to meetings of members in Hobart, Burnie and

Launceston. The resolution, Mr Commissioner - Mr President, sorry ...

PRESIDENT: I'm a commissioner as well.

MR VINES: I'd prefer to give you your highest exaltation, sir.

It indicates what the PSA's position is on award restructuring, and that is that:

... we believe Award Restructuring is a key component of greater public sector efficiency and we are prepared to make the necessary constructive changes in accordance with the wage fixing principles. We see Award Restructuring as introducing major workplace reform aimed at improving productivity and job satisfaction. The Government's \$100 million redundancy program and government rationalisation will be a waste of public money and effort unless award restructuring is implemented.

This meeting of PSA members:

1. Condemns the Tasmanian Government for their continued deliberate delaying of negotiations on award restructuring. We note the responses given in January 1991 to our four stream proposals and reject them. We also note the continued attempts to frustrate the proper conduct of special cases.

We see the Government's latest proposal [which was the one tabled a fortnight ago] as nothing more than an attempt to further delay this matter and reject it completely.

2. Directs the Association to withdraw from all negotiations with Government on Award Restructuring and that our claim be referred to the Industrial Commission for determination.

3. Empowers the Executive Committee to determine and implement industrial action as it deems appropriate and we note that such actions may be strong, direct and called without notice, and we call on members of the PSA to participate fully in such action.

And points 4 and 5 relate to other issues of also fairly serious concern.

Those resolutions, sir, are those of the membership of the PSA. Our position now is that we have no interest in wasting

further time, effort and money of our members in continuing to negotiate with the government. We don't believe that they have demonstrated any bona fides whatsoever on award restructuring. We believe that, for some reason unbeknown to us, they are simply not prepared to embark on workplace reform within the Tasmanian public sector.

We recognise that it is well and truly needed. We recognise that there is very productive or very constructive ways that the productivity and efficiency of the State Service can be improved, which is aimed at redesigning work or improving the satisfaction of working, improving the flexibility of employees and no just cutting jobs, cutting funding and cutting conditions.

We are concerned that the government has taken the approach it has, but nevertheless we are determined to be constructive, we're determined to be positive and seek to have our award restructuring proposals implemented.

We therefore ask the Commission, as we did a fortnight ago, to agree to arbitrate our proposals. We would see there would be some benefit in discussing the technical side of it, if you like, with members of the Bench to see the best way to do it.

Our preferred approach to that would be to lodge with the Commission four shelf awards, if you like - one award for each of our four streams - which we would then put argument to the Commission on and progressively seek to have current awards repealed and the employees covered by those awards moved across to these shelf awards.

As I say, that is our preferred position, because what that does is enable our union to proceed with our claim without crossing - cutting across the path of any other organisations which are now pursuing different objectives.

But it is our very strong submission, sir, that the Bench agree to now play its role as arbitrator, define and determine these award restructuring matters. From our point of view, all of the issues that were agreed to last year are still on the agenda, we're not backing down from any of them. All we are saying is that the process hasn't worked, there is not good faith on behalf of government and we seek the intervention of the Commission to try and get this thing back on the rails and to get an early decision and implementation of our proposals. If the Commission pleases.

PRESIDENT: Yes. Thank you, Mr Vines. You were saying that you simply want to get the processes speeded up and your particular case or cases dealt with.

MR VINES: Yes.

PRESIDENT: Do you back away at all from the intent of W.2 as a - which was presented to the Commission as an agreed document and which we endorsed?

MR VINES: No, sir, not at all. We don't - we fully support it. I indicated before, we thought W.2 was a good document, it is only that it hasn't worked. The intention, I believe, is to get award restructuring up and running in a reasonable period of time, but recognising, as we have, that's it's not going to happen overnight. That we can get agreement on structures or we can get a decision on structures quickly, but the implementation, the job redesign, the determination of training requirements, all the rest of it will take time. We're prepared to go along with that.

We are not, though, prepared to sit around and waste more time in dealing with the government negotiators. We do not have any faith in the government's representatives on the peak negotiating group to take this matter seriously or - and also we question the bona fides of the government's side.

PRESIDENT: Well, we're now some 7 weeks or so, nearly - well, 2 months behind your hoped for dates, being 24 December.

MR VINES: We're more than that, in effect, sir, because we're really where we were in August last year. Nothing, in our view, has been achieved in that 4 months. So we're more than just - that deadline having gone past, as all the other ones. And if we were to restart negotiations at this point in time we would be starting back where we started in August last year.

PRESIDENT: Well, you know, I can't say with any great authority because I haven't sat at any of your meetings, but I'm sure the parties now have a better idea of what they want in terms of structures than they did in August. And I guess that's been indicated by the fact that the government has finally put a proposition to you, which has been rejected. But that's, I take it, the first time documentation of the government's desires, in terms of structures, has been in your hands.

MR VINES: It is, but there is no evidence whatsoever to say that there has been any work done in preparing those responses. Indeed, I would suggest that at least in two cases they were documents that were prepared the night before they were actually given to us.

As I indicated at the last hearing, their response on the Technical Officers Award, the technical stream was, effectively, not in whole, but largely in part, a complete rewrite of our professional proposal with the words 'professional' and 'technical' changed.

We haven't tabled those because they're not worthy of tabling. But I would suggest that there has been no work done on the technical and professional streams. In particular, we still don't have a response on the operational services and the clerical stream is no different to what the government were saying 18 - or probably worse, than what the government was saying 18 months ago.

PRESIDENT: Have you had a meeting to discuss that ...

MR VINES: Yes, we have, sir.

PRESIDENT: ... with them?

MR VINES: And that meeting of that working group went as far as it could, with the government basically indicating that it wasn't prepared to change its position on it, and we were saying, well, you know, it's totally unacceptable.

COMMISSIONER WATLING: Well, Mr Vines, you're asking us to consider determining what you referred to as the shelf awards. Can you explain a shelf award to me and what you see included as a shelf award and what would we be translating at a later date into the shelf award?

MR VINES: Well, as I indicated, sir, I think there is a need for us to have some detailed discussions on the best way to do it - the technical side of it, if you like.

Basically, what our objective is is to get a determination by the Commission on four streams - our four-stream proposals. Now, we see there's two ways of doing that: one way is that we seek to vary four of our awards. For example, the Clerical Employees Award, the Technical Employees Award, the Scientific Officers Award is one, and the General Officers Award, to put our four streams into those, and then progressively we translate other awards which will pick up those streams onto one of those four awards. The disadvantage in doing it that way ...

COMMISSIONER WATLING: And then abolish the award that you've translated.

MR VINES: That's correct, yes.

COMMISSIONER WATLING: Right. So do you think that that cuts across a number of other areas as well?

MR VINES: Potentially it does and that's one disadvantage with doing it that way. The other disadvantage with doing it that way is that we don't believe that will give enough time for the proper job redesign and all the rest of it for the people who are on those awards we would seek to vary, because if the Commission makes a decision to vary the Clerical

Employees Award, for example, everyone on that award would have to translate at that day, where as we see the proper job redesign process is taking longer than that, so what our preferred position would be, would be for four new awards to be created, one for each of those streams, which current awards or current employees would be translated to as and when their jobs were redesigned and as and when it was right for these new structures to be implemented into their department or work place.

But you would have these four shelf awards, is the terminology I use, or model awards, or whatever, would be the appropriate terminology sitting there as the final objective, if you like, and then we work to redesigning the jobs to go under those awards.

COMMISSIONER WATLING: Right. Now, just say it did happen and we had four proposals there and you decided that, for example, this particular award area wasn't going to move into this new shelf award, do you see that shelf award creating any benchmarks for the other awards that don't come into this shelf award?

MR VINES: No, but it's our objective, sir, that what happens in those four streams or in those four shelf awards would be mirrored with some variation but would be mirrored in all of our other awards through translation.

It's our objective to have all of our 65 awards I think that we're a party to, to mirror those. The exceptions that I refer to is in the professional area where part of the submission that we put to you that there is a need potentially to look at different levels of our different salaries at our levels 4 and 5 for different professional groups.

But what we would see is that many of the current awards would be abolished and those people go onto one of these new four awards, but some awards could continue, and I say could, not would, but could continue with the structure from the shelf award being put into the award as it currently exists. And that would probably be most relevant in the case where there are specific employer awards, for example, the Port Arthur Historical Site Authority Award, given that it's a different employer.

COMMISSIONER WATLING: Right. Now, you just told me that you're party to 65 awards of the Commission. How many of those awards where you're the sole party?

MR VINES: I think, I don't know exactly the figure, I think it's 31 or something, and what we would see in this was discussed at the meeting of the public sector unions, what we would see happening is that those that we're the sole party to we would be seeking to have translated first and then we would

be talking with the other unions on the translation of those awards where there's more than one party to them.

COMMISSIONER WATLING: Right. Now, should the other unions stand still while you're doing this, because ...

MR VINES: Not at all, sir, not at all. The ...

COMMISSIONER WATLING: Well, do they go along their merry way doing their bit and you go along your way? How are you going to coordinate this? For example, you look - you get a shelf award for technical and for clerical and, an example, the Hospitals Award - I think you're a party there, aren't you?

MR VINES: Yes, sir.

COMMISSIONER WATLING: Now, where other unions are involved, say they want to look at a different technical clerical arrangement than what you're looking at in your shelf award.

MR VINES: Well, that hasn't - that, I don't believe, is the case and these are the discussions that the unions have had to date where it's generally agreed that as far as possible there will be a similar approach to it. But, clearly, we're not in a position to say that every single award or every single union is going to pick up what we're proposing to do. All we can say that we want - that that's an objective of ours. In the short term we'll be doing that or seeking to do that with the awards that we're the sole party and then with the others we'll be trying to negotiate with those unions to come along the same way as well.

But I mean nobody can be forced to. We can't force another union and we don't want to force any other unions into picking up our proposals. But particularly in the white collar and professional areas there is, I believe, support from the other unions for the sort of approach that we're taking with our four streams.

It is of course one of the issues that has been on the agenda and I see it fitting fairly and squarely into award restructuring is whether we set up a separate hospitals award, and if there is a separate hospitals award with ourselves and the HEF as parties, clearly it's appropriate that the two of us agree on what we see as the best structure. We would be saying that our four stream is, the HEF may agree with that, they may have something else, but it would be our objective and I think it would be theirs that we reach agreement on what's going to be the best in that isolated health award.

COMMISSIONER WATLING: Right. What about the operational services area?

MR VINES: Operational services - we are looking from the PSA's point of view - looking at - at primarily those people who are affected by the General Officers Award, the non-trades people, if you like. The working groups that were established in W.2 I think had trades, non-trades and health related. Our main area is the non-trades or what is being referred to in the peak negotiating group forum as the general officers - those people who are largely covered by the General Officers Award.

PRESIDENT: They are often trades related, aren't they, people?

MR VINES: Trades related but not necessarily trades. But we would be putting submissions to you on how we see that going but our objective - and again this has been discussed with the other unions that are operating - the operational services - we would be seeking to do an award in those areas where they are our members and from our point of view that's fairly easy to define.

PRESIDENT: That's a relief.

MR VINES: Yes. But, no, sorry, when I say that we have members who are tradesmen who we would see fit into the proposals that the blue collar unions are developing, I mean, it is not for the PSA to determine what a tradesman's structure is going to look like. We are not a majority union there. We have got a significant membership, but we would be going along with what the other unions who, you know, have all of their membership in that area. We would be fitting in with them.

PRESIDENT: So, really, you're ... It doesn't seem to marry too well, if the other unions covering tradespeople move in a different manner to your concept of general officers which is operational.

MR VINES: That's been the proposal all along, sir. All of the discussions - even the negotiations - I think that's one area where it was generally recognised there would be differences, is that there would be a trades stream which is related to this claim of \$450, and there would be others that aren't related to the claim of \$450 and, as we have indicated all along ...

PRESIDENT: So, really ...

MR VINES: ... ours are non-related to the \$450.

PRESIDENT: So, in the operational stream we could end up with a general officers award, a metals award, a building trades award ...

MR VINES: I think at the moment it's split up to something like a dozen groups.

PRESIDENT: ... a miscellaneous workers award. But your general officers award would sit alone within the operational stream. Is that - to sit by itself?

MR VINES: That's correct, sir. That's what, had the peak negotiating group process worked, that's what would have come out, anyway, because there have been separate groups established, I think for about a dozen different groups, under operational services.

What we may well find, and this would be also subject to the submissions that we would put to you, is that, indeed, our areas on the operational services may well be better placed on the technical streams, and in some instances on the clerical and administrative stream.

But these would be the sorts of things that we'd be putting ...

PRESIDENT: Well, how do we know about that?

MR VINES: Well, that's what we would be putting in submission to you.

PRESIDENT: And what's - are you saying - well, the PSA has no interest in - what was it, the custodial stream?

MR VINES: No, we have an interest in that.

PRESIDENT: Is that one of - that's the fifth one, isn't it? You've been talking about 4.

MR VINES: Yes, but as I have indicated, again, we are not the majority interest in that. We are not taking - what we are doing is we are looking at our heartland, if you like, the area that we are either the sole or the majority interest, and we are firstly looking at where we are the majority interest.

But the prison and the custodial services, I think we've got about 20 members out of 160 employees, so we're not going to say what's going to happen there. We will seek to fit in with what the other unions are doing there.

What we're trying to do is to find the most expedient way of getting this done. Not the quickest, but the most expedient, so that we can start to get some movements on it.

COMMISSIONER GOZZI: In the context of the process to make that happen, you talked about a shelf award, or varying existing awards - how do you see the status of your current application, 23 ...

MR VINES: 2399.

COMMISSIONER GOZZI: ... 99, yes.

MR VINES: Well, that is an application to vary all of our awards in accordance with the structural efficiency principle. I would see that that would have the ability to continue until they were all varied in accordance with the structural efficiency principle, and that would potentially mean until they are all translated on to one of the shelf awards or, alternatively, those structures transferred back.

But, I mean, I am happy to take guidance from the Commission there. What we are going to seek to do is to not get in the situation where we, you know, are having technical arguments on issues.

What we are looking for is the most appropriate way, and the most expedient way to deal with this, and we will be looking for advice from the Commission on that.

COMMISSIONER GOZZI: So, in essence, I suppose it could be said that you are looking at W.2 in respect of items 1 to 4 to be determined by this Commission?

MR VINES: That's correct, sir, yes. What we'll be putting to you is our streams with the structures and guidelines as to the work-value levels, and getting either a nod or a shake of the head from the Commission on those. What we are trying to do is get an answer.

COMMISSIONER GOZZI: I suppose ...

PRESIDENT: What if we just stare blankly?

MR VINES: Well, I'd start calling you the government.

COMMISSIONER GOZZI: Mr Vines, that process, let's just hypothesise that we did what you wanted us to do, that would take some time, but bear in mind that Exhibit H.2, the government's position, contemplates an objective being realised of having structures in place by June 1991.

Now, if the processes were improved with the Commission putting in place some very strict monitoring timetables, etc., wouldn't it be more desirable in the wider context for all of the union parties to persevere with the process to achieve the June 1991 situation? After all, that's only a few - a couple of months down the track.

MR VINES: Yes. It would be if we trusted the government but, I mean, quite frankly, we don't trust the government and so that's why it doesn't work.

COMMISSIONER GOZZI: But, what if the Commission became involved in that process?

MR VINES: But, see, the difficulty that we're having there is that back on page 19 of your decision of August you indicated that you would be monitoring the process very closely. Now, that hasn't worked either, so what we want is the direct involvement of the Commission. We just don't want you to monitor it, we want you to get involved in it.

COMMISSIONER GOZZI: I suppose, if you are going back to the August decision, you looked at page 19 and I looked at page 9 this morning, and there's a very optimistic comment that the parties were going to settle it within a week, the structures.

MR VINES: It wouldn't surprise me. We always seek to be optimistic. Who made that, Willingham probably, did he?

COMMISSIONER GOZZI: The last paragraph on page 9.

MR VINES: It was Willingham, too. Maybe that's the problem - Willingham hasn't been involved in any of the negotiations. He's been the phantom over the last 6 months.

COMMISSIONER GOZZI: And if you go back earlier, of course you are talking about before PNG ever arose. We were talking about the 'A' team and the 'B' team, and that was about May 1990 or before.

MR VINES: Yes, that's right.

COMMISSIONER GOZZI: But, anyway, that process of perhaps further discussion, wouldn't that achieve, for want of a better term, a better resolution than hiving off one particular party at this stage?

MR VINES: Potentially it would. As I say, if we had confidence in the government's ability to take this fair dinkum, and we don't. As the TTLIC has already indicated, the government's objective in this whole process is to delay it as long as possible, and I don't think they're denying that, and our process is to get it fixed as soon as possible - our objective is to get it fixed as soon as possible, and it is unfortunate, but our two objectives are completely incompatible, and it is very obvious each time we sit down around the table, not only at the peak negotiating group level but also at the working party levels where I sent my industrial officers along. They come back completely frustrated.

PRESIDENT: H.2 sets out some fairly reasonable time line, though, doesn't it?

MR VINES: Well, no, I don't think it does, sir. I don't believe the end of the financial year is a reasonable time line. I think that the structures should be able to be determined in a matter of weeks. I don't believe it is a reasonable time line.

PRESIDENT: I'd want to hear from Mr Hanlon on it, but I didn't think June 1991 was the date upon which they would be agreed in the first instance. I thought there was a more positive date for implementation put in place. I haven't got ...

MR VINES: It says:

Objectives that the government will be pursuing in the short term by June 1991, finalise the career structures for clerical, technical, and professional.

PRESIDENT: Yes.

MR VINES: Now, what will happen, we'll come back to you in September 1991 and say nothing has happened, and the government will say, 'Well, that's all right, it was only an objective. We didn't say it would really happen.' Now, I mean, that is the sort of tactics that they play, and we're not prepared to go along with it any more.

PRESIDENT: If we were able to ensure that they are in place by June 1991, you wouldn't have any objection to that date.

MR VINES: But, how can you do that, sir, is the ...?

PRESIDENT: Oh, we have means.

MR VINES: Well, you may have to explain them to me, because I don't know what they are, apart from arbitration.

PRESIDENT: Well, it may include arbitration.

MR VINES: Well, that's what we're saying now. I mean, I can understand the Commission saying to us, 'Come on, give it a little bit longer', but that is what the government has been saying each time a deadline has come up. It started in November last year. We got a deadline of 17 November (which rings a bell for some reason) but, anyway, we got to this deadline and nothing had happened. The Government said, 'Look, give us until Christmas, it's only 6 weeks away, we'll have it finalised by then, and we'll have some good stuff to give to you then.' So, of course, we say, 'Well, all right', because we're not going to then have the government say the PSA pulled out when we're 6 weeks away from finalisation, and this goes on and on and on. Sooner or later the rubber band snaps, and for us it has snapped.

We're just - I would like to say, yes, let's sit down. I don't like that document, the intent, but I would like to say let's sit down ...

PRESIDENT: I wasn't really commenting on the rest of H.2.

MR VINES: Yes, sure. And get this finalised by June 1991. I would like to do that, but I do not have the confidence that the bona fides of the government are there to do it. I mean, I am not blaming the individuals that they send along to their negotiations because they're quite clearly under instructions, but the instructions that they're under are just to delay.

COMMISSIONER WATLING: You are just missing Mr Willingham.

MR VINES: No, it's all right, he wasn't there. He might be the one who is giving the instructions, for all I know. But maybe, as I indicated before, the Office of Industrial Relations, for example, is not represented in negotiations on award restructuring.

PRESIDENT: I think it is up to the employer to determine who represents.

MR VINES: Of course it is. I don't deny that. But I don't for a minute suggest that it is up to anyone else, but it is indicative that the government is not fair dinkum about this.

MR WILLINGHAM: It was your suggestion.

MR VINES: What?

MR WILLINGHAM: That we weren't involved.

MR VINES: It was not.

PRESIDENT: Yes. Well, thanks very much.

MR VINES: Thank you, sir.

PRESIDENT: Mr Warwick?

MR WARWICK: Thank you, Mr President. I'll endeavour to be brief. The Hospital Employees Federation supports the resolution of the public sector unions which has been presented to you as TTL1.1.

We do not resile from the objectives of Exhibit W.2, but as the resolution indicates it is clear that the process there has failed, or I think the words are that it is flawed, and Mr Vines is certainly right in saying that the meetings we've been to have been rather frustrating. In respect of Exhibit ...

PRESIDENT: Could I just stop you there, I am sorry to interrupt you, but do you - you say that the W.2 is flawed, but the objectives are - you don't resile from the objectives, so what part of it is flawed? Is it just the timing or is it the mechanism for getting to the times?

MR WARWICK: Well, the timing couldn't be achieved so I guess that's an obvious problem with it but I don't think that that's the fundamental fault. I mean, the fundamental fault is that you can lead a horse to water but you can't make it drink and, in a nutshell, that's the problem.

PRESIDENT: Words that we used in another matter a couple of days ago, Mr Warwick.

MR WARWICK: In a nutshell that's the essence of the matter, sir. And in terms of Exhibit H.2 and the question of the objectives short and medium term that you raised the question about earlier, the fundamental flaw in this document is that we have no guarantee, no reason to believe those objectives would be met.

In respect of how we deal with all of this - all of these problems, Mr President, I have to say that my organisation is not of a mind to pursue arbitration on the matters before the Commission at this stage. I say that in full knowledge that we're not happy with negotiations or the negotiation process today but rather than put the whole lock, stock and barrel before the Commission for arbitration we would seek that steps be taken by the Commission to ensure that all of the awards in the public sector are restructured by a given date and that there be a bit of discipline put into the whole process and so that those results are achieved and that all parties know the dates when the objectives must be achieved.

COMMISSIONER GOZZI: Because I think it's desirable, Mr Warwick, to be precise, when you say that the Commission should take steps for all awards to be restructured, what do you exactly mean by that having regard to the structures proposed in W.2 which contemplate, as I see it, a translation from existing awards into those new structures? You're not saying, are you, that the HEF is now seeking for individual awards to be restructured? What are you saying?

MR WARWICK: Well, I think the answer to that question depends on the outcome of this hearing. The resolution of the Trades and Labor Council says unions either individually or collectively will pursue their award restructuring agendas. Now, what we do in relation to that statement is largely dependent, I think, on the direction the Commission gives today.

COMMISSIONER GOZZI: Well, let me put it this way. We've had comment from Mr O'Brien on behalf of the TTLIC and from Mr Vines on behalf of the TPSA but there is still support for the structures outlined in W.2.

MR WARWICK: Mr O'Brien did mention certain amendments that had been made. In fact there's a health working party ...

COMMISSIONER GOZZI: Yes, yes.

MR WARWICK: But generally speaking I agree with your comment there.

COMMISSIONER GOZZI: So, does the HEF support the structures in W.2 or not? The proposed structures in W.2?

MR WARWICK: I'm not sure exactly what you mean by structures, sir.

COMMISSIONER GOZZI: Well, on page - if you go to Exhibit W.2 on page 2, it says:

In order to proceed to the next stage of award restructuring and subject to modification and refinement during the process, this proposal identifies in principle the following occupational streams.

And it outlines those six streams and what I'm asking is whether the HEF is still committed to those six streams.

MR WARWICK: We've stated on a number of occasions before the Commission that our objective is an industry award in respect of our coverage. The six streams there relate in part in some cases and not at all in others to what we do. We have a view that those streams are appropriate for the public sector and where those streams apply to us it will be our objective to have benchmarks and common rates of pay established. So, in short, the answer to that question is yes.

PRESIDENT: I think probably ...

MR WARWICK: But of course we can't answer for whole trade union movement.

PRESIDENT: I think what probably confused the Bench, me in particular, was that you said you were seeking to have all awards restructured by a given date and I was wondering whether you were talking about all existing awards or whether you were talking about using streams.

MR WARWICK: Well, perhaps to clarify that matter, sir, I ought to amend my submission and say that we would like the

process established where our awards will be restructured by a given date.

PRESIDENT: Your - your particular current awards?

MR WARWICK: Yes, sir.

COMMISSIONER WATLING: It conflicts with the TPSA because they're parties to those awards as well.

MR WARWICK: Well, I have no objection to what Mr Vines said about the various unions that operate within a given sector having to reach agreement on what's done, so - and I think that that's and we would have to reach agreement.

COMMISSIONER WATLING: Would it assist in your area if the clerical stream was determined, the professional stream and the technical stream and operational services stream were finalised, would that assist negotiations in your area? And would you see some nexus between the people in the health area with these other people in non-health area, in terms of the career path for professional, technical, clerical and operational services?

MR WARWICK: Well, can I say, sir, the position is that we don't see ourselves doing anything different than what is broadly agreed or, indeed, arbitrated in those areas unless there is an obvious and demonstrated need to do something different.

COMMISSIONER WATLING: Right. Take, as an example, the technical stream. If the technical stream is sorted out, do you see that stream then being placed in, say, the Hospitals Award?

MR WARWICK: Well, we have a technical stream now, sir. If the end result was that we tested the proposed public sector-wide technical stream with our members and the persons doing the jobs in the hospital, and we were able to reach some sort of an agreement with the government about who went there - who went where on the new scale, then certainly that scale would be appropriate.

COMMISSIONER WATLING: So if they could get more money it would be appropriate; if they couldn't, it wouldn't be.

MR WARWICK: Well, it would be most inappropriate if they got less money, sir.

COMMISSIONER WATLING: Yes, right. I'm just trying to work out how you sit with the proposal put by Mr Vines that we go ahead and grasp hold of the four main streams, because if we go through this exercise, just say we had this big case to

determine the technical stream, would you see it as a case for just the awards where Mr Vines was the only party?

MR WARWICK: Certainly not.

COMMISSIONER WATLING: So you'd see it turning into a major test case for technical employees throughout the whole of the public sector.

MR WARWICK: Well, I think most unions that represent technical people would be interested in those procedures.

COMMISSIONER WATLING: Right.

COMMISSIONER GOZZI: Just further to that, has the HEF and the TPSA had any negotiations on the technical stream put forward by the association?

MR WARWICK: On the actual dollar rates?

COMMISSIONER GOZZI: No, on the actual structure.

MR WARWICK: Not in respect of technical steam, no.

COMMISSIONER GOZZI: In respect of any of the streams?

MR WARWICK: Operational. We've - as you know, sir, we have had discussions but, broadly speaking, I mean, Mr Vines is right, but I don't think we've had - haven't been placed in a position where we've had to reach some sort of agreement about the specifics of that technical stream.

In relation to the others, we have discussed them. And the members of the Bench would know we've had lengthy discussions about professionals. And all of the unions have looked at, if you like, the operational services. Does that answer your question, sir?

COMMISSIONER GOZZI: I suppose in the back of my mind was the comments made by Mr Vines, that where the association didn't have majority representation it would be quite prepared to go along with the career streams developed by those organisations that had the majority representation. I'm just wondering what the position of the HEF would be in respect of that kind of proposal. Or would we, if we picked up Mr Vines' option, finish in a protracted arbitrated case where not only the government might have a different view but individual unions represented in the award that may not have a majority interest in the award would also have a different view.

MR WARWICK: I think a likelihood is that you'd end up with a scenario of each.

COMMISSIONER GOZZI: A different position put by different - by the various unions in the award.

MR WARWICK: You'd certainly have views being put, I would have thought, by the unions affected.

COMMISSIONER GOZZI: So whilst these peak negotiating group discussions have been going on between the government and the unions, if you like, have unions in the working party discussed their respective positions in respect of the particular awards that they've got an interest in?

MR WARWICK: To the extent that we've had to, sir, but I think the point is that the government has not made any to any claim made. Now, the unions can't - I see Mr Hanlon going for his pen so I'll qualify that: in terms of any dollar claim made ...

PRESIDENT: I was going for mine too.

MR WARWICK: Now, the unions can't go back and negotiate amongst themselves about nothing. So, I mean, the whole problem with the process is that we're not negotiating, we're not actually talking about it.

COMMISSIONER WATLING: Why do you have to go to the dollar amounts first? Why couldn't you be looking at the structure first and then deciding on a structure, and then deciding the appropriate money amounts second?

MR WARWICK: Well, it is my understanding that that's what happened in the Australian Public Service. In fact, that there were seven benchmarks set, or agreed to, and in the first instance they were the easy ones, and there were dollar amounts attached to them, and it was finetuned upon subsequent negotiations with the unions. Now, people may have different views about whether or not that has happened, or that's appropriate, but ...

COMMISSIONER WATLING: Would it hasten the process if all the efforts went into determining the structure, and how you move from one level to the next, and what qualifications and responsibilities you should have, and then if there was a fight over the amount then the amounts then be arbitrated?

MR WARWICK: Well, I don't see it that you can separate them out, sir, because the dollar amounts - at least on my computer - determine who goes where.

COMMISSIONER WATLING: Well, I thought if you established a proper criteria and entry points and progression levels it would speak for itself.

MR WARWICK: I'm not saying that we shouldn't be doing that, sir. I am saying that ...

COMMISSIONER WATLING: Well, I am just trying to find out then ...

MR WARWICK: To the extent that anything is on the agenda, what you are talking about is on the agenda in negotiations but in the working groups, but the other part of the equation isn't.

COMMISSIONER WATLING: Well, my line of questioning is only just to try and find out what you actually want us to do. This is a bit of a problem. We have got a resolution that sort of - I suppose the salient part from where I sit is paragraph 3 that says 'the unions either individually or collectively will pursue their award restructuring agendas directly with the employer and with the assistance of the Commission'. Now, out of the whole resolution, that's the crunch issue.

MR WARWICK: Yes.

COMMISSIONER WATLING: Right? Now, I am trying to sort out in my mind what you want us to do arising out of this and, therefore, I'm asking you a series of questions to say, or to try and find out whether we are better off looking at the structure first, and putting wage rates to the structures later. You seem to be indicating, 'Tell me what the dollar amounts are and I'll work out the structure'.

MR WARWICK: I think we have to start somewhere, I think that's all I am saying. With dollars, what I am saying is they must go hand in hand. Qualification requirements, the levels, and the money amounts must be all on the table to be discussed.

And I can only assist you in respect of that important question you asked, and that is what is the Commission to do, and reiterate that from the point of view of my organisation we need an absolute deadline, a reasonable but absolute deadline to resolve the question of what structures and wage rates should apply in the new awards to which we are party.

COMMISSIONER WATLING: So, structures and wage rates?

MR WARWICK: Yes, sir.

PRESIDENT: And what's your reasonable date?

MR WARWICK: Well, I can only express a personal opinion about that, sir, but it is not too far different from Mr O'Brien's personal opinion.

PRESIDENT: 30 June '91.

MR WARWICK: Yes, sir.

PRESIDENT: Yes. Thank you, Mr Warwick. Mr Pyrke?

MR PYRKE: Mr President, and members of the Bench, I reported to you in general terms any progress, or lack of it, last time. I participated in the meeting of the Trades and Labor affiliates, and I can now support what Mr O'Brien said today in terms of the process.

Just to flesh out what Mr O'Brien said, I think it would be useful to have discussions based on the structures in W.2 there, but to be supervised quite closely by the Industrial Commission.

When I say that, I suggest that there is a need for the unions involved in the professional structure or in the construction-based subgroup to perhaps state to you what their concerns are so we can have on record the principles which should form the discussion between now and whatever becomes the agreed date.

In terms of the actual structure that's there in W.2, the construction-based, is an appropriate grouping for most of our members but, having said that, I think we've got some others who wouldn't be picked up by that document. There are some people who have a regulatory sort of role in the Department of Roads and Transport and also in - there is another agency whose name escapes me, but the full range of roles isn't picked up by that document, and I think it needs to be modified slightly in accordance with the words that are there. It says, 'subject to modification'.

But, at the end of the day, I wouldn't see the salary structure being terribly different to what would apply in the construction-based area.

PRESIDENT: So you've got a sort of further amendment to point 2 on page 2 of W.2.

MR PYRKE: Yes. I'm not saying it's wrong, I'm saying it's incomplete to the extent that certain areas of our membership aren't covered by it.

COMMISSIONER WATLING: Like Water Board?

MR PYRKE: Oh, yes, there's that one too and the Department of Roads and Transport, and the Department of Labour and Industry too, they've got a regulatory role as well - they've got some members there.

In terms of what the structure will look like, we've seen the Public Service Association structure and I think that's

certainly a good basis for discussion. I think at the end of it, where our people were in the minority, you know, we could easily be accommodated within their structure.

Where they are in the majority I think we would probably end up in much the same anyway. I think there are certain forces in play on the ground that need to - would guide the final shape of it. For instance, there's going to be a need for consistency of classification assessments, there's going to be a need for appropriate general relativities and I think these kinds of concerns will lead the parties to roughly the same kinds of conclusions.

Certainly in the meetings we've had for the professional working group, it seems that the APEA and the various agencies and the classification people from the Department of Premier and Cabinet, they seem to be on roughly the same wavelength in terms of the number of levels. I think if the pressures - in actual fact of what's actually happening out there will produce a structure which we'll all be happy with.

As I say, I think we'd be fairly close to what the PSA has put to you, or certainly related to it. Yes.

So in terms of what the process would look like, I think Commissioner Watling would be familiar with the process that's been engaged - entered into by the metal workers and the Electrical Trades Union. There's been a fairly close monitoring as I understand it. The Commission would have a better picture of what it's about than myself, but to alter that process. appropriate modifications. If the Commission pleases, I'll leave it there.

COMMISSIONER GOZZI: Yes.

PRESIDENT: Yes. Thank you very much, Mr Pyrke. Mr Willingham?

MR WILLINGHAM: Mr President. I understood, Mr President, that the purpose of this morning's hearing was at least ostensibly for a further report-back in relation to the subjects, the span of hours, special leave and sick leave, but perhaps I was working under a misapprehension because it hasn't got much of a mention so far. But for our part, my colleague Mr Hanlon will be addressing you on developments which have occurred since last those matters were reported upon.

I thought it was instructive, Mr President, members of the Bench and informative that my colleague, Mr Warwick, has really settled upon the real issues between so many of the parties in relation to award restructuring and structural efficiency and that is dollar amounts. And I question Mr Warwick as to what dollar amounts are doing uppermost in his

mind in relation to SEP and award restructuring in the first place, unless those awards in question have attached to them special cases.

Which leads me to some of the comments of Mr Vines in relation to how he perceives it is most appropriate for his organisation to proceed in relation to SEP2 and other matters.

And here are some of the complications that we have, Mr President, and members of the Bench. In a newsletter which was issued by Mr Vines' organisation and under his authority on St Valentine's Day - which was his birthday, and I assumed that he must have taken a holiday on that day since it's part of the program - on that day Mr Vines, notifying his membership of an urgent meeting of PSA members, said that amongst the issues that he wanted to discuss with them were award restructuring - which gets four lines out of a page and three-quarters.

Special cases. He lists those special cases, and the first one, Mr President, members of the Bench, is clerical officers. The Clerical Employees Award, I think is the correct title.

Technical Officers is No. 3 on the list - the technical employees.

Now, I don't know if Mr Vines has got a couple of typographical errors in there or I've missed something in the 6 months that I've been away from structural efficiency negotiations, but I'm not aware of special case declarations in regard of those two applications. But it is all the same, about money. It's about dollars.

Award restructuring is emerging for what it really is in the minds of too many unions in the public sector. It is about a contrived way of achieving more dollars. Not dollars by access to better paid, more rewarding jobs, but direct translation dollars.

Now, in return for that, those measures that we seek, the abolition of barriers to productivity, greater efficiency, harsh as they may be, or not harsh as they may be, are just not on the agendas. No-one wants to talk about them. People want to talk about dollars and structures.

And those are the issues. Mr Vines' organisation talks about 3% superannuation on this issue of his of 14 February. I'm not absolutely certain that's for any discussion. He talks about the government attempt to override awards which is also on his exhibit tendered this morning.

I'm not sure that the peak negotiating group or any other group of which we're talking about in this forum has discussed that either.

What Mr Vines' organisation does and so many others do, they take a little walk into the deep, dark recesses of the rumour mill and they grab a shadow and they trot it out into the sunlight and goes like this: the government is about to do this to you, but don't worry your organisation will protect you, fight for you and force them to backtrack. And then a couple of days later Mr Vines says 'Well, the government was never going to put 600 public servants up against the firing squad's wall, it's all over now, haven't we done a wonderful job, that's why you should be a member of the organisation'.

This is how Mr Vines' organisation is operating, and it's the sort of nonsense that's in this issue and the draft resolution for membership meetings, this spontaneous outburst from the membership all sitting on their seats when they get there, that's the sort of thing that bedevils our negotiations, the same sort of thing that we have from, amongst others, the Tasmanian Police Association, headline of which today is that they're losing patience with us in relation to what is asserted to be a 17% wage claim which has never been put before their department, their negotiators or indeed the minister, but they're losing patience. We're actually losing patience waiting for it to arrive in black and white.

COMMISSIONER WATLING: Or the Commission.

MR WILLINGHAM: Well, I understand there's a special case declaration in relation to police officers, Mr Commissioner.

COMMISSIONER WATLING: I do, yes, but the 17%, I didn't know that that featured.

MR WILLINGHAM: But certainly the sums - and we hear as we heard Mr Warwick say, do it the way the Australian Public Service did it - that's the answer. The same way the Police Association are saying - do it the same way the Victorians did it.

So while it's true the process is slow, the process may or may not be completed by what we believe is the target dated 30 June 1991. If it isn't, we've always acknowledged that the Commission may, on application of either or all of the parties, intervened at the extent of arbitrating unresolved matters.

And the other point that I would make for Mr Commissioner Gozzi's benefit is that the comment on page 9 attributed to me are only in relation to Exhibit B.4 which in fact was the precursor, I understand, from W.2 and it goes to the processes and establishment of negotiating mechanisms.

Certainly not in my wildest dreams did I imagine that it would be cleared up within a week or, as I said at the time, Mr

Commissioner, when the question of time lines was being mentioned, did I think it would be finalised within a year. And I stand by that now and in fact, looking at some transcript subsequently to that in the November report-backs, which Mr Mazengarb appeared for the TPSA, he concurred with those views. And we will take you shortly to the appropriate transcript.

COMMISSIONER GOZZI: Let me say, Mr Willingham, the optimism of the parties about meeting commitments has long been lost on me. I've never once thought that a time line given in the context of when the parties would achieve something would in fact be met. The record I think supports that.

MR WILLINGHAM: Well, indeed you may be correct, and my colleague, Mr Hanlon, is going to go through those time lines and put chapter and verse to them, and at least attempt to show where we believe success has been achieved, Mr Commissioner, and where it has not, and where it has not, the reasons we believe are relevant for not achieving those time lines.

COMMISSIONER GOZZI: We would be pleased to hear them.

MR WILLINGHAM: So I won't take my colleague's thunder because I know he's very anxious to speak with the Commission and put to rest some of these canards which have been spread around the place this morning.

So our view, in simple terms, Mr Commissioner, is not one which supports Mr Vines' interpretation of 24 December, was the use by date, and never have we indicated by anything which will appear of the transcription of the proceedings of the State Wage Case.

Certainly it's true that it was an intention to have positions from the government in relation to the matters that have been proposed by Mr Vines' organisation and indeed others, and in many cases of course that's happened, that particular fact has been glossed over, although Mr Vines did at least concede that he didn't like what our response was in relation for instance to the Clerical Employees Award. However, because I know that a number of ...

COMMISSIONER GOZZI: But you would concede, Mr Willingham, whilst I understand the point you're making about 24 December 1990, you concede though that the June 1992 date was intended to be the date when the exercise was completed.

MR WILLINGHAM: Yes. It's what it says, that's what it means. However, Mr President, members of the Bench, I just wanted to make those preliminary comments and if it pleases you, Mr Hanlon will now take over to go into more detailed

report-back on matters that we hope are of interest to the Commission.

PRESIDENT: It's all been of interest, Mr Willingham.

MR WILLINGHAM: I am so pleased. I am so pleased, Mr President.

MR HANLON: I would say in opening, Mr President, that Mr Willingham has not been absent from the process and the parties should not have been surprised at that. All they needed to do was to recall the peak negotiating exhibit tendered by myself on the last occasion which set out the working parties and has been agreed to and understood all of those who participated.

And rather than seek to make some point that Mr Willingham was not involved, Mr Willingham's department is represented by Mr Findlay who is the general manager of that division. And the representation of the government at that level is in accordance with the importance placed on it by the government. And Mr Willingham's position in the subgroups' area is in the operational services, in which he is the convener.

And I think to suggest that people were not participating or in some way expertise is not utilised, all it does is retract from the general report given by Mr Vines as to progress. Mr Willingham is certainly in a position to exercise his expertise and influence where that is best applied - and that applies to all of those who are nominated by the government to head up the various working parties.

The situation of whether or not we have met our time lines, and both Mr O'Brien and Mr Vines have gone to great detail to refer to sections of that process, I'd like to tender a copy of the minutes of the working party for three meetings, so that the complete picture is put. So that W.2 in its time lines and the time lines that have been agreed are then seen in perspective, and the matters that were to be discussed. The first one is 31 August.

PRESIDENT: We'll mark this H.3, Mr Hanlon.

MR HANLON: Yes. So there are three all stapled together and I will deal with them in order.

PRESIDENT: Is there a problem with them being marked as the one?

MR HANLON: No. No, Mr President.

MR VINES: I thought these negotiations would have been 'without prejudice', Des.

MR HANLON: They are, Mr Vines. And Mr O'Brien tendered an extract from one, so that in the interests of the total picture being put I have proceeded to take advantage of the opportunity presented by Mr O'Brien.

MR O'BRIEN: You had it prepared before this morning, Des.

MR HANLON: You never know what you're going to need in these proceedings. We've been ambushed in the media, we've been ambushed all over the place, so one makes those necessary steps.

MR O'BRIEN: We don't rely upon the matters being privileged in case Mr Hanlon thinks we're objecting.

MR HANLON: Having not sought my approval for it, I understand you would be reluctant to ask mine for his.

If one turns to page 3 of 31 August minutes, under the heading 'Schedule', you will see there that the schedule was amended by a month, by agreement between the parties. So the date we're talking about is not 24 December, but 31 January. So very clearly there, there was agreement to extend the date.

And the significance of that isn't what wasn't done on 31 January, but that nothing could be done either by way of complaint, whether it be the TPSA or any other organisation, or the government, following the decision of Mr Vines to withdraw from the PNG, when he advised his caucus of that.

If one then goes through to 12 October, which is the second set of minutes, these were the minutes from which the attachment presented by Mr O'Brien are attached, that clearly sets out that that process is not one of saying it will all occur within 5 weeks. It has to be seen in the context that that's a process by which the parties will resolve matters. It certainly does not override the decision of 31 August - it has to be read in the context of it. And bear in mind we were before the Bench the early part of November, where at that hearing a number of the questions went to timing.

I'm reading from page 435 where in a question from Commissioner Watling to Mr Mazengarb:

COMMISSIONER WATLING: Mr Mazengarb, when do you see the three items [and he's referring to the special leave, span of hours, sick leave] that should have been completed, being completed, and what's your timetable - revised timetable - and program?

MR MAZENGARB: Special leave - I'll take that first. I would hope that would be completed within the next 3 to 4 weeks. Sick leave - that will be

the next item on the agenda for the working group which meets, and I believe next week or the week after next [and we're talking about 15 October].

COMMISSIONER WATLING: What do you seek for sick leave - 4 weeks, a month, 5 to 10 weeks?

MR MAZENGARB: I haven't put a specific time frame on it nor have I addressed it [or addressed, there's no ...].

Then there's a further discussion on further.

MR MAZENGARB: I haven't put my mind to it and having been asked the question now, and bearing in mind the complexities of it, I would not like to put a time frame on it. Obviously if I said 4 or 5 weeks that would be too soon. I would say 8 weeks and the impact it's going to have on the State sector.

So that very clearly - I mean it was an understanding on 15 November that the reporting back date was January for a whole number of listed items, that there was an acceptance that matters would be in process, that certain matters were being dealt with on the agenda before others, but it was an orderly process which, on 15 October, met the satisfaction of the parties.

One then goes to the issues that we're talking about that this hearing is about, we see very clearly that from the government's point of view that we've met that obligation. We are waiting advice on the span of hours and the no-credit sick leave. The issue of the administrative instruction going to special leave is - been before the PNG and is waiting implementation.

And the difficulty with the administrative instruction on this occasion is because of the extent of the change necessary in the regulation those regulations have to be processed and be issued and be for approval before the administrative instruction would go out. Normally, administrative instruction would go out because generally changes to the regulations that go hand in hand are either very minor or don't affect the regulations. So that the delay in the issuing of the regulations presently is simply one of the parliamentary draftsman's office drafting the first draft, that being remitted to - back to the department to see that it conforms with the administrative instruction then goes back to the parliamentary draftsman for the final draft, then it commences its parliamentary process.

COMMISSIONER GOZZI: This is in respect to sick leave.

MR HANLON: In ...

COMMISSIONER GOZZI: Special leave.

MR HANLON: Special leave. And as a result of that, if things went according to plan we would be expecting from today's date that to have been accomplished within 6 weeks, bearing in mind that those processes are not in the control of the industrial relations people, they're part of Parliamentary Council work load, the decisions of Cabinet, etc.

So that in the sense of the PNG, the special leave matter was finished and finished within the time lines set out in the minutes of 12 October. I'll tender a copy of that draft instruction.

PRESIDENT: We'll identify that H.4.

MR HANLON: And in doing so I just say that that matter as being with the PNG - I think it was about the - early December.

PRESIDENT: Where's the draft instruction - oh, I see, there are two documents here.

MR HANLON: So the first part is the draft instruction. The second part I'll come to in a moment, but the first part is what went to the PNG and has been approved. The second part of the document is the working group meeting of 20 November.

And that shows who was present, it shows what was discussed. It was agreed that the draft A.1, which is the document the first part of the exhibit, that would be altered to address the concerns raised in the first paragraph.

The employer representatives then raised a number of matters which the working party noted and said, on behalf of the government, that it would put before the Premier when the administrative instruction was to be issued. And in doing that you will see that paragraph one sought to extend the current A.1 instruction, and we saw it as our charter and objectives, which had been agreed, were not to extend benefits but to ensure there was a quality across the service or the commencement of that.

It lists the - and having said that, the same discussion occurred at the PNG meeting where the employer representatives raised certain matters. We confirmed the position, and those matters were placed before the Premier when the administrative instruction was put before it.

If I take you to the second or the last part of the minutes, at the bottom of the page, you will see there is a series of issues, actions, by whom and by when. And you will see that

the span of hours was, feedback required on the position papers from the TTLC. And by when, was 30 November '90. Sick leave, consider requirements for the trial, and that was joint - they had not been determined by 30 November '90. And special leave, submit the A.1 to the Premier on 30 November '90.

Now, very clearly, when one looks at the idea we clearly see that in broad terms the guidelines that people are talking about are being met, and that these are matters which were set down in the - for 30 September, were discussed on 15 October. Mr Mazengarb give his estimation, that by the 20th one of them had been finalised; the second, in terms of the details, was under joint consideration; and the third had gone to the Premier.

Now, I see nothing in those three items that anybody could suggest that they were not pursued in good faith by either side.

If one then looks at the schedule and say, well, if the parties were satisfied with sick leave, special leave, the span of hours, appeals had up until 31 January, that matter was also reported on by - on behalf of the government by Mr Ogle on 15 October, in the transcript.

It was a matter raised by Mr Vines, it was raised in one of the sheets that has gone out, suggesting that in some way we've reneged on appeals. So that if any concern about appeals have sufficient time to have been raised, when the explanation is quite simple. The consultative mechanism described by Mr Ogle on 15 October in regard to appeals was then complied with.

As a result of the finalisation of that, and the limited nature of the parliamentary session available, the legislation didn't make it before parliament. But the issue of whether or not there's been a change, all that had to be done was for Mr Vines to raise the issue. Now, he could have requested information as to what happened to the legislation. My understanding that consultation has occurred; the legislation was drafted, ready to go to parliament and the schedule didn't allow it.

Well, I'm advised that the Bill had been prepared, so we're not talking about something in the parliamentary draftsman's office. And then if one moves up the list of that, 31 August, I have - because that's simply in front of me, we ...

PRESIDENT: What are we looking at there, Mr Hanlon?

MR HANLON: At the schedule and the dates.

PRESIDENT: Oh, from W.2.

MR HANLON: Well, you use 31 August, which has got the ...

PRESIDENT: Or from H.3?

MR HANLON: Yes. I'm using the H.3, simply because the dates correspond on what's been agreed.

If we then look at teachings, the teaching group has met once. And the reason the teaching group has only met once is that it's only been on one occasion when we've been able to meet without bans being in place. And of course of interest on that occasion, it was resolved by all the parties to permit to that group, that education would be treated as an industry group, which is the very concept which is provided for in H.2.

So that on the one hand we get criticised for picking up what the parties and the agency have determined is in their best interest.

The matter of teachers was also back before the Full Bench, and I understand that the question was also directed to me as to what that claim might mean in terms of this process, particularly in terms of professional. My understanding is the claim will be outlined and given to us in detail within the week, even though the claim, in broad terms, has been with us some 18 months.

But we will no doubt know what the claim means in the detail and following that I'll be able to make some assessment of the implications of that claim on the general professional graduate entry form.

So if one looks at teaching, that's proceeding according to the motivation of the parties, the priorities of the various unions.

And we come to custodian and emergency, that group reported to the PNG that they wanted a fundamental question determined - that is, that we would agree to their structure and that went before the PNG I think on 4 December.

Since that time they have sought to meet as a series of subgroups at their choice, that is, prisons, fire, ambulance, police.

Now, if they are dissatisfied with their choice in those groups that is no different from exact request that they've come before you today to say 'Let each of us proceed on a union-by-union basis'. It was their choice to withdraw from the custodial process. It was their demand that certain matters be agreed to before further negotiations could occur, none of which was in the power of the negotiators to answer. They went to guarantees of funding, they went to the budgetary

process, and they are not matters which the PNG process was charged with doing, and they're not matters which could be answered.

At the same time, we would say that whatever position they are in by choice, the issue that went to the PNG which sought approval for a base entry point equal to the tradesman rate and then two steps above that at a diploma and a graduate level. Now, that immediately cut across discussions and structures in the professional and the technical level. It also went to the whole concept of pay rates and what is the trade rate in the state sector.

So very clearly that was tied up and cut across the claim from the operational group which sought approval of a sum of money for a base trade rate of 4.50.

Now, the moment they were before the PNG on 4 December a special meeting was set up for 11 December, 2.1/2 hours was spent discussing it, the parties adjourned, not in any way other than having explored the issue for some time, then, on 18 December that matter, in the words of Mr O'Brien - 'There are more important matters that we wish to discuss', so no further discussion took place on that.

So if operational groups that send matters to the PNG for resolution as per 12 October and W.2 process and the unions choose not to discuss them, withdraw from the process of 18 December and the final reporting process for some elements is 31 January they should not be able to come before this Commission and say we have frustrated the process.

They may not like it; they may have preferred more money quicker; what their dreams and expectations are have nothing to do with the obligations that are on the government or lead to the suggestion in some way that we have not met the undertakings given to this Commission and per W.2.

The operational services group - and that's a very difficult group - and a number of those groups have chosen not to meet for various reasons because there are more important discussions that should have been completed because the technical group needs to define what's a technical officer. There are many persons currently paid rates of pay as technical officers who are not technical officers. Whatever happens to them in the transition is a different question, but once one defines the technical group, you're then in a position to see what matters would go into a reorganised operational group that would constitute operations.

And while you haven't determined base rates for trades and the minimum base position for non-trades, it becomes very difficult to try and integrate hospitals operation, the working group operational and the general operational awards.

So we acknowledge there are difficulties in that, but those difficulties are the making of a number of parties. The Metro group is within that group and we have had a number of difficulties with different matters being pursued by different unions before different members of the Federal Tribunal and to resolve Metro's group we were required to take steps in the federal jurisdiction. The ATOMEA sought to have their wage rate arbitrated by Mr Justice Peterson and a date was set down for January. In all, that little exercise took 3 days of the government's time. As a result, we took steps before then in the undertaking to Mr Justice Peterson to say that all unions with members in Metro, irrespective of which jurisdiction, which award or which panel member, we would be seeking to have referred to his control.

So that when we came back before him, and at the time agreed was due with the ATOMEA, that any issues that were outstanding that went to coverage, the transfer of work, they were before a single member of a commission.

We offered to convene a meeting on the first date suitable, and the date suitable to the majority of unions was 18 February, and at that meeting we sought from those unions that they would meet and confer on the question of union coverage, and it is not a matter that can be left to unions to deal with in the fullness of time.

We have the trade occupations covered by the Tasmanian Local Government Award, which the MEU is the dominant union. The only element not local government is Metro. That is covered in the trade area.

We have the MEU with two members at Metro, and it is therefore important to know what is the future direction, which unions will cover what, because we're changing the nature of job functions out there so that they will be an operational group, and I am saying this is with the agreement of different unions about different elements of it. A trade group, and a supervisory administrative group, and there is a changeover of work between them.

That involves five unions, and there are agreements. We have said to the unions, 'We want you to confer along the lines of the paper that we have put before the peak negotiating group on union coverage', and that paper went to a recognition of the problem of union coverage, and we were not seeking to impose our will. The concept dealt with a principal union ACTU concept. It also sought in paragraph 5 of that to getting acceptance for two principles. That the parties were committed to organising into effective forms of work place industrial relations, and (2) a reduction in the number of unions in order of priority by occupation, by workplace, organisational unit, by agency, and across the State Service.

In paragraph 7 of that, in some 10 paragraphs, it set out a process whereby (1) the parties could confer, agree to gather certain sorts of information, make an analysis of that information, the union movement would confer, if the matter couldn't be resolved we would expect to be told that the matter is not resolved, we would then enter into negotiations, if the matter couldn't be resolved within the ACTU structure then an agreement for the processing of that through a tribunal.

And the parties at Metro on the 18th had that paper drawn to their attention, and we sought to do no more than ask that they confer. If they couldn't agree, then we expected to be told, and we saw a reasonable time to be told was April, and the question was put to me, 'What then?', and the answer given was, 'Section 118 provides a resolution where no other exists, and the issue needs to be addressed'.

If we are going to change the job functions then we cannot have three organisations with the ability to cover classifications where it then affects the ability to deploy labour. Now, it wasn't a difficult task, and Metro isn't the only place. We have the situation in the metals area where we have no coverage for the Australian Society of Engineers, but we have some 13 members. The issue of either they're going to be covered, or, there is going to be an orderly transfer of membership.

We have four timber workers of very doubtful coverage. That matter needs to be addressed. We have 11 members (I think it is 11) of the Municipal Employees' Union in two areas.

So that they are not matters which go to some esoteric view, they are award coverage, they require the cooperation of unions to participate in the process, and they require an orderly outcome.

We were not seeking to process that in an arbitrary way, but saying you can discuss it in your forums, but at some point in time this issue has to be addressed, and of being quite straightforward in the process that the government desires to resolve it.

So that the union coverage question, and the Metro question, in that sense arose out of a decision by one affiliate covered by W.2 to seek to process their claim elsewhere.

They've not been alone in that, but we have sought in all ways not to put the process at risk, but to bring about orderly management of it so that no individual union's position was prejudiced, in the view of keeping the negotiations going, getting the right people in the right place to resolve those matters.

Going on to the technical group: that group has met approximately fortnightly. We have submitted definitions and structures. It is scheduled to meet again tomorrow.

The only difference between us and the TPSA is that they have a view about their structure and we have put an alternative. And the process of 12 October went exactly to that, that the government be in a position to put alternatives.

Now, because there are alternatives before you and you don't like them, that doesn't allow you to say that nothing has happened. And of course Mr Vines takes great liberty to say that all we did was transfer the word 'professional' to 'technical'. On the last occasion he went to great lengths to suggest that agencies were agreeing with him and disagreeing with the government as a whole. I can assure both the Bench and Mr Vines that the submissions that we get from agencies are compiled and that position is put to that working group.

If Mr Vines wants to identify anybody, I'm quite happy to take up the issue that they supply us with one set of information and him with another, but when the government speaks before the Commission and says it will undertake these matters and this is the view of this working group and that's the view of the agencies. There are no other agenda and we would expect the technical group to continue to proceed.

The professional, of course that - my comments go - they were scheduled to meet yesterday in the same meeting room that they've met and I attended that meeting, as I gave an undertaking to the Bench, and other than government representatives, no other parties sought to appear.

In regard to the clerical and keyboard: in terms of all of the groups, more has been done in terms of the keyboard area than any and a paper has been produced and expanded on overtime that goes to the question of the introduction, the purpose of the document, the general background to award restructuring, administrative and clerical stream characteristics, the proposed classification levels, descriptions of levels, the standards and the job design process guidelines.

And when one looks from page 3 of that document, from the first meeting on 17 September there is a series of meetings that went on through October, November, December, through to February and the last meeting is on 1 February, when this document was put before the TPSA who sought 3 weeks to consider it.

If you look at the transcript, Mr Vines says in the transcript they had already made a decision to reject the structure. They'd had meetings of their members that had rejected it.

All I ask is why was the government asked to give them 3 weeks on 1 February to consider the matter? We were meeting on 4 February.

This document is before them for consideration and I respect the point made by Mr O'Brien that it's for them to consider and for them to tell us, but certainly there is nothing in that document when we are expected to go back on 22 February that in any way suggests a lack of effort or application.

If one compares it with the exhibit put before the metal trades case for the awarding of their restructuring it's as comprehensive, it certainly isn't finished, and that's accepted by the parties. The document itself says it will be expanded upon. Ten pages go to the description, the structure, and from pages 10 to 20 - 33 go to primary tasks and duties, levels and responsibilities for each of the levels through the system.

I think for someone to come to the Bench and say nothing has occurred (and I don't intend to read out the detail for each of the meetings, but I'm quite happy to tender a copy if it suits Mr Vines) we would say that the clerical has been more than met. We certainly would like to be ahead of the guidelines. That is impossible. It is a complicated process and involves a number of agencies. We've taken the task seriously and the document even sets out that there will be a series of tests and trials between now and February and July '91 and in July the finalisation and translation arrangements. Now, all of that is in keeping with our decisions made freely on 31 August.

We've had a listen to, in my view, broad assertions, no detail, and the fact that many of these matters are on a 'no prejudice' basis means that we have to respect that situation, but we clearly have met the intent. There are ups and downs on both sides. There are many of the organisations and they're all free to pursue their own particular interests and many of them have. We've had bans, refusals to participate, withdrawals. Not one of those has been mentioned, but the government has not sought to take advantage of each of those.

And as the Metro group were told on the 18th, the fact that we were advised of a withdrawal and the resolution had been passed, we did not seek to take advantage of the fact of the undertaking we gave to Justice Peterson; we'd convened the meeting and we would process an agenda through that group. We were within our rights certainly to say to that group, 'Well, you brought it to an end. This is your decision, proceed as you will.' I'll tender a copy of the span of hours to ...

PRESIDENT: Mr Hanlon, we're in your hands to a certain extent, but ...

MR HANLON: Well ...

PRESIDENT: ... bearing in mind ...

MR HANLON: ... in the sense of the reporting back process, I think there's not far to go. But the issues of the special case and where to from here ...

PRESIDENT: Yes.

MR HANLON: So I'll - it would certainly be convenient for me if you wish to adjourn at this point.

PRESIDENT: Well, it may be appropriate if we adjourn now and ...

MR HANLON: Oh, can we take care of the exhibit before we just finalise? I'll do the span of hours in another session.

PRESIDENT: All right. Well, this is Exhibit H.5.

MR HANLON: The first page on the H.5 sets out the background to it.

MR VINES: Have you got any copies of it, Des?

MR O'BRIEN: Could we have a copy, please?

COMMISSIONER GOZZI: Mr Hanlon, given the fact that we're just about to adjourn, just one comment that I - one question I want to put to you that you might want to think about, if you don't want to answer it now.

You've given the Bench a very detailed and I think strong response to the comments made by the union parties this morning. In the light of what you've outlined, why is it that we are getting the sorts of comments that we are from the union representatives involved in the structural efficiency exercise? I mean, what's the motivation?

I'd really like to get to the bottom of it, because it seems to me on the one hand one group of significant parties are saying, 'Well look, nothing is happening', and then I sit here and listen to the detailed response that you've provided and it seems to indicate that things are happening. Now, it does create a bit of a problem when you're trying to come to grips with just exactly what is going on.

Now, I don't suggest anybody is deliberately saying things to the Commission that are not as they see them. And, as I say, it's been a detailed response - and you haven't finished it yet - and the question has continually crossed my mind: why is there such a wide gap in what is being put to this Bench?

MR HANLON: Well, there are two views, one serious one and one less so. The serious one is that it provides an opportunity in large scale negotiations for a number of organisations who may not wish to pursue any increase, who are maybe satisfied with their national benchmarks, that if somebody wants to push ahead and there's a chance for a dollar they'll be in on that dollar too.

There is no doubt, as witnessed by the Police case of today, that - and I've made the comment before that no organised - certainly nobody from the TPSA has suggested to us there is any correctly classified person.

Now, if you can't decide that they're happy and they're fixed and something else, and concentrate your efforts somewhere else and use those as benchmarks, then one is left with the conclusion that in some way there's a mechanism for the flow-on of money other than translation amounts. There's no misunderstanding by the government that in translations there maybe roundings ups and downs etc. We are clearly left with the view that it's about money.

The flippant view is that the union movement's been struck with encephalitis lethargia, or sleeping sickness, and they'll wake up one day and discover that there's no money. The last outbreak in Australia was 1927.

COMMISSIONER WATLING: What day was that?

MR HANLON: But Mr Willingham has said earlier that it was about dollars. It is about dollars. The question is when will the realisation arrive that we are seriously talking about structures? Till they are completed and there are job descriptions completed and the translation process starts, anybody who has a view of dollars, then it's misplaced.

I am saying that in terms of all the non-special case applications, and having looked at those, it is until we see the detail, the classifications, the quantum claim that I really have a view about it.

COMMISSIONER GOZZI: But I think this Bench has made it clear in past proceedings that it doesn't have a very much different view to that.

I mean, I think this Bench has made it clear that the translation processes will be the end result of any restructuring in the award.

MR HANLON: Well, I ...

COMMISSIONER GOZZI: In fact, I think the time limit made earlier this morning, the comment that the June 1992 date was the date for completion of translations.

Now, there might be some beforehand, but it is the translation process that will give carriage, if you like, to the individual location in that structure.

MR HANLON: Well, you have no disagreement with me about the process. That is our view, and we are pursuing it.

Otherwise - I can understand that a claim that says how will we resolve SIPS-paid people, and paid rates awards, and how do we have a common trade rate? But it is when the claims say when that's resolved we want to put our relativities, so that if we change the nature of a bus driver and that person's position because the work is expended, we do not see it necessarily follows that every position that previously was 2%, 5%, 10%, above a bus driver's position is then re-erected on the super bus driver's position; and I use that as an example, I don't want to be taken that it is fact, I just use it as an example that that's the impression the government is left with that if we can move the base rate 5% everybody else will go up 5%.

It is not until the structures are completed and the differences are clearly between the parties that we will know exactly where we are going and what are the real claims and the real issues.

But I can certainly say it is a very complicated process, it's a very large organisation, and the government is committed in terms of its resources to achieve it within the time frame.

Page 5 just ties in with the other item on the agenda of the working party, the 20 November. It sets out the background, the changes, and it is in the hands of the union.

PRESIDENT: Yes. Well, just one question before you resume your seat. If everything is going so well, as you say ...

MR HANLON: I haven't said it is going well.

PRESIDENT: No, but ...

MR HANLON: It could never be smooth, Mr President.

PRESIDENT: No. But why then was it necessary to provide a revised package as per H.2?

MR HANLON: Well, we were confronted with - certain questions couldn't be resolved. If one looks at health, you look at the special case applications and which awards they apply to, you look at who are parties to those two awards, you then look at

the numbers of people per award per health department, and if you ever wanted to be in the position of saying we want to reform that to have a health structure with a more orderly award coverage, then at some point in time you have to have those people come together to agree on what parts of the structure they agree on.

Now, the only way for that to occur is for somebody to be responsible for the convening of the meetings. Organisations, the treasuries, are separate bodies.

Mr Vines could say, yes, he'll agree to meet, and the HEF will say they agree to meet. That doesn't mean that they are going to meet and agree on a common position that they then can come and talk to the government on.

So if each of them can choose whether they want to process that part of their award, or that part of something, they are free to do it.

All we could see was that there were certain comments being made, certain points of frustration, certain lack of unity, the need to develop a better mechanism to focus people's attention. It wasn't an effort to radically change PNG. PNG has already on many occasions sought to modify itself to suit the conditions.

We had a submission today from the professional engineers, who in actual fact supported the fact that it ought to be focused to enable smaller parts to be drawn together. Whether they play a big part in the process, or a small part, but at some time that has to be addressed, and it is when you start identifying individuals covered by what award then you start to see that it is a lot more complicated than just looking at significant unions in each working party who have got the primary carriage of that issue.

At some time, other unions are going to have to be spoken to and drawn into it. The process is really one of saying we are getting close to the stage of finalisation of structures. These issues will come onto the agenda. This is a process where in the Department of Construction there are 16 unions. There are issues of common concern to those unions which go beyond individual awards.

At the same time it is acknowledged in the TTLC's resolution that says:

Where a condition of services affects more than one union it will be processed by the TTLC.

So on the one hand they're saying we've acknowledged the need for a united approach, but all they've done today is to identify the question of structures in terms of dollars. All

the conditions of service, the page 10 agenda, the changing of job functions, you would think that even didn't exist.

So all I can say is our proposal was really directed to saying the focus needs to alter. We would prefer to have sat down. We took their concerns expressed on 18 December seriously and spent January having a look at it. Whereas the result of that, we were putting forward an alternative.

We would have preferred to put that to the PNG, talked about it, taken on board any comments they wish to make. It's certainly not the best way to change a process at the bar table. We thought it was a genuine offer of last hearing, so that it was before them to consider. Certainly nobody sought to talk to us about the detail variations or the rights and wrongs of it.

PRESIDENT: We'll adjourn to 2.30.

LUNCHEON ADJOURNMENT

COMMISSIONER WATLING: I notice some of them are a bit battle weary.

COMMISSIONER GOZZI: It's not confined to that side of the Bench either.

PRESIDENT: Yes. You're still going, Mr Hanlon?

MR HANLON: I certainly was, Mr President. I won't claim the credit for clearing the stands, but I'll share with whoever wants to.

The position just prior to lunch, I was addressing those matters set out in the schedule of W.3 and the meeting of 31 August.

I would like to tender an exhibit going to the training group, which - and the training group was the joint working party, comprising the TPSA and two members of government. And five meetings were held of that group.

PRESIDENT: This we'll mark H.6.

MR HANLON: And there were agreed terms of reference that were worked out which established the role of training in the context of award restructuring: to provide a clear set of strategies; to ensure commitment to and availability of effective training to all levels; to ensure that strategies and recommendations developed by the training working group are supported by clear mechanisms to enable implementation by all agencies; to establish training programs which

incorporate an effective feedback mechanism, that lead to a formal accreditation and multiskilling so the benefits of award restructuring are realised; to produce clear recommendations on funding and resource arrangements for training programs, including an assessment of the role for the Training Guarantee Act.

Following the setting of those objectives, a position paper was developed, which is H.6 and was tabled on 4 December 1990 at a meeting of the PNG. At that meeting it was stated the position paper would be adopted subject to requests for amendment being received by the 14th. Bearing in mind that it's the working parties' agreed recommendation to the PNG, the PNG accepted that document subject to any requests being received by the 14th. No requests were received.

There are a number of activities within the action plan which form part of the position paper. They all depend on the outcomes and the time frames of other working groups and the extent to which funds are allocated towards award restructuring training across the State Service.

The paper sets out the background. And bearing in mind that this is not a paper just that's reserved for the PNG, it is a paper which the government is using in its guidance and the development of programs, the setting of budget parameters, the focusing of various agencies' attention on the things that they as an agency needed to put into place.

It used the role of training in the context of award restructuring. And paragraph 3 on page 2 it sets out as ...

PRESIDENT: It's page 3 on our bit of paper ...

MR HANLON: Sorry.

PRESIDENT: ... Mr Hanlon, is that right?

MR HANLON: It's not that - if we take it as page 1, being the front page ...

PRESIDENT: Oh, right, yes.

MR HANLON: Sorry, it's my mistake, I forgot about the cover page.

PRESIDENT: Yes.

MR HANLON: So that the background is on page 1, the ...

MR VINES: They're numbered down the bottom though.

PRESIDENT: The number's on the bottom.

MR HANLON: The terms - sorry, the terms of reference are set out in page 2 and 3, and 4 sets out the base they've been, it sets out the strategies to ensure commitment and availability.

And I just draw your attention to paragraph 12, where we review and comment on the number of staff at the government offices, the positions that are vacant, those that need to be filled. And I say that in the context that the government is committed to ensuring that agencies have in place mechanisms for internal consultation and an ability for DEPAC as the coordinator to coordinate the work of staff development officers.

To put in place mechanisms for the detailing of existing programs, future programs and to have those with - in place with sufficient time for both the promotion of the program, acceptance of nominations and the delivery of the program.

COMMISSIONER GOZZI: What's 12 actually do?

MR HANLON: In terms of when you want to put in place a training program you need to have officers in agencies whose task it is to coordinate that agency's training program, and you'll see there that it sets out those agencies that didn't have an officer and were currently being filled, those that needed to fill the position, and that resulted as a result of a survey of agencies to see how well equipped they were, what officers they have in place, and so on.

I just draw attention that it wasn't just written about the future, it also looked at what we were doing now, and what was in place to deliver that program.

COMMISSIONER GOZZI: Well, if you can read all that into paragraph 12 ...

MR HANLON: Sorry?

COMMISSIONER GOZZI: If you can read all that into paragraph 12 you are doing well.

MR HANLON: Well, okay, I ...

COMMISSIONER GOZZI: I mean, if that's the intention, that's ...

MR HANLON: I didn't really want to read each paragraph. I just wanted to draw attention it wasn't something that was about the future is going to be rosy. We are looking at the current situation in terms of being able to deliver.

I may have gone further than just paragraph 12 but, broadly, that's what those comments were directed to.

COMMISSIONER GOZZI: So this is intended to demonstrate that at least in the agencies where there is no staff development position they were going to be filled?

MR HANLON: Yes.

COMMISSIONER GOZZI: Well ...

MR HANLON: And 17 sets out the sort of commitment and strategy that we intend to pursue, and that's done not just in the context of Tasmania, it's done in the setting of national standards, the pursuit of accreditation, the ability of people to take qualifications and have them accepted elsewhere.

C. sets out the target groups of employees, occupational streams, heads of agencies, the requirements for line managers.

On page 7 it determines the feedback mechanisms, and lead to formal accreditation, multiskilling. It addresses those issues from the government's position.

You'll then see on page 9 that there are series of time lines and action plans in paragraph 25.

So that we have proceeded to - from the government's point of view - to distribute the plan. To start to coordinate that plan into internal agency strategies, and in terms of DEPAC having a role as the coordinating agency in seeing that agencies address the questions that are set out in the paper and, very clearly, the action plan from 4 December is being followed, and that, of course, it is also linked to progress working parties meeting in terms of defining changes in job functions, what training needs to be put in place, and ensuring that that is put in place to enable the translation process to proceed.

But it is a working party document. It has to be read in the context of progress generally under PNG.

So that ...

COMMISSIONER GOZZI: I suppose, Mr Hanlon, looking at the action plan and timeframes the way that that is written there, would I be correct in assuming that that takes into account that the structures have been developed?

MR HANLON: Yes.

COMMISSIONER GOZZI: The reason I ask is there wouldn't be much point in having training if you didn't know what you were training for.

MR HANLON: That's true. There is training that is specific to functions, but there is also training that is currently under way for existing functions which also needs to be coordinated.

Part of the action plan is also addressed in the fact that 1991-2 budgets need to be making provision for the delivery of training, both in terms of the Training Guarantee Act and the requirements of award restructuring.

What the particular requirements of each agency are being worked out hand in hand with that agency changing the job functions.

It isn't the training group's purpose to be detailing what each agency should be providing. Its task is to provide an overall framework by which training would occur.

COMMISSIONER GOZZI: I suppose I was linking the training to the training working group in Exhibit W.2.

MR HANLON: Well, the requirement of 1 March for working groups to report back may be, taking 19 agencies as a date that may not be met, but I certainly know two areas that we're also in the position of identifying what needs, and as soon as the changes and functions are put into place that training will occur.

There is no reason for that group to, other than to report what training they intend to occur to the training group, it's not one where the training group says it has to design it. It would no doubt have some view as to whether or not it was quality training that was leading to some accreditation. But much of the training will simply be limited to that agency.

COMMISSIONER GOZZI: But it's training related to award restructuring.

MR HANLON: Yes.

COMMISSIONER GOZZI: Yes.

MR HANLON: Yes, and the paper is designed for that purpose in mind and, again, as part of that initial process we've complied with the requirement of that group. The strategy is there. Certainly it has got to be taken into account in the budget process, and it is a comprehensive paper, it gives direction to both agencies and to unions as to what the intention of the government is via PNG process.

I just want to go to the operational services group, because the TPSA has made mention of the meeting of the general officers group, which was called and which nobody attended.

And I tender copies of the minutes of that meeting of 15 January.

PRESIDENT: H.7.

MR HANLON: In the structure of the peak negotiating group there is a group known as the working group, operational services, and under that group there are a number of specific operational working groups, one of which is called the general officers which has a number of employer reps. And in the approved list presented to the PNG on 2 November '90 it lists a number of government departments by title and no individuals. It lists under unions: TPSA and all respondents.

The TPSA is the convener of that group - so it is convened at the instigation of the convener.

As part of the PNG process, W.3, Frank Ogle is the government contact for participants in working groups. We've had no request to supply the details of who would represent us at that meeting.

If you take into account that on 18 December they made a formal decision to retire from the PNG process, they seek an adjournment of the working conditions meeting that should have been held on the 19th, and then they write to individuals in those departments requesting them to attend a meeting on 8 January '91. Of course a number of people, not knowing why they were written to, respond, but nobody else attended, either apologising.

They called another meeting on 15 January. And that's the outline.

Now, we're talking about serious matters. And if people want to conduct their affairs in that way then how does one separate the submission by Mr Vines, in his submission on the last day of hearing, that they were being frustrated, that there was no progress being made, when that was their activity and actions and then the preparation of it.

MR VINES: Mr President, I'll have to intervene here, because this is starting to get a little bit ridiculous.

An exhibit - unfortunately I haven't got the number on it - it was one tendered by Mr Hanlon on 4 February '91 where it went through the parties that were involved in these various groups.

Under the general officers it has: employers reps - DASCA, DPI, DCS, Admin. Services and Consumer Affairs, Primary Industry, Community Services, Department of Justice, Department of Health, Department ENA (whatever that is)

Education and the Arts - Department of Construction and Department of Roads and Transport. And then, TPSA and all respondents of the unions. So there has definitely been people who knew they were on that committee; that committee had met prior to those minutes that were prepared on that occasion.

It's just sheer nonsense to say that others didn't know who were on that meeting because it had met prior to this date. The people knew that they were expected to be there and understood the request to be there.

PRESIDENT: Nevertheless, they didn't attend.

MR VINES: No, not on either of the occasions. But on the second occasion the meeting went ahead regardless. And as I indicated at the last hearing it was one of the most constructive meetings that have been held.

COMMISSIONER GOZZI: In fact, Mr Vines, I couldn't help noticing that last paragraph, there's two people attending the meeting both from the PSA - the meeting unanimously congratulated the PSA on its efforts in providing a suitable framework for comprehensive job and award redesign. Well done.

MR VINES: It was. I have to congratulate my two officers who went to that meeting, sir, to be able to get such agreement like that.

PRESIDENT: Do you wish to take us further

MR HANLON: It's nice to see that the staff of the TPSA are so well directed as to their activities.

COMMISSIONER GOZZI: Was there much discussion on that resolution?

MR VINES: A 3-day meeting I think it was, sir.

MR HANLON: Of course, in the midst of the humour, on 12 October the 1980 minutes of the PNG, all working groups were to be established. And item 5 - Other Business, stated who was to be contacted, to be advised of working group nominations. It didn't matter that your union or your department were nominated, individuals were then identified. And I'm saying that that process wasn't carried out.

When then matched with the cynicism of the 20th, that is the point when we go to the question of trust.

When we carry out these little games, whenever we come to reporting back processes, whether it's to one's members or one's principals or to the Commission, one looks at the

totality of what's being reported and then say what was an assertion. And then if you go behind that assertion, that no progress and frustration was made, then very clearly the government if it doesn't know who is being written to then those who seek to write to individuals within departments when there is an established procedure - because it isn't for the government to provide to invite people to meetings that they want to conduct, it is the nomination of the TLC.

Their person, who is the reference point, is Pam Walker. We don't seek to go outside that process and we don't expect any other organisation, party to the PNG. And the purpose of the exhibit is to demonstrate the goodwill and intention of the TPSA on the 20th, given their caucus meeting of the 18th.

I tender a copy of the union coverage in the Tasmanian public sector and I do so for the benefit of the Bench so that the Bench is in a position to look at the document as being an attempt by the government to provide a constructive framework in which - in which issues such as award coverage and representation how they can be addressed. And, in particular, the position sought by the government is set out on page 5, paragraph 7, recommendations, which was really seeking a process for the orderly processing of such matters. And it wasn't ...

PRESIDENT: We'll call this H.8, Mr Hanlon, for the record.

MR HANLON: It wasn't something that was a pie in the sky because we're currently faced with demarcation issues over coverage of award-free employees and award coverage who are being reorganised as a result of consolidation of agencies arising from the restructuring of agencies into 19, and there are matters currently before the Commission, either involving claims for allowances or union membership that arise.

And so our efforts in terms of December will really provide a mechanism whereby a forum could be established, a time frame put in place and at some point in time there would be resolution to it.

PRESIDENT: But this was - this document, was that addressed only briefly at the PNG?

MR HANLON: It was - there was a discussion initiated by Mr Evans I think on the 4th, the paper was circulated at the next PNG - sorry, it was discussed in November, the paper was prepared for the meeting of the 4th and the meeting of the 18th determined that its position said, well, in broad terms, it's a matter they feel they can best handle themselves.

From the government's point of view it will still be looking for a mechanism for the resolution of these matters as they occur.

In an effort to provide some focus to the discussion of paid rates award and what of the various claims that were being put before the various subgroups which the custodial wanted answers on, the operational working group wanted answers on, that we already were aware of certain claims involving professional groups, special case matters, the government, as part of the special meeting on 11th December prepared a paper as to costs and showing what it thought the various claims as they were occurring in the subgroups meant with a view of trying to get a focus on what was being put to it in a variety of different ways and forums.

And there is a paper distributed called 'Award Restructuring Union Wage Claim'.

PRESIDENT: H.9.

MR HANLON: And what it endeavoured to do was to translate figures and claims that had been bandied about in working groups by general heading, the clerical and administrative keyboard, the General Officers Award, and it was using the claim as it - we understood it, using the numbers that were apparently employed by that award and translating increases that appeared to us to be apparent, and the purpose of which was to try and get people at that meeting, where we were discussing paid rates awards, where we were discussing base entry points, diploma levels, graduate levels, as to the implications. And as part of that exercise the third sheet set out a series of tables ...

PRESIDENT: When was this tendered to the parties?

MR HANLON: I think it may have been the 18th, arising out of the meeting of the 11th where these matters were talked about. The paper was then prepared in - yes, it was submitted by Mr Evans on 18 December. For the purpose of that meeting, matters arising out of the 11th, to enable the discussion to be taken further. That matter was not taken any further than that. Mr O'Brien, at page 2 of the minutes, indicated there were more pressing issues that the unions wished to have addressed now before they could continue to discuss those matters.

But the table sought to set out in the left-hand column existing salaries for particular positions that formed part of discussions in working groups. So that if you have an engineer's position, a technical officer's position, a graduate engineer, technician, trade rate - this is in the left-hand column - a general officer position and the lowest trade classification, that of book binder.

The government had also appeared before the Commission on 27 November over the dental therapists case, and that's set out in the middle column, with the special case starting at the base entry point, proceeding at level 6 to the top. The third column is headed the TTLC claim but that's the various working groups who'd submitted benchmarks that they wanted the PNG to agree to.

The middle column is the metal industry rates of pay currently being paid. The next group is the HEC and you can see there are 41 steps, which is their single award. And the right-hand column is the metal industry structure giving the various levels and the percentages alongside. Having said that, the point that the government was trying to make was that under the TTLC claim of 185%, which is on the second line down from TTLC, equated in broad terms with the 210% in the professional engineers case.

If one then goes to the bottom of the page, the 90% rate of the TTLC claim equated with approximately the 100% in the metal industry. And for the purposes of the debate we wanted to open up the discussion as to how existing rates in the State Service proper, metal industry - in other words, what we were talking was national benchmarks, national standards set in key awards and where we were going.

So that I tender that to show that the government was serious about addressing the issue, was trying to comprehend what working parties were saying in terms of their structure and saying, 'Well, look, we're quite happy to talk structure but if we're getting claims about money to be addressed first, then these are the questions that need to be addressed: What allowances are going to be there? Are we going to have a career path of weekly employment for hourly paid people? How many different sorts of disability payments are we going to be paying? - there are some seven now. Now, all of these need to be taken in because they're all-purpose payments, if you're going to equate people.

So, we say in terms of that, we were addressing those issues in as broad a term as possible, trying to focus the attention, trying to respond to the needs of working groups, but at the same time we have a fundamental belief structure is first, then money and translation. But not wanting to duck the issue or appear to be delaying it.

COMMISSIONER GOZZI: Well, it's all part and parcel of one exercise, isn't it?

MR HANLON: Well, yes, but if ...

COMMISSIONER GOZZI: I mean, we've had the second instalment adjustment. This case is now about completing the exercise

that we said was partly completed when we granted the second 3%. I mean, the end result of the exercise ought to be to bring all the outstanding issues that weren't able to be addressed in the second instalment proceedings to a satisfactory conclusion. That's the intent of the exercise that's before us.

MR HANLON: That's certainly the government's intention and I'm trying to endeavour this morning to show how that thing is being processed, what we are doing to respond to the needs of working groups and the sorts of issues that we are directing our attention to. Not because we want the Bench to express a view as to the attitude, but to show that these meetings are meaningful, work is done between meetings, papers are being put forward in the interests of advancing the process.

COMMISSIONER GOZZI: But it almost seems that there is a view that if you do one part of the exercise, that that then extinguishes everything else that's supposed to be done in the exercise.

Put another way, there seems to be the view that once you get the structures and the rates that that's the end of the road. That's clearly not what the Full Bench intended.

MR HANLON: We are saying that that's an element, we do not see it as the end-all of the element. It tends to be No. 1 on the union priority and maybe money is No. 10 on ours. The issue that we see is structures, functions, barriers to effective operation, all of those matters being addressed. The structures then are in line with the duty statements, then bring about a translation, bring about training, and there may or may not be increases for certain people whose, either job is changed, or the alignment of their classification may bring them the dollar one way or the other.

COMMISSIONER GOZZI: But isn't it a case of it doesn't matter where the priorities lie, who has what priority, at the end of the day all the priorities need to be addressed and brought forward as a package in settlement of what the structural efficiency principle is intended to do and what we said would need to be done as a consequence of us awarding this second instalment?

MR HANLON: Well, that's the way - in the government's view that is what we are doing and that is the objective we are pursuing. I just go back to the comments we made about the bereavement leave where changes were sought to that and we said 'Well, we are not extending it, but as part of the package at the end of the day, those matters will be addressed as part of the model conditions and the creation of standards across the service'.

PRESIDENT: Mr Pyrke, were you wishing to interpose there?

MR PYRKE: I - Mr President, yes, I've got some comments to make about what's just been said, but I'm in your hands now

PRESIDENT: Oh, well, if you're prepared to address them later they might well be left. Thank you.

MR HANLON: That brings me to the end of the review of the purpose for the official exercise, that is, a reporting back on the three items. We've reported on those matters which we believe were important, that a part of that process to provide the Bench with an overall view of the activities that the government is engaged in and that the sort of work individual groups are doing, and we would say to the Bench that given the facts that the government has put before you as to the process that the PNG has been engaged in, as against the insertions that have been made that there is nothing gone on, the people are frustrated and that there is no alternative to arbitration, we would say that progress is real, the government's bona fides are established very clearly by meeting the time lines, by continuing to process matters despite individual bans, despite people trying to frustrate the process for their particular sectional needs, we have kept clearly in sight the main objective and have worked towards that and given we are not here - the government's not here - to serve a particular union or particular group of unions or a particular occupational group, it is pursuing award restructuring 19 agencies involving 30-odd unions, and therefore there will be different perspectives in terms of what should be done first in what order, but taken the fact that the W.3 was imposed on the parties and the parties are bound by W.3 ...

COMMISSIONER GOZZI: W.2.

MR HANLON: W.2 - we believe that the government - sorry ...

COMMISSIONER GOZZI: It wasn't imposed.

PRESIDENT: Oh, yes, sorry, yes, I've got to object to the use of 'imposed', Mr Hanlon.

MR HANLON: Well, if I said then that the initial submission was found wanting and the parties were asked to address themselves and reached agreement which then found approval with the Bench, we believe that because that's the terms under which it is and one assesses our submission in terms of facts, and if the Commission is to form a judgment as to who has complied with the spirit and letter of W.2, then it could not form a judgment that approved the TTLC's position, and that is, their withdrawal should be given some form of blessing on

the assertions that have been put by the individual unions today as to progress.

We believe that the government has worked within the process. It has worked with goodwill and intent. It may have not worked in the direction individuals would have wished, but it has worked in the interests of all unions in the PNG process and all of the subgroups.

There have been suggestions of implications of stalling, or, I shouldn't say that, there are suggestions that the government strategy is to stall. The government having had a variety of propositions put to it has to look at the implications of all of those as they apply across agencies and, as the last exhibit shows, when one looks at little subgroups, whether they be custodial, metro, metals or blue collar, when one analyses that across 19 agencies, then if the examination of that takes time and that be viewed as stalling then that stalling process is initiated by individual groups submitting applications which then need to be assessed because of their wider ramifications.

And if we're guilty of that form of stalling, then that is only responsibility and we believe that many of the delays are not of our making. Each individual is free to either attend or not and one has to proceed with who's there or endeavour to proceed if somebody wishes to frustrate the meaning. It isn't easy. We do not say our performance is perfect. What we say is, our performance has met the criteria, we've directed the resources to it and it is for those reasons, that in terms of W.2, there can be no approval of a withdrawal of a process which has not changed, where the implications were known to the parties, where the parties knew that there may be delays, that there may be adjustments to the process and there would need to be review of progress from time to time. There is nothing been put to you that is of a factual nature that suggests that the government has done other than met its side of the bargain.

And it can't be stressed that the government gave its 3% on trust. The only trust required of the union movement was to participate in the process and meet the agreed objectives. If the government's trust is to be challenged as untrustworthy, then the real test of whether we're untrustworthy is if we recall the 3%. There are two sides to every agreement. There's the money side and then the terms of it. And the submissions that have been put to you today are to say, 'Well, look, we're frustrated. The impact of the 3% has worn off. We now want to go and do our own thing.'

If the process is to have any momentum at all it's certainly not going to have a momentum by 34 unions knocking on the government's door saying, 'Can we have a date for a meeting?'. And then we being allowed to choose who we are going to see,

in what order and how frequently. Now, if that's a recipe for progress, if we wish to stall, we should grab it with open arms.

The other questions that were raised by the Bench arising out of the last hearing was in terms of special cases. The government's position with regard to special cases remains. If a union wishes to pursue it then it pursues it and all other negotiations on that matter stop. We have not caused a delay in any special cases. We've not sought to impede the Commission. What we have said is, 'If you proceed we wish to know about which classifications, which areas you wish to visit, what officers you want to interview so that we're in a position to have the appropriate persons present, we are in a position to brief people about what the purpose of it is, what we're being asked to address'. They are not formalities, they are merely good manners and they're essential if the matter is to be processed.

We already have an application for processing the Welfare Workers Award and it is the wish of the government - and there isn't any different view between the government and its agencies - that if that matter proceeds we would want to know what was being looked at. There are some large number of people covered by that award. We are also looking at matters which go to confidentiality. We also go to areas which we are required to know what it is that's going to be looked at, where and when and the department is in a position to say, 'This date is appropriate'. It isn't appropriate to say that we've got a date and we're going. We're entitled to have some influence and be in a position to know what it is we're addressing.

COMMISSIONER GOZZI: Mr Hanlon, on that point, I can't let that go without replying. That is a matter that is before me, the welfare workers special case, and on a number of occasions I have adjourned the requested inspections on the basis that there was some mix-up or misunderstanding between the parties as to where the Commission should go for inspections.

I've indicated to the association that it is their responsibility to liaise with the employer, devise an inspection program, nominate some dates and convey that information to the Commission, and the Commission would then respond as to its availability. Under no circumstances did the Commission embark on any inspections without the employer being given the opportunity to be involved. And, indeed, the latest communication to me from the association, prior to Christmas, was that the employer had agreed to certain inspections being undertaken and, as far as I'm aware, the inspections in respect to welfare workers will take place on 26 February on an agreed basis between the association and the

employer. And that's the information as I have it and how it has been related to me.

MR HANLON: Just before I respond to that, Mr Commissioner. Just so there's no doubt about who the employer is, the employer is the Minister administering the State Service. And that is the person who we expect to be advised. Now, I've made that point privately and publicly on a number of occasions.

COMMISSIONER GOZZI: Well, that's not my concern.

MR HANLON: I understand that, Mr Commissioner, my comments are not directed to you. I'm asking my comments in terms of special cases and approach. There can be no criticism attached to the government about delays in special cases.

COMMISSIONER GOZZI: Well, just let me take it further on the welfare workers. Not only is it a matter for the association and the employer, in proceedings before me the minister was appropriately represented by an officer of the Office of Industrial Relations, he was made aware of the intention of the Commission to proceed on inspections - that was early in the piece - and as a matter of course the Commission, as constituted, in those proceedings have said - has said that the appropriate consultation ought to take place with the employer in respect of arranging where those inspections are to take place.

And as I - and I repeat again, as far as I'm concerned as a commissioner dealing with that matter, and survey officers, those procedures and those steps have been appropriately and correctly taken. Now, if they haven't been correctly taken, then that's a matter that I need to be appraised of, because I, and I am sure my colleagues, have no wish to go on an inspection program where the inspections have not been agreed.

Fundamental to inspections are that they be first agreed. And I have been advised, I repeat again, on respect of survey officers and welfare workers that the inspection program has been agreed.

MR HANLON: I'm making my comments here today because we will be taking the necessary steps, should special cases continue, because I have spoken to officers of organisations and said, 'This is what we expect', to no avail.

I'm just making the point to the Bench about the special cases in the context of the question, that's how we see them proceeding under the present rules. And then under the ...

COMMISSIONER GOZZI: Well look, I'm sorry to interrupt, but I can tell you I'm going to be less than impressed in arriving somewhere that's been targeted for inspections to find that

the department, whoever is there, is not going to cooperate. I mean, I've got better things to do than that, quite frankly.

I have been informed by the applicant that the appropriate arrangements have been made. Now, I am prepared to accept that and if there's a problem, well, somebody better tell me about it - in those particular proceedings.

MR HANLON: We will take the necessary steps, Mr Commissioner, to appraise the Commission when special cases are notified to us, dates are set, that if we are not satisfied with that process of consultation we will be before the Commission ...

COMMISSIONER GOZZI: Yes, perhaps ...

MR HANLON: ... prior to those inspections.

COMMISSIONER GOZZI: But you would understand in respect to the inspections, Mr Hanlon, that the Commission does not notify parties as to dates. The inspections are arranged between the parties and the Commission is requested to attend, and it does attend it on the basis of that approach.

MR HANLON: And I accept ...

COMMISSIONER GOZZI: There are no notices sent out to parties. So if you want to have a hearing in respect to welfare workers, it's not much good talking about it here. If you have a problem with that, you'd better ask me to convene the hearing and I'll do that.

MR HANLON: Well, rather than us discussing the matter now, I'm just really saying what we do and what our attitude is being ...

COMMISSIONER GOZZI: Well ...

MR HANLON: ... not just to welfare workers, to people generally. And ...

COMMISSIONER GOZZI: You mentioned the welfare workers ...

MR HANLON: Well, simply because ...

COMMISSIONER GOZZI: ... and I'm just letting you know that as the principal advocate here today what my situation is in respect to those proceedings.

And as I say, you know, I'm going to be less than impressed to be there for somebody to say, 'Look, we haven't been told'.

MR HANLON: Well, it isn't just a question of being told, Mr Commissioner, it's also having an influence over the date and what's to be looked at.

COMMISSIONER GOZZI: I've no problem ...

MR HANLON: And if you don't know what's to be looked at and the date is already set and you cannot dissuade people that it is the wrong way to do it, then we will take the appropriate steps.

I'm guided by what you've said. We certainly would not want you to attend somewhere and not be represented.

In regard to the question of the President on the special cases, it really isn't up to the government to sort of say how unions should process their special cases. But we certainly see there are difficulties in processing them other than by - in groups. I mean, our preference is for dealing with them after structures. If that's not to take place then they will be confined to the existing awards. We would say that a logical process is to deal with operational ones as a group, technical, professional and teaching.

And there's a logic to similar groups being dealt with together. The worst scenario is the process that's being suggested now; that any individual organisation can proceed at any time, irrespective of the fact that it doesn't have the cooperation of the unions.

And health is a good example of that. We have keyboard and office assistants, which is both the HEF and the TPSA. We have the Hospital Employees (Public Hospitals) Award, and there's a variety of claims in there which go to - and the respondents are the ETU, HEF and TPSA.

We've got welfare workers which are both HEF and TPSA.

MR VINES: No, it's not, it's only PSA.

MR HANLON: Hospital scientists, HEF under appeal as a party.

The medical practitioners, which is the TSMPS and the TPSA. And the TSMPS have a proposal that is currently before the Commission.

The three that I believe the TPSA are the parties to are the pharmacists, the psychologists and the scientific officers, and we've already had some proceedings with the school dental therapists which have gone no further and neither have been reported to the PNG. There are some 10 awards. Four unions have an interest, one union says arbitration, the TTLC resolution says each organisation can do its own thing and we do not - and whether they've set out the case that they're

pursuing to other organisations, we do not have the specifics from a number of those cases other than in the very broadest terms.

Now, if we cannot get a single view from the union movement in these proceedings, I can not see what's going to change by expecting organisations then to agree how they're going to process a claim which may have different priorities, different outcomes and therefore the real issue about special cases should be directed to unions, but certainly a single bench approach divided amongst a variety of commissioners would not appear to be, from the government's point of view, an orderly process.

We would prefer the Full Bench to review its original decision. My recollection of the original thinking when these cases were taken, as special cases, they were going to be dealt with. I understand it was open to the Commission then to determine how they wanted to process it. We believe that should be reviewed. The Full Bench process is the most effective way and to do it by having similar groups together.

But other than that, it's really a union matter because it's their process and we don't wish to be accused of in some way trying to derail whichever process and whichever union thinks how it ought to be dealt with.

But we have had a number of views from the medical practitioners through to the engineers about how they want them processed - all of them different - and to please one is to upset the others.

COMMISSIONER WATLING: So which ones would you think would fit into operational services grouping then?

MR HANLON: I'm sorry, Commissioner?

COMMISSIONER WATLING: Which special cases application do you see fitting into the operational services grouping?

MR HANLON: There's a variety in health that go to trades, laundry aides. On page 17 there is a list of them there under hospital employees. There are persons - or there may be persons who - I think in general terms that's the general group.

COMMISSIONER WATLING: Right, what about - well, we've got keyboard, so that stays alone, doesn't it?

MR HANLON: Yes.

COMMISSIONER WATLING: What do you see fitting in the technical grouping?

MR HANLON: Well, you have the - some parts of surveyors, it's either surveyors or survey officers - persons other than professionals in those groups.

COMMISSIONER WATLING: Drafting officers?

MR HANLON: Sorry?

COMMISSIONER WATLING: Drafting officers?

MR HANLON: Yes.

COMMISSIONER WATLING: Dental therapists?

MR HANLON: I think I should take advice on that. I'm not - I mean, I have no idea how trades instructors are currently classified that's the detail to which I'm not briefed. Other than that, we would want them divided. If the Bench finds that that's the way to go, the government would have a submission as to which ones it thought fell into what group.

COMMISSIONER WATLING: Right, so you're just expressing a view as to the principle as opposed to which one should be included in any of the groups ...

MR HANLON: Yes.

COMMISSIONER WATLING: ... if we were to look at them in bulk.

MR HANLON: Yes.

COMMISSIONER WATLING: Right.

MR HANLON: That completes the government's submission.

PRESIDENT: Yes, thank you, Mr Hanlon. Mr O'Brien.

MR O'BRIEN: If the Commission pleases, sir, I think I need to address the question of my second exhibit because Mr Hanlon interpreted that as being a revelation of the material facts of negotiation, when in fact it was an agreed process as part of the negotiation that I was seeking to draw the attention of the Commission and not, as Mr Hanlon has done, sought to present full minutes of the negotiations which may tend to reveal substantial matters which were part of negotiation.

I sought to draw to the attention of the Commission some of the justification for our concern by virtue of reference to a part of the process, Mr Hanlon has, in his Exhibit H.3, tendered three sets of minutes.

Now, according to the minutes that I have, Mr Hanlon first became involved in the peak negotiating group at its meeting

on 19 November, and he submitted minutes from 2 November meeting and 19 November meeting, but I just wanted to go to, firstly, the minutes of 12 October to which that procedural attachment was appended, to indicate that the question of the ...

COMMISSIONER WATLING: Exhibit H.3, is it?

MR O'BRIEN: Yes, I am sorry. Yes, Exhibit H.3.

The question of delay was attended to by virtue of that process, and the attachment which was agreed set up a strategy for overcoming any perceived problems with delay.

Now, two subsequent sets of minutes - and I don't propose to table them - but I will read from them, and Mr Hanlon can tell you if I quote them inaccurately.

On 2 November on the third page under the heading 'Other Business' the minutes read:

It was the unions' view that the timetable was not adhered to going to mid-December for the various groups, whereas mid-November was the original target date.

The government's representatives view was that a review was undertaken as promised with valuable information being gained from the agencies.

And the process was to test the structure, and this has not yet happened at the working group level.

It was agreed the working group report back on 19 November.

Now, that's all the minutes say, but it is clear from that that the unions were expressing a concern at the next PNG meeting that the process agreed at the previous meeting had not been adhered to.

And then on 19 November in the minutes under 'Other Business' on the fourth page there's a line which says:

Mr O'Brien presented a paper (attached to Minutes) expressing public service unions' frustration re process.

And there is attached to it a resolution on Labor Council letterhead which takes the full page, which reads:

That this meeting of public sector unions expresses its extreme concern at the lack of progress achieved so far in the negotiations with the State

Government on award restructuring. The frustration expressed at this meeting is merely reflecting the frustration and impatience building up amongst the public sector work force.

Problems still exist with a lack of coordination and uniformity on the government's side.

The target date set by agreement between public sector unions and the government have not been met. Therefore this meeting demands that the government must immediately demonstrate its stated commitment to award restructuring, instruct its officers to make immediate genuine progress at negotiations, and instruct all agency heads that the government position is centrally determined and must be adhered to.

And then it goes on to specifically refer to a claim on base grade tradespersons rate, and negotiation on classification structures proposed by calling on the government to negotiate on classification structures proposed by unions in the public sector.

So I think what I was trying to demonstrate this morning was that there was a process which had been agreed to, and it had not been adhered to. But I think if we had seen a full set of the minutes produced, then it would have been clear and on the record.

So I say that, firstly, I wasn't seeking to produce the substance of any negotiations, but rather the process that had been agreed to as part of that process, and whilst I don't have any problem with production of the minutes of the peak negotiating group, it wasn't my intention to refer to them as directly as they have been referred to.

In relation to Exhibit H.3, just going to that point, again ...

PRESIDENT: Which exhibit?

MR O'BRIEN: Yes, Exhibit H.3.

PRESIDENT: Of H.3.

MR O'BRIEN: H.3, and the minutes of the peak negotiating group of 18 December. On page 2 Mr Hanlon has referred to me saying that there was a more pressing issue that the unions wished to address now before they could continue to discuss percentages, and then it goes on to read in reference to what I said:

He referred to the timetable, and processes for working groups agreed to on 12 October 1990.

Their position was that the union proposition was to be considered and agreement or disagreement was to be decided.

I think that's supposed to mean that the processes envisaged in the attachment to the minutes of 12 October.

Mr O'Brien indicated that affiliates presented [resented, I think it should be] the situation that Health and Operational Services [it should read] were the only groups to come up with something, and other groups had not complied with the timetable.

Some affiliate unions were not happy to continue. He claimed there had been no progress with the technical, clerical, and professional streams, and sought the government's response to claims for new structures.

And then there is a response, but in substance there was no progress, and I think it is fair to say that what the government was saying at that time was they would be looking to respond in some form in January.

So I understand that there has been some response from what Mr Hanlon has said on some of those points, and that there is still - there remains on the part of affiliates in those areas, dissatisfaction.

But there are other issues that arise which haven't been addressed in the process and, for example, in H.2, which is Mr - sorry, which is the government's proposal to revise the process in W.2, there's been no attempt to address the fact that the operational services area doesn't get a working group.

I'm not sure why, but I just wanted to make the point that if H.2 is supposed to be the new solution it's omitted a very significant part of the government's work force in terms of having a proposal worked out.

Now, we did think that we'd made some progress in relation to operational services, as you will have seen from my reference to the minutes of 18 December peak negotiating group meeting, and yet in H.2 it - that working group disappeared, so is it any wonder that the unions are thinking that we're going backwards in changing the process that we may be losing even that little which we have gained.

Now, I can't comment on a number of suggestions as to whether individual organisations were invited to and ignored meetings, or what happened at meetings that only one side attended to. I think in the long run the position that this Commission has to look at is that what the - what's a reasonable position for the two sides in the equation to take up at this point in time.

Now, we believe that we've taken a reasonable position in relation to the process envisaged under W.2, given the fact that I guess it's taken apparently 6 months for the government to make any progress at all on a response, let alone coming to any final understanding on the critical issues of career structures which, after all, given the resources of the government, they being more than the unions ought to have been able to be addressed much sooner.

Now, with respect to Mr Hanlon's position, I note from the minutes that he didn't become involved in the process until late November, and perhaps he has played a positive role in that regard and has been given the unenviable task of defending the indefensible, and he's done a reasonable job about that, I might say, but the facts of the matter are that there's been no real response in the - affecting the bulk of employees for over 6 months and only after the unions had expressed on a number of occasions complete dissatisfaction of the process, we'd had public sector union meetings, had carried resolutions and had taken them to the peak negotiating group and still got no response until some time off into January.

Now, is there anyone who can say that we weren't entitled to be completely dissatisfied with the process in those circumstances? Yes, we are frustrated as Mr Hanlon has put it. Yes, and understandably so, in my submission.

As to the question of the effect the claims in terms of money amounts, the document which outlines the alleged effects in money amounts was presented on 18 December (and I'm trying to put my hands on it for the moment. Here it is, on the top.) It's page 9. We have not examined that document in great detail but I would indicate that if those lines that have been drawn on the document by Mr Hanlon are a guide to comparability of classifications, we're looking at rates which are somewhat comparable with those which have been approved by the Federal Commission for the Hydro Electric Commission in an exercise that's been given great publicity as one of the structural efficiency exercises to be used as a guide for other employers and employee organisations.

If that is a guide to the relativities then perhaps there's nothing wrong with what might in some cases be ambit claims.

But a document like that doesn't tell us much other than the government's assessing its numbers as it properly should. If the government is going to be faced with reasonable claims which will lead to increases in some areas as a result of new career structures, and the Commission is convinced that that is the appropriate structure by the processes that are laid down under the guidelines, then so be it. The trade union movement is not walking away from saying this exercise is an exercise in paperwork because if we are going to set up appropriate career structures then there may well be changes in relativities and changes in rates of pay in some areas, and that we certainly would not be expecting an affiliate to be drawing its claims on the basis of seeking not to offend the government budgetary concerns, when on the other hand there was justification, having regard in other areas to a rate appropriate to that work which was above that which was now being paid.

And that seems to me to be something that is clearly envisaged within the principles, and it's been addressed in a number of other areas.

COMMISSIONER WATLING: Should you be looking at the structure first or - and then putting money to it or should you be finding the money and then building everything around the money?

MR O'BRIEN: Well, I guess it's best, in our view, to do them together from this point of view. On the one hand we're looking at existing structures so it's unreal to be saying, well, we'll just fix some structure which has no regard to what applies at present, which may have great effects upwards or downwards without regard to the present situation, and the financial situation of the government would have to be addressed, having regard to the impact of any structure. So whatever they're looking at, ultimately they'd be looking at - if we looked at a structure with no rates - fixing rates that fitted the current structure and we probably would be looking at some other factor being realistic.

So if we looked at them all together, then those issues have to be addressed and don't lie behind the debate, as it were, in terms of what people are prepared to agree to, because they're frightened that by agreeing to an appropriate relativity if they end up with the wrong one hundred per cent figure they might end up with more than they bargained for.

COMMISSIONER WATLING: Right. So it's your - it's the TTLC's preferred position that when looking at classification structures, simultaneously they should be looking at the rates as well.

MR O'BRIEN: Well, I think that it is desirable to do that. There are circumstances where you can agree on benchmarks and

then work around them. But you wouldn't - in other words, you don't have to look at every single rate.

But if you've got some benchmarks agreed then everyone knows, for example, if everyone knows what one hundred per cent is and that's going to be used as a benchmark in every area which is, you know, I guess a hypothetical point, then you can work on structures around that and everyone will know what everyone means.

COMMISSIONER GOZZI: What would be wrong with looking at structures and rates together in the context of the existing top rate in the award as being the ceiling and the existing bottom rate, if it was an appropriate entry point, being at the bottom of the structure and the broadbanding taking into account the multiskilling aspects that would need to be developed over a period time?

MR O'BRIEN: Wouldn't it depend on the award and what sort of structure you were putting in place in that award?

It's possible that that might be a useful guide, but I can think of awards that are putting in structures that talk about broadbanding and multiskilling which, if proper work-value considerations are going to be addressed, will not fall within that pattern. They will, of necessity, lead to a scale which goes beyond that - above and below.

COMMISSIONER GOZZI: Yes. Yes, look, I understand that and the reason I raise it is because obviously the concern from the government is that this exercise, in the context of structures and rates, is nothing more than a claim for an increase in rates of pay. I can understand that concern.

And I think somewhere along the line there needs to be recognition of that concern that - in this way: that you have a starting off point of rates that are already there. And, say, let's take the clerical stream, you get a stream in the clerical area of how many classification levels, say, for argument's sake, eight, and that entails broadbanding. But your top and your bottom is set. And the structure is a translation from that broadbanding.

It's quite a different matter, in my view, once you start establishing relativities, because relativities also comprehends in the public sector such things as SIPS, particularly, and what those levels ought to be.

I get back to the point I made earlier that the Commission has already endorsed the second 3%. Ostensibly, what we're looking at now is to structure of the awards and put in place these other structural efficiency measures. Now, I don't see that necessarily resulting in a claim or structures put

forward by the union which, in effect, provide increases in the order of 17, 20 or whatever per cent.

I mean, what's the rationale for that? We're not dealing with that aspect. We're not considering that sort of thing, that's all behind us. We've dealt with structural efficiency. This is a carry on, a tidy-up of what wasn't done back in August last year.

MR O'BRIEN: Well, I don't know whether there are claims which ...

COMMISSIONER GOZZI: Well ...

MR O'BRIEN: ... involve that magnitude ...

COMMISSIONER GOZZI: Well, I'm talking about the police, perhaps ...

MR O'BRIEN: ... because I haven't looked at every claim. But ...

COMMISSIONER GOZZI: ... particularly to be up-front with it.

MR O'BRIEN: Yes. And I haven't seen the police's claim and ...

COMMISSIONER GOZZI: Well, I'll just

MR O'BRIEN: ... perhaps I'm like a lot of other people here.

COMMISSIONER GOZZI: I just tell you what I read in the paper.

MR O'BRIEN: Yes. I think that there may be other issues involved in that, but I really don't know.

COMMISSIONER GOZZI: Yes.

MR O'BRIEN: And far be it for me to comment. But, on the other hand, there are awards in my knowledge that have led to certain groups of people being involved in classification - well, effective reclassification under this process, because with a career structure ...

COMMISSIONER GOZZI: Yes.

MR O'BRIEN: ... and the ability to move some people's flexibility has not being properly recognised by the inflexible structures that have existed in awards.

I don't know whether - what proportion of people that will affect.

There's also the question - questions which should be addressed as to consistency between different awards applying to this sector. And those are issues that have got to be properly debated in the appropriate forum, be it in negotiations and ultimately before the Commission or just simply before the Commission.

And whether they're addressed in special cases as now before the Commission or in some other forum, is another question. But I don't really think it is as simple as setting up these sets of parameters for each set of negotiations when we've really been trying to go beyond the award structures in negotiations to set up real career structures And to limit it by award, for example, would be to artificially restrict that process.

COMMISSIONER GOZZI: Yes, I suppose it's a question of starting points because if you're going to start on the basis of the tradesman's rate being one hundred per cent and then building your relativities, then obviously you're going to finish up with outcomes such as in Exhibit H.9.

MR O'BRIEN: Yes, well, that may well be the case but on the other hand perhaps some of those rates are justified if that were, indeed, to be the wash up, bearing in mind that the HEC Award is an award that applies only in this state and is a paid rates award and we'd be looking at paid rates awards in other areas. The metal industry structure is a minimum rates award.

And if those lines are any proper guide, if you look at the HEC group salary 34, it is less than the TTLC claim. And I haven't done the homework on this document to say other than on the face of it there's some similarity there which might indicate a justification which requires testing.

COMMISSIONER GOZZI: Yes, I'm just concerned to so early - the exercise is a continuation, if you like, of what was before us in August and ought to come together as a package and not necessarily look at structures beyond the parameters of what is currently available. But to streamline those structures and to reduce the number of awards and bring them within the structures that may be either agreed or determined by this Commission as a first step maybe.

MR O'BRIEN: Well, I guess when we started out in August we all had ideas of where we would head with it. And I think we are at the point we are now because we've been prompting that process so that we would know, since 12 October and trying to put into place a strategy for having a response so we would know by the end of November, really, that's what we were aiming at then, where we stood. And then we would have been able to come to this Commission within the deadlines that we

promised with some sort of clear reporting process as to where we were, where we had agreement, disagreement, to seek the assistance of the Commission.

It's really been a drawn-out process which has prompted some responses very late in the piece by the government after we had really been indicating, look, a lot of people are so dissatisfied that they don't want to be in your process as it is any more. And, that's the real problem that we faced.

COMMISSIONER GOZZI: Thank you.

MR O'BRIEN: So, if the Commission pleases, I don't seek to propose any more than I proposed earlier. The position of the TTLC is clear. We think that there is justification for the dissatisfaction, notwithstanding the comments made by Mr Hanlon. And we would be very reluctant to be involved in the process proposed in Exhibit H.2 because of those concerns and also, perhaps, because of the concern that I've referred to where part of the process appears to drop out of sight.

PRESIDENT: Ms Moncrieff?

MS MONCRIEFF: Yes, Mr President. I've waited a long time to say relatively few words. Mr Willingham beat me to my feet earlier.

Sir, for the FEDFA and BWIU, I have come here today on the understanding that the TPSA was intending to proceed to ask the Full Bench to arbitrate in its structural efficiency proceedings. It is not our intention to, in any way, frustrate the TPSA's intentions. However, we want to place on record that we would have concern if any of the issues that they wish to arbitrate touched on areas in which both unions were negotiating with the government.

It is our intention to continue with negotiations, in what form I'm not quite sure. We do support the TTLC position, the resolution. And it was with some interest, almost misgiving, that I heard from Mr Vines that there is a hospitals award or a hospitals concept that's been looked at which would be proceeded with, they hope, with the TPSA and the HEF. And, of course, it crossed my mind that within the hospitals there are my boiler attendants and I have not been involved in those negotiations, know nothing of them and have had no invitation from the government to join in those negotiations.

So I merely place that on record as being perhaps a more immediate concern, and to place for the BWIEU and FEDFA those concerns. If it please the Commission.

PRESIDENT: Yes. Thank you. I take it you'll endeavour to make the appropriate contact with the various organisations to put your point of view?

MS MONCRIEFF: Yes, we shall, sir. Yes.

COMMISSIONER WATLING: Is the FEDFA and the BWIEU parties to the Hospitals Award?

MS MONCRIEFF: No, sir. The FEDFA has - I only raised that one. We have our own discrete award, which is the Boiler Attendants Award but of course they operate well in the present system and the hospitals, and if there were to be a hospital award it would occur to me that all the services within that hospital would be included in any award structure that was considered. I'm quite comfortable if they are not.

COMMISSIONER WATLING: Yes. Right. Is the FEDFA a part of a separate subgroup of the operational services group?

MS MONCRIEFF: Yes, sir. We have members in the Department of Construction. Our awards are in another jurisdiction, and we do have submissions that we've placed.

MR: That's a subgroup in itself.

MS MONCRIEFF: Oh, the subgrouping. Well, that was a subgrouping that was drawn up by the TTLC, I understand, and we have gone into discussions on a subcommittee with - I am not quite sure what it was called at the time - operational services?

COMMISSIONER WATLING: That's it. It's a subgroup ...

MS MONCRIEFF: A representative from the hospital turned up at that, or some representative from the government. I questioned why he was there.

COMMISSIONER WATLING: Mr Jarman ... Well, if you look at the group, you're on it for starters, and Ms A. Hawkes, Jarman, Hughes, Wilson, and Olsen.

MS MONCRIEFF: Mm.

COMMISSIONER WATLING: Right.

PRESIDENT: You'll make the appropriate representations to the ...

MS MONCRIEFF: We shall. We are in the process of that.

PRESIDENT: ... hospitals and operational services groups?

MS MONCRIEFF: Yes, Mr President. Thank you.

PRESIDENT: Yes. Thank you. Mr Vines?

MR VINES: Thank you, Mr President. Just in relation to the FEDFA and BWIEU submission. I don't think that they are missing out on anything, it is just that nothing more has happened than what they have been involved in, to this extent, that I will talk with them because I don't think that they have any reason to fear any of the actions that are being taken.

Sir, also I apologise for my late attendance this afternoon, sir. My petrol gauge must be faulty, it was showing empty, but it was really empty. So ...

PRESIDENT: There must be a lesson there somewhere.

MR VINES: I think there is, sir, yes.

Firstly, Mr President, there is obviously a few issues that have been raised late this morning and this afternoon which we would want to respond to, and I would start with Mr Willingham's submission and, indeed, I do welcome his appearance back here because as always it puts some spice back into things but, unfortunately, on this occasion he has been further off the mark than on usual occasions.

This suggestion that our priority - not only ours but other unions' priority in the whole award restructuring process - is to get a quick dollar increase and big dollar increase, is totally and absolute nonsense.

I can say that without any hesitation whatsoever as far as the PSA is concerned.

The Commission and, indeed, Mr Willingham only have to look at the media reports that we have put out, the media that we have been quoted in, the reports that we have given to this Commission, the reports that we have given to our members, and they will see that right through this process we have indicated that as far as we're concerned the priority is to get new structures up and running.

Preferably agreed, but to get new structures up and running, and that any changes in salaries from our point of view are further down the track, and any changes in salaries for individuals we would see as being phased in and, indeed, I notice that in the peak negotiating group minutes recorded in H.3 of 18 December at page 4 that is, in fact, indicated where it says:

Following further discussions Mr Vines said it was not his union's intention to get a rapid increase for members but the new structures would require a phasing in period. There was a need for an agreement on structures.

And we have maintained that all along. Our objective is to fix up our awards, to fix up the classification structures, and then look at dollars in translation further down the track.

COMMISSIONER WATLING: He probably took that from your conversion of the Clerical Employees Award and the Technical Employees to a special case status from your newsletter.

MR VINES: The only thing I can give for that - I must admit, sir, I hadn't picked it up - it was my birthday, I wasn't away on leave, I was at a conference in Sydney, and that was written on a plane and faxed through, and it has obviously been disrupted along the way through.

I think the Commission is well and truly aware there aren't special cases in for clerical officers or technical officers - for those awards, I will say. There are for people who would call themselves clerical officers and technical officers, but not for those specific awards.

The whole issue as far as we're concerned isn't, to use his words, 'a contrived way of achieving more dollars now'. As I say, our claim is legitimate, and we have been stating that for the last 18 months with it.

The productivity improvements that will come out of our structure, again, are what we have been pushing for the last 18 months, but it is the government continually who has refused to give any recognition whatsoever to that as a principal part of our argument.

We see that there will be massive long-term productivity and efficiency improvements in the service as a result of our proposals that will come from having a far more highly skilled work force and, most particularly, a work force that is much more flexible in the way that it can be managed. We're talking about getting rid of the very rigid position descriptions that apply, the very rigid slots that people are put into. If you're paid at a level you can be required to do the full range of duties within that level. And that's the basis of what we're trying to achieve and we would maintain that in the long term there will be significant cost savings for the government and, indeed, there will be many indirect savings as a result of what we hope will be much greater employee satisfaction and the resultant benefits that that has.

Going through some of Mr Hanlon's submissions, despite what he said, I think Mr Willingham does have talents that are in excess of being limited to being a party on one of the sub groups, but I'll leave that one for another time. The various reports that he gave on progress that had been made in the

various areas, whilst he was able to go into an elaborate definition of what the Department of Premier and Cabinet has been doing, there are no equivalent results being shown in any of these meetings that we've been attending.

As I indicated earlier, the responses that we've had in the clerical, technical and professional areas have been totally unsatisfactory. We are yet to receive a response in relation to the operational services or general officers area. Indeed, the Commission may recall that almost 12 months ago when this whole process started, I too got up and went through the 72-odd meetings that my staff had been involved in on award restructuring leading up to the hearing on the 3%. And at that stage we were saying it was us who was doing all the work and the government was not progressing anywhere.

A perfect example of that is, indeed, the training paper that was put up and it wasn't quite claimed to be a government paper but it was almost there. The facts are that paper was jointly prepared by two of my staff and two staff of government departments. It is a joint paper prepared by those departments and the PSA, the people who are represented on that working group. It is fully endorsed.

MR HANLON: Mr President, I don't really mind that I'm misunderstood but Mr Vines was not here when I introduced the paper and I did introduce the paper correctly, naming the people who were on it.

MR VINES: The paper and everything in it has been fully endorsed by the PSA. From what we understand, it was submitted to the peak negotiating group but it has gone nowhere since that time. Now, that cannot be a fault of the unions; it has gone into some black hole and we haven't seen or heard from it since then.

In relation to some questions that arose on the action plan that's incorporated in that training paper, that action plan was based on the structures having been finalised by the end of last year, and I think that is quite clear from the reading of that paper.

Also, in relation to this general officers group that I had to intervene with before - and this is where the misinformation does get around - there is a note halfway through our file here where my staff were advised who the government representatives would be on that body. There was Tony Direen from Education and the Arts, there was Alison Hawkes from Department of Construction (although we've got a note here that she doesn't want to participate), Richard Hughes from the Department of Health, no-one from DASCA, Michele Moseley from DPI, Steve Hodgson from DCS, Trevor Quillam from Justice and John McCabe from DEIRT. And they were the people who had been invited to attend those meetings on two occasions. The first

there were no apologies and no-one turned up. The second time there were some apologies but still nobody else turned up and so that meeting went ahead. To suggest that it was us being smart or anything else is just purely ridiculous. My staff came to me after that again complaining that they were getting nowhere. So I said, 'Well, whatever you decided put it in as the minutes'. And that is precisely what they have done.

In relation to the Exhibit H.9 that was put up on the costs - and I'll say the tabling of all of these documents has given me a very new understanding of what the words 'without prejudice' mean, documents that have put around in negotiations. I will say that there's a pile of them on my desk relating to some interesting things which I will also now make public documents. But, anyway, the one on H.9 on the costing ...

PRESIDENT: But if somebody objects you might be in trouble.

MR VINES: Well, it was hardly worth objecting. I don't think ...

PRESIDENT: Well, if it's not worth objecting you probably won't need to worry about it next time.

MR VINES: Maybe not. The costing on the award restructuring claims, my understanding was when this was discussed very briefly, both within the forum of the peak negotiating group and amongst individual members of that group, that it was acknowledged that this document was a little bit over the top. For example, in clause 1, the cost of \$15 million for our claim I think was recognised that there was quite a bit of leeway shown by the people who had developed those costs. And I think from memory, the sort of thing that the leeway was that you assumed everybody was on the bottom and would move to the top and that's what the cost would be.

The costs associated with the clerical and administrative area, in our submission, would be nowhere near that. They are going to be costs, if there are any excessive costs, which would be phased in over time and they would be costs that would be incurred as people are doing extra work.

We are not saying somebody goes on to a new level and still does their old job. They go on to a new level when they're doing the new job, when their job has been redesigned. And if that's the rate for the work, well, obviously they're entitled to get paid that.

But to suggest that we're talking about \$10 million in the first year is just pure nonsense and I think, you know, there would be people in the Department of Premier and Cabinet who would back me up on that. I know they do privately.

In relation to the General Officers Award, in items 2 and 3, I didn't know that we had a 10% claim in. If that's the easiest way to do it, I'm more than happy to put a 10% claim in and argue that. So I've got no idea whatsoever where that one had come from.

The engineers: it's not appropriate for me to comment on that, but apart from at the end of that section where it's talking about the fact that we're seeking a 21% increase, I think, for our members or for professional people generally. I mean, it's just sheer nonsense.

Moving on to librarians, that precise question was discussed at some length and, indeed, it was part of the decision in the librarians case last year or the year before, that the increases given to librarians were based wholly and solely on work value; that they would be reconsidered as part of award restructuring, or at least if the award restructuring issues had not been taken into account in that case. And that actually appears in the decision.

And, similarly, down at point 13. They are just figures plucked out of the air - the 31% increases and 10.5% increases. There is no claim in for those sorts of increases whatsoever.

Also, relating back to the relativities question, we've made it clear through the peak negotiating group that our award restructuring proposals are not based on tradesman's relativities or on relativities with any other groups.

Mr Hanlon was picked up in his suggestion that W.2 was imposed on the government by two members of the Bench. But I would suggest that maybe he actually said what their view is. If the Commission recalls, W.2 came about after a very strong direction from the Commission, which was welcomed by the PSA, indeed sought by the PSA, to come to the party and do something constructive on award restructuring.

I believe that the government do feel as though W.2 is imposed on them and it is for that reason that they are now taking the - or they have been taking the attitude that they've demonstrated the whole way through this process, that they're not committed to it. They're not committed to W.2. And I don't believe they're committed to proper improvements in the State Service. It's just pure slashing with the knife here, there and everywhere else, and there is nothing in their plans that are going to deliver improvements in productivity or efficiencies throughout the State Service.

The - I could only ...

COMMISSIONER WATLING: W.2 was actually in response to V.4.

MR VINES: That's correct, sir. When they couldn't agree to V.4 and the Commission gave them a direction to get their act together, and W.2 came as a result.

The suggestion that Mr Hanlon made that the - and I think this is what he said, but words to the effect that in his view they weren't looking at sectional interest because the peak negotiating group had worked in the interest of all unions. Had Mr Hanlon or any members of the Commission been at the Trades and Labor Council last week, at the special meeting of public sector unions, I think that it would have spoken for itself, as indeed as the resolution that Mr O'Brien tendered earlier on.

And finally, in that part of his submission the threat that I do take extremely seriously in relation to withdrawal of the 3% that was awarded to members last year, if that's the sort of threats the government want to make we'll make threats back to them, and we will carry our threats out. I think it's just nonsense to bring that sort of threat into these proceedings.

I hope it's not a serious threat, but obviously if it is a serious threat I can quite clearly say back to the government that we would respond with the full force of our union. And I would very much imagine we would have quite a few behind us.

The question of special cases: the process for hearing of special cases was not just a procedure that was suggested by the Commission back in August last year. It was in fact something that was included in your decision as to how special cases would be dealt with. I don't believe it's appropriate that the method of determining special cases now be reviewed.

In terms of the organisation of those cases, there has been quite a deal of confusion with them because, again, of sheer frustration that my staff have had in trying to get inspections arranged, trying to work out who they negotiate with, trying to work out what departments are involved in the whole process. Mr Hanlon has indicated that the Minister for Public Administration is the employer, he also happens to be the premier. The last time I wrote to the premier on anything at all to do with wages he said that they were negotiating with the TTLC on that matter and it's got nothing to do with me, in effect.

Now, we're not going to write to the premier every time we want to arrange inspections or every time we want to run a special case. We've used, which we have always used, the Office of Industrial Relations in these issues. They, at times, have been able to assist, at other times they haven't been able to assist. We have used various areas in the Department of Premier and Cabinet to various levels of satisfaction, but the one area that we do get satisfaction and

departments ask us to do something about are the individual agencies.

We can go to them, we can say 'Look, we're running this case. These are the sorts of things we want to see. How about sitting down and seeing what we can arrange' and without exception departments are receptive to that. That has happened in the welfare workers, it's happened in the senior officers out at the prison. It's, I understand, happening in the survey officers - these are getting organised between my people and between people in departments who want to get the things fixed. The frustration is coming from the central areas of government.

We believe that the special cases should continue to proceed as they have done within - as they were anticipated to be proceeded with in the decision of last year. And we call on the government to start cooperating with them and stop trying to muck us around and stop trying to muck departments around.

In conclusion, Mr President, members of the Bench, our claim is not a dollar grab. It is a fair dinkum attempt to try and bring in some proper structural change to the State Service, to bring in some proper reform of jobs, to bring in some real workplace reform, so that our members get greater satisfaction in their work they're doing and so the government can get much greater flexibility, much greater effectiveness and much greater productivity out of their employees.

W.2, whilst it wasn't as good as V.4, we don't believe, W.2 had the potential to have been a good working document. It spelt out - we understood fairly clearly what the obligations of both sides were. And it's just been unfortunate that, as I've indicated before, in our view, only one side has been truly committed to it. And quite clearly it has come to the position now where that process has broken down.

We don't believe there is any option at this stage but for the Commission to intervene. We realise that there are a range of options the Commission has as to its intervention. We have asked you to arbitrate. We would not accept or it would not be acceptable to us a position where we're just told to go back into negotiations and the Commission will play some distant monitoring role, because that has been shown to have failed.

We believe there is a need for the direct involvement of the Commission, either as a Full Bench or for individual commissioners to be allocated to certain areas. But we would be calling on the Commission to make sure that - or to provide us with the assistance so that all further discussions, arbitration hearings, whatever they be on this award restructuring arrangement, be held within the auspices of this Commission under the direct control of the Commission. And

that such be organised that we can get a speedy resolution to structures and that we can start to get a speedy or expedient introduction of proper award restructuring into the State Service.

This State Service at the moment is at absolute and total rock bottom, the apathy, the lack of support in government and all the rest of it, is the lowest I've ever seen it in the State Service out there at the moment. We believe that our proposals have a chance to change that, to do something positive in the State Service, and we look for the Commission to support that and for the Commission to take action to back our claim and introduce those improvements as soon as possible. If the Commission pleases.

PRESIDENT: Yes, thank you, Mr Vines. Mr Warwick?

MR WARWICK: Mr President, members of the Bench, despite the lateness of the hour I must rise to my feet. I feel a little slighted by the comments that fell from Mr Willingham's lips this morning. I thought he would have understood that it would be a sad day if unions didn't wage claims, and a sad day for democracy and a sad day for Mr Willingham because he wouldn't have much of a job to do, I guess.

But I would like to clarify our position. And without changing in any substantive way the submission I made this morning, clarify that I think that Commissioner Gozzi hit the nail squarely on the head, about an hour ago, when he said that what's required in these sorts of processes is for the parties to look at an overall package. And unfortunately we find that that's not the position we're in.

We're not in a position to take any sort of proposals to our membership that have - that are, I guess, in the same football field as the government. Change doesn't come easy at the workplace and it's difficult for us to, I guess, be talking about change with our membership unless we can tell them what the pluses and the minuses of an overall package are.

That's, in essence, the problem we have at the moment. And as intimated or said this morning, submitted this morning, we need a commitment from the parties to pursue that process and that result and, more importantly, an end date for that result to be achieved. If the Commission pleases.

PRESIDENT: Does your overall package include conditions?

MR WARWICK: Well, there are a number of conditions in Exhibit 3, which form part of the 3% - the recent 3% proceedings and we've said that we'd negotiate that. And I think at the end of that it also says - at the end of the list it also says 'any other matters'.

PRESIDENT: Yes. So you don't ...

MR WARWICK: We've agreed to that.

PRESIDENT: ... resile from that position?

MR WARWICK: Well, we've made an agreement on that basis.

PRESIDENT: Right.

MR WARWICK: We - well, I have - obviously have our arguments about what's put, but ...

PRESIDENT: Yes. No, but the overall package is structures, wage rates, conditions.

MR WARWICK: I think that's the agreement we've made, sir, yes. We don't resile from it.

PRESIDENT: Thank you. Mr Pyrke.

MR PYRKE: Mr President, Mr Hanlon said earlier that there's a need for the record to be straight, sir. It's a big picture and I think I'd like to comment on a few points that he made.

The points made, I guess in support of the proposition that the unions haven't been fair dinkum in this process.

Firstly, in relation to the professional working group it was said that there was a meeting scheduled for yesterday but which we didn't attend. Now, I am surprised to hear those comments because the facts of the professional working group was the following - as follows.

The last meeting was on 30 January and at that meeting I asked for a date for another meeting and I was told by the government people that it wasn't a goer and the reason behind that, there'd been some discussion about whether the special cases should run concurrently with the negotiations on the structures and the government had said that the two can't go together and the PSA had said that they saw that they could run concurrently, and the government then said 'Well, we're not going to put resources into this kind of forum if that's your attitude.'

Now, that left us high and dry as far as I was concerned and I would - if the minutes of the meeting had come out, which they have yet to do, but if they had come out been looking for the words that I've just put to you and, you know, there's just no - as far as I'm concerned there's just no agreement that there would be a meeting yesterday and so, you know, I think that needs to be put straight.

Secondly, it's been said that the talk about dollars is getting in the way of the process. In other words, Mr Hanlon's been saying that we really do need to be talking about structures first and, you know, I think the two are intimately and integrally linked, but at the end of the day we accepted their view that in the working parties that we'll talk about structures first and so, you know, whilst it's true to say that we put a claim on the table it's not - simply not true to say that we haven't been prepared to talk about structures first. And to - I might also make the point that in that putting that claim on the table, it was at the request of the Office of Industrial Relations, who said 'Well, put your cards on the table and show us what you're about'.

So I certainly don't apologise for having done so. And lastly, I think there's the inference that the unions are only about dollars in this process and, really, I think that's wide of the mark. The suggestions that we've been making in the working parties go to also improving job satisfaction and thereby productivity. At the moment the reality is that really you only get the kinds of dollars that professionals aspire to by becoming managers.

Now, I'm constantly being told by my colleagues in the union movement that not all professional engineers are good managers and as a general proposition we find it hard to deny, so our solution is

We couldn't particular instances of course, but as a general proposition we've accepted that and our proposed solution is to put up alternative career paths for technical specialists and for senior engineering practitioners.

Now, if elsewhere in other jurisdictions those kinds of roles for professional engineers have picked up the kinds of dollars that managers get, now if that were to be recognised in the State Service and in its jurisdiction you would find that people who might otherwise not be suited to management might go into these areas and the inherent inefficiencies that have been in place so far would fall away.

And so, you know, I was thinking - take exception to the proposition of we're not being constructive in all this. If the Commission pleases.

PRESIDENT: Yes, thank you, Mr Pyrke.

MR HANLON: I actually didn't expect today to be speaking in reply on the assumption that it was a reporting back. I did make the proposition on the opening day that the matter should be restricted to the advertised matter. That was not to be. The submissions by the unions went to the trust and credibility of the government. The issues that were raised then required the government to defend itself.

The issue of the cost package was not raised by the government. It was raised as a result of the HEF raising the matter in a series of questions, one of which Commissioner Gozzi then directed to me and therefore the government has to be in a position then because it doesn't know what can be examined to justify what went on.

We don't seek at all to put matters on a - that are a 'without prejudice' basis. If you challenge the credibility of the - other organisation then the organisation has to show and prove its bona fides. If people don't wish to challenge the credibility, then - in its straightforward reporting process then they should confine themselves to that.

In regard to these claims, an organisation sits silent and neither says it's for or against and somebody says to us the base trade rate throughout the public sectors can be \$450, I assume that any trade qualification below that, that organisation would then say that's a trade qualification, i.e., it will be 450.

Now, that's a reasonable assumption to make and Mr O'Brien quoted from the TLC attached to the back of the minutes of 19 November of the PNG. He quoted the first paragraph of that letter and one of the more interesting things that one finds with that document is when one reads the current leaflet and what has been the attitude of the union and how has it differed since it made the resolution on the 19th.

The first paragraph of TLC.1, showing the level of frustration only differs from that one on the 19th, that from extreme concern it's now gone to extreme frustration. Other than that the paragraphs are the same. The last paragraph said specifically we require immediate agreement to 450 as a base grade rate.

Now, that was before us on the 19th. Now, there can be no other conclusion than to say what would a bookbinder be getting on \$416 currently if we'd said yes to the agreement? It would have been a \$34 increase.

I don't mind if organisations don't understand the ramifications of the award restructuring cost of union claims. That's what it means people lay those claims on the government demanding immediate answers.

And that was done in custodial in regard to the associate, and the advanced and the base grade. Now, if that's award restructuring, we see that as stand and deliver. The fact that we continued to talk and work our way through the process, we still say that is not the way it should have been done, but we were happy because we understood that also

affected SIPS which equalled that sum of money. And that was an issue to be resolved.

In regard to the 3%, well, the 3% was the other side of W.2. And if it's a threat, I just draw the Commission's attention to draft resolution, paragraph 3, which follows paragraph 2, which says that they're withdrawing from the PNG. And the next paragraph empowers the executive committee to determine and implement industrial action as it deems appropriate. And we note that such actions may be strong, direct and called without notice.

If the TPSA's submission today is accepted, then the only impact of the resolution in there is directed to the Commission not at the government. So if somebody wants to talk about coming here with their hands clean and no threats, then to try and interpret the withdrawal of 3% on the suggestion that I made pales into insignificance compared to that proposition.

I really don't want to go to any more, but certainly one could go for hours on what the context of one paragraph in the minutes. I just say the government has shown its bona fides. What we've put before you today was to demonstrate that and, in our view, there's only one way to go and that's to continue as we're going. There is no other direction.

PRESIDENT: We will adjourn to a date to be fixed and we will release a statement to clarify the position for you all within a very short time - a day or two. We adjourn to a date to be fixed.

HEARING ADJOURNED