

COMMISSIONER WATLING: I'll take appearances, please.

MR P. BEVILACQUA: If the commission pleases, PETER BEVILACQUA, secretary of the Tasmanian Catholic Education Employees Association on behalf of the members of that association and with me is **MR CHRISTOPHER SMALLBANE**, the president of the association.

COMMISSIONER WATLING: Good. Thank you.

MR W. J. FITZGERALD: If it pleases, I appear on behalf of the Tasmanian Chamber of Commerce and Industry, **FITZGERALD, W.J.**, and with me is **SISTER MAJELLA KELLY** from the Catholic Education Office.

COMMISSIONER WATLING: Good. Thank you. Right. Are there any preliminary matters you'd like to deal with?

MR FITZGERALD: Well, commissioner, I think it's probably wise if I raise a preliminary matter and I understand on the last occasion when the parties were together before you, the issue of time release was discussed and I understand that the commission in fact instructed, or suggested the parties in fact calculate, or do some calculation or an exercise as to the practical effects of the competing proposals and that's in fact now been completed by Sister Majella and we believe that prior to the matter proceeding here today, it would be useful if the parties went into conference to look at that aspect and discuss various implications of those proposals.

For that reason I'd be seeking an adjournment into conference with you involved in that conference, involving the parties, to see if the matter can be resolved prior to going to arbitration.

COMMISSIONER WATLING: Good. Have the union done their exercise? Mr Bevilacqua, have you done -

MR BEVILACQUA: Mr Commissioner, my understanding was, from the last hearing, that we were to go away and prepare a case on merit as regards to release time or time release and that it would not be based on interpretation and that the submission that Mr Fitzgerald's just put to you is based on interpretation.

COMMISSIONER IMLACH: No, I did ask the parties on the last occasion to do something, to give me some figures and show a bit of - I think the words I used was, some sort of flow-chart arrangement to show where the figures came from.

MR BEVILACQUA: Well, in that situation, we've prepared what is actually - through witnesses and statements, what is actually the situation in our schools, in preparation for presentation of a case on merit, as to what the actual -

COMMISSIONER WATLING: I'd have to say that, first up, I'd be interested to find out what the respective arguments are of the parties and I did make some comment about preparing some documentation on that.

MR BEVILACQUA: Well, I have some documentation as far as the interpretation of what we've been interpreting over the last seven years et cetera. I have those, but my belief was that the last one - that it was to be a case for arbitration on time release and based on merit.

COMMISSIONER WATLING: Yes, eventually, but I did ask the parties to do something in relation to showing me how their calculations would pan out in relation to their claims.

MR BEVILACQUA: Well, we can do that in conference, if that's the wish of the commissioner but our desire, as soon as possible, is to get into the nitty, gritty of the matter and get it arbitrated, et cetera. We are quite prepared to show where our submission has come from.

5 COMMISSIONER WATLING: Right. Well, we'll go into conference and look at where the respective figures have come from in relation to the claim. Off the record, thanks.

INTO CONFERENCE

10 COMMISSIONER WATLING: Right. Well, we are on the record now so, Mr Bevilacqua, I understand you wish to present your case.

MR BEVILACQUA: Thank you, Mr Commissioner. Due to the conferencing and the negotiations that have gone on off the record, we are now in a position - I believe we've reached agreement in the matters in relation to the restructure of the Catholic Education Award, November 1996 edition as we've got here and ready to supply to the commissioner -

15 COMMISSIONER WATLING: Right. We'll mark this exhibit A.1.

MR BEVILACQUA: Thank you.

COMMISSIONER WATLING: This is the agreed draft order. Thank you.

MR BEVILACQUA: And I believe that prior to going through it in - specifically, clause by clause et cetera, I'd like to make the statement that throughout our negotiations, throughout our meetings, et cetera, that we've been very mindful of directions that allude to and contain, et cetera, the updating and modernising of this Catholic Education Award, which prior to this, needed updating and modernising. We've also kept in mind the overall wage fixing principles et cetera that come to hand in all these negotiations. We've also kept in mind and adhered to, I believe, structural efficiencies and as a result I believe the new modernised updated version that structural efficiencies do flow on, and I believe also that from individual clauses and the overall product at the end, that we would hope to have increased productivity throughout our catholic schools in the state.

20 At the conclusion, after questioning, et cetera, and going through it, we would be more than happy then to ask the commissioner - and I'm sure my colleague, Mr Fitzgerald, would be happy to support that, that we apply for an order in the making of the Catholic Education Award and making it operative as from 1 January 1997.

30 COMMISSIONER WATLING: Well, I just have to say to you that I'm not too sure that I require you to go through each clause of the award -

MR BEVILACQUA: I appreciate that.

COMMISSIONER WATLING: I think the record should show that the commission has chaired numerous conferences between the parties. I'd have to say, I don't know exactly how many but it seems quite a few to me and I'm very familiar with the content of exhibit A.1, which is drawn up in the form of a draft order. So, I wouldn't be requiring you to go through chapter, verse, every clause but if you wanted to highlight any special areas of significance, then I'd be happy to hear from you.

45 There may be a need to address the wages clause contained in that document because it's my understanding that the wages clause does contain the enterprise bargaining rates agreed to that were in an earlier agreement registered with the

commission and that agreement applies to all catholic schools and employers falling within the scope of the award. So, I'm willing to hear from the parties on that particular question.

5 MR BEVILACQUA: Well, I may briefly, and Mr Fitzgerald may like to support that in a sense Clause 8 - Salaries, is the salaries that are applicable in the main to the present industrial agreement that we have between employer and employee which does finish at the end of this year and as a result, their incorporation into the award would advocate that they are the current and maintain that currency as far as levels of salaries and allowances.

10 We have maintained the number of levels et cetera, for example, in teachers. We have made slight variations in some areas et cetera which we believe in agreement are more indicative of the situations in our colleges at the moment and they are, I believe, easier to interpret, easier to adjust and apply as a result of the persistence that we receive from yourself, Mr Commissioner, and the work that's gone into it by
15 both sets of parties, et cetera.

In actual fact, if we look at salaries for teachers, et cetera, you'll find that the salary levels from 1 to 13 are exactly the same as are in the present agreement between the employers and the employees pertaining to all our catholic schools in Tasmania.

20 COMMISSIONER WATLING: Right, and there've been slight increases for some of the other -

MR BEVILACQUA: There've been extensions and slight increases in the clerical assistants, et cetera. Also the clearing up as far as -

COMMISSIONER WATLING: Right. And that's come about, has it not, because you have condensed the levels?

25 MR BEVILACQUA: In some cases, yes, and the clarification more - and the elucidation is more to do in the area such as, say, teacher aide, which through assistance, et cetera, we've now got in a tangible, readable and interpretable manner, so that we have - as a heading, for example, non-teaching employees and then we have our subheadings of clerical, secretarial and administrative employees
30 and then we have teacher aide and teaching support employees, so that they all are distinctive, et cetera, and I think it's more user friendly, that anyone in those areas themselves can pick up the award now and say exactly, where am I, what is my salary level, et cetera.

35 We did have at one stage, for junior employees, where people in the clerical and administrative area were covered but others, such as teacher aides, were referring back to clerical administrative, whereas they are in their own particular section of format as is shown on page 23 of our submitted order.

40 Unless there's anything more specific that the commissioner would like me to talk about, I think that outlines the situation as far as clause 8 and I must say that clause 8 is now far more intelligible to our members.

COMMISSIONER WATLING: Right. We'll see what Mr Fitzgerald has to say.

45 MR FITZGERALD: Thanks, commissioner. I'll be very brief in response but if I can address clause 8 first. Yes, it's my understanding, commissioner, as you've indicated already that it does embrace the rates previously covered - still covered by the enterprise agreement, to those schools party to it and the union. In that respect, we would not see any further adjustments to those rates emanating from the current wage fixing principles or through the process of minimum rate adjustment et cetera.

COMMISSIONER WATLING: Or the safety net adjustments.

MR FITZGERALD: The safety net adjustments, as well, yes.

COMMISSIONER WATLING: That's everyone's understanding of this?

MR FITZGERALD: That's my understanding, sir, and I understand - Mr
5 Bevilacqua's nodding, but I don't know whether he needs to actually confirm that on record.

MR BEVILACQUA: I'm agreeing with you, Mr Fitzgerald.

MR FITZGERALD: Thanks. That's fine.

10 But in respect to the exercise generally, I appreciate the commission not requiring us to take you through clause by clause on each of the amendments, as the outline of this document and of course the commission's well aware of it and I think it's testimony to the endurance of the parties. There were some very difficult issues which were resolved eventually and finally by agreement. I think that indicates a
15 bona fide to both the catholic education office, the principal negotiating party, and the TCEEA and I think it's far more preferable that matters can be held in consent format than going through what could have been a laborious exercise of arbitration.

I think, certainly, the parties have displayed good faith in reaching that position and certainly we recognise and thank the commissioner for their role in that process as well.

20 I really haven't much more to add, commissioner, except to say, I support the submissions of Mr Bevilacqua and would seek the commission's endorsement of the draft order marked A.1, with operative effect from 1 January 1997. The commission of course, prior to making or varying any award, must, pursuant to section 36, take into account the requirements as set down for public interest and in this area, the
25 discreet sector of catholic education, the public interest criteria of course still apply but particularly this sector and it's my submission, Mr Commissioner, that the document before you, with the changes which are incorporated in this document do not in any way offend the public interest criteria as set down in section 36.

30 So, it does generally follow the process of award restructuring and award modernisation and I agree with Mr Bevilacqua, that the emphasis is on - there should be an ongoing recognition in my view of efficiency and productivity within the sector and certainly this document, in my submission, does do that, and for all those reasons, commissioner, we'd seek the commission's ratification of document A.1 before you here now.

35 COMMISSIONER WATLING: And you believe it's being pursued through the structural efficiency principle?

MR FITZGERALD: Yes, that would be my submission, sir. It's a combination of all, I'd suggest, but certainly the structural efficiency would be the principle which I'd rely on, sir. If it pleases.

40 COMMISSIONER WATLING: Good. Agreement on the operative date?

MR FITZGERALD: Yes, sir. Certainly agreement of the operative date of 1 January 1997.

COMMISSIONER WATLING: Any further submissions?

MR BEVILACQUA: I'd like to thank the commissioner for his indulgence over the last six or seven months, in assisting to help get this document to its fruition and I wish to state that, although at times it got a bit heated, I don't think there was undue pressure either way. It's one of those matters where there have been matters of dispute et cetera which have been settled and they've been settled amicably.
5 Thank you.

COMMISSIONER WATLING: Well, I can indicate to the parties that this long saga is going to come to an end as I predicted today and that I will hand down a written decision in due course, which will be in support of the proposals put forward and as outlined in exhibit A.1. The operative date in my decision will be from the 1st
10 January 1997 and I'll try and get the decision and the order out as quickly as possible so everyone knows what they're going to deal with in the new year.

Now, I know it was a pretty hard road to hoe. We started with an award which really needed a good shake up and I think there was a great effort on the part of the parties to the award to come to grips with this because it wasn't an easy task and we'll probably find there'll be some hitches with it and someone will test something and we'll look at it when it comes along, but I think you must be satisfied because I am, that the award's in far better knick today than, say, six or seven month's ago when we were really arguing about some of the fundamentals and not even
15 understanding it.
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So, it's a good effort and you'll get the decision and the order in due course.

Thank you very much.

HEARING CONCLUDED