

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 3871 of 1992

IN THE MATTER OF a referral of application by the Australian Institute of Marine and Power Engineers, Victorian Branch for determination of award interest pursuant to section 63(10)(c) of the Industrial Relations Act 1984

re Marine Boards and Shipping Awards

DEPUTY PRESIDENT

HOBART, 3 July 1992

TRANSCRIPT OF PROCEEDINGS

Unedited

DEPUTY PRESIDENT: I have listed both of these matters. I am not quite sure whether it would be convenient for everybody to deal with them together or separately. I suspect probably separately. What's the general consensus?

MR J. MATTHEWS: If the commission pleases, my name is MATTHEWS. I am here to represent the Australian Institute of Marine and Power Engineers. Mr Deputy President, I'd accept the guidance of the commission in relation to that.

DEPUTY PRESIDENT: Well, I will take appearances in both matters first of all.

MR G. COOPER: If the commission pleases, I appear on behalf of the Australian Workers' Union, Tasmanian Branch, COOPER G.

DEPUTY PRESIDENT: Thanks, Mr Cooper.

MR B. SMITH: If the commission pleases, my name is BERNARD SMITH, and I appear on behalf of the Merchant Service Guild, Victorian/Tasmanian Branch.

DEPUTY PRESIDENT: Right.

MR T. EDWARDS: If it please the commission, EDWARDS T.J., I appear for the Tasmanian Confederation of Industries.

On the procedural point you raised, Mr Deputy President, from our point of view our answer in respect of each of the awards to the application is different, and we'd probably suggest that if they are dealt with separately, with the Shipping Award being dealt with first, which would be one that would be fairly easily disposed of, I'd suspect, and then move to the Marine Boards.

DEPUTY PRESIDENT: I hope you are right. I have got a feeling it won't be as easy as all that.

MR EDWARDS: You are usually right, sir.

DEPUTY PRESIDENT: Well, I think probably we had better deal with the shipping matter first, the Shipping Award.

Now, just remind me, what's the situation in relation to the shipping? Who is objecting to whom? It's an application by the Australian Institute of Marine and Power Engineers, Victorian Branch, for an award interest in that award.

MR MATTHEWS: Yes, that's correct, Mr Deputy President.

DEPUTY PRESIDENT: Mr Matthews, we don't have an authorisation on our records for you to represent the organisation, and it is a requirement under the Act that every

organisation nominate those who are entitled to make applications and those who are entitled to appear.

I understand it has been drawn to your attention and that your office is in the process of faxing down an authorisation. I am sorry -

MR MATTHEWS: I must say, Mr Deputy President, you are ahead of me because I am not -

DEPUTY PRESIDENT: I think I have misdirected my comments.

MR MATTHEWS: Oh, I am sorry, I was quite concerned there for a minute.

DEPUTY PRESIDENT: Mr Smith, yes, I am sorry. As I understand it the same comment applies. There is no authorisation for you to represent the Merchant Service Guild.

MR SMITH: They said this morning they would be faxing the authorisation down.

DEPUTY PRESIDENT: Yes, but I am hearing it now -

MR SMITH: Right.

DEPUTY PRESIDENT: - and I haven't got it, and if I were to proceed on the basis of allowing a person to be represented here who is not authorised to be here, and if I was on the appeal bench I would uphold it because it would be against the Act, it would be against the law and it would be wrong.

Please don't think I am being unduly technical. I'm bound by the rules, the same as everybody else.

MR SMITH: If the commission pleases, would it be convenient to have an adjournment for 5 minutes while I sort it out, please?

DEPUTY PRESIDENT: Yes. Yes, I think that would be appropriate. I know you have been involved in this tribunal for a long time, Mr Smith, and it makes it all the more awkward. Haven't you?

MR SMITH: Yes, I have, yes.

DEPUTY PRESIDENT: Alright, well we'll take a 5 minute adjournment and hope that that fax comes through.

MR MATTHEWS: Mr Deputy President, if I may, given that the Merchant Service Guild is an objector, which is a situation the institute finds somewhat strange, I would ask the commission to give consideration, if there is going to be an adjournment, that it be of some finite duration. That's basically the submission I wish to make. In other words, if

it is 5 minutes it ought to be 5 minutes, and if Mr Smith can't get his - if his organisation can't get their act together by then - then I think they oughtn't be able to be represented by him.

DEPUTY PRESIDENT: Well, I didn't think it was going to be a short matter.

Mr Edwards, I am not sure of your rights to intervene in a matter concerning the award interest of an employee organisation. You might be able to satisfy me on that matter as a preliminary matter, anyway.

MR EDWARDS: I don't believe - sorry, I thought the barrier in the Industrial Relations Act, Mr Deputy President, to an organisation who is registered under the act appearing in a matter relating to -

DEPUTY PRESIDENT: I assure you I haven't got out of the wrong side of the bed today.

MR EDWARDS: I thought you sounded a bit grumpy this morning, sir.

DEPUTY PRESIDENT: Well, I am not, as odd as it may seem.

MR EDWARDS: If there is some barrier in the act, sir, I would have to ask you to take me to it, because I am not aware of any such barrier existing.

The submission that we intend to make this morning in respect of the Marine Boards Award - and without going to it in any detail - would relate primarily to section 63(10), and in particular subsection (iii), and I think it would be appropriate for an organisation of employers involved in the award and the industry to which the application relates to make its views known to the commission.

I would suggest, at the risk of getting into a little bit of trouble with my friends to the right, that it is in fact the employer that is probably in the best interests - best position - to be able to inform the commission of matters arising under subsection 63(10)(iii) -

DEPUTY PRESIDENT: 63(10)(iii)?

MR EDWARDS: - which talks about the question of the orderly conduct of industrial relations and whether or not it could be imperilled by the grant of an application.

DEPUTY PRESIDENT: Yes. I just opened the act a little while ago and cast my eye on 63(11), and I am not quite sure if it assists us or not, but it was sufficient to raise a query. If you have your act there -

MR EDWARDS: I do, sir.

DEPUTY PRESIDENT: - it says that:

Before making a determination under subsection 10(c) a Commissioner shall notify in writing -

(a) in the case of a determination of the awards which an employee organisation has an interest in, all the other employee organisations which have an interest in the awards stated in the application lodged by the employee organisation with the Registrar; and

(B) in the case of a determination of awards which an employer organisation has an interest, all other employer organisations -

- and so on.

And, you know, that suggests, that suggests that employers have an interest in other employers' interests, and trade union organisations have an interest in trade union interests, and never the twain shall meet.

MR EDWARDS: That may be an inference that could be drawn from the words you have read from 63(11). I must say, Mr Deputy President, with respect, that I don't agree with the drawing of that inference. In my opinion -

DEPUTY PRESIDENT: Well, what does it mean?

MR EDWARDS: Section 63(11) imposes a mandatory obligation on the commission to notify people. It does not in any way inhibit the commission from hearing other people other than those they have notified.

DEPUTY PRESIDENT: Excepting that it ends up by saying -

MR EDWARDS: - and those people shall be entitled to be heard', or give them an opportunity to be heard. It doesn't say you cannot give the opportunity to be heard to organisations that you have not notified.

DEPUTY PRESIDENT: Are you seeking leave to intervene?

MR EDWARDS: If that is what the commission would require, I would be prepared to do that. What I would suggest to the commission is that we are an organisation that has an interest in all private sector awards, and that's made very clear by the act itself.

DEPUTY PRESIDENT: Yes.

MR EDWARDS: We do have a vital interest in the outcome of this application, and we would like to be heard on the application. We don't believe that anything in section 63(11) prohibits the commission from hearing this. It certainly makes it mandatory that you notify certain people. It certainly makes it mandatory that you give those certain people that you have notified an opportunity to be heard. But, nowhere does it say that an organisation of employers cannot be heard in respect of an application by an organisation of employees.

DEPUTY PRESIDENT: But there is no obligation placed on me by the act, according to 63(11) -

MR EDWARDS: That's correct.

DEPUTY PRESIDENT: - to do more than given an opportunity for those falling in (a) or (b) to be heard.

MR EDWARDS: We have stalled long enough to get your matter fixed up, Bernard.

DEPUTY PRESIDENT: Ah, there is an urgent thingo, communication, from the Merchant Service Guild of Australia, addressed to myself `re TR.437 of 1991, Application for the Australian Institute of Marine and Power Engineers, Victoria Branch, for a determination of award interests pursuant to section 63 of the Act':

Please be advised that Mr Bernard Smith is authorised to appear on behalf of the Merchant Service Guild of Australia, Victorian Branch, in respect of the above matter.

Signed by Mr Groves, the State Secretary.

So, that's got over that particular problem, so you are okay, Mr Smith.

MR EDWARDS: I wish it were just as easy this end, sir.

DEPUTY PRESIDENT: Yes.

MR EDWARDS: I say again, Mr Deputy President, that I believe section 63(11) certainly places some mandatory obligations on the commission, but it doesn't at any point indicate that the only people able to be heard on such an application are those that the commission is required to notify in section 63(11).

As I indicated before, it could be an inference that could be drawn from that, but I don't believe it would be a valid inference.

DEPUTY PRESIDENT: Well, I - I shall hear - I shall hear other organisations on that threshold question I think.

MR MATTHEWS: If it please the commission.

DEPUTY PRESIDENT: Mr Matthews?

MR MATTHEWS: Thank you, Mr Deputy President. If I could just make a submission on Mr Edwards' remarks, in response I suppose or in an endeavour to put a contrary point of view. Just looking at 63(11) my - my own interpretation, which I would put forward for the commission's consideration, of that section 63(11)(a), in the case of the determination of the awards which an employee organisation has an interest in, all other employee organisations which have an interest in the award stated in the application lodged by that employee organisation with the Registrar pursuant to subsection 1(a) or, and then it goes on to subsection (B). I would submit to the commission that there's a very strong inference there that seems only - the act only requires the notification of employee organisations; that only employee organisations would have - be regarded as having an interest in the matter.

And I suppose if we go on to subsection (b) of the 63(11) we see that, the same as a case for an employer organisation. And I imagine that if the situation reversed and I was in Mr Edwards position in relation to a matter that concerned employer organisations he would be making a very similar submission to the one I'm making to the commission now.

MR EDWARDS: Oh, not the same.

MR MATTHEWS: Now, in terms of the - the substance of - of his - his remarks, the other argument he put forward, I would submit that he has submitted that he - that they have a very real interest. Well, we're here to deal with the threshold matter of whether they have a right to be appearing, and we've got to get over that threshold before we can get to the question of what - exactly what interest they have.

And I think there's a little a bit special pleading going on ahead of time when he says they've got a very real interest. I don't think that's been demonstrated to the commission, and I don't thin it ought to be a consideration at this stage. If the commission pleases.

DEPUTY PRESIDENT: Yes. Well, what we've been doing, we've been looking at, quite properly, and there might be a further stage where we may need to go to - to, if you like, and ask TCI to demonstrate that notwithstanding the provisions of - of 63(11) of the act, is there any other grounds upon which they might seek to be heard.

MR COOPER: Mr Deputy President -

DEPUTY PRESIDENT: Mr Cooper?

MR COOPER: Yes, Mr Deputy President, with respect to this application, as I understand it, prior to it coming before you today there's a process that has to be followed under section 63(10) with respect to registering an organisation. And then on that being completed, there's three points that an organisation must do.

DEPUTY PRESIDENT: Well, I think that - that other -

MR COOPER: This is as part of this threshold matter.

DEPUTY PRESIDENT: Yes, but that other exercise is actually a different section of the act.

MR COOPER: Well, with respect to section (c) of 63(10), once that matter comes on before you then you shall determine which award the organisation has the interest in by satisfying yourself of those three criteria.

DEPUTY PRESIDENT: Yes.

MR COOPER: That they have membership. That the membership's consistent within the rules of the organisation. And it satisfies the public interest. Now, Mr Deputy President, with respect, the reason why I laboured on that section of the act is because it goes to the next section, in the case of determination with respect to the employee organisations. And one would have thought that this commission would have to satisfy itself with respect to public interest, and the way to determine that would be by satisfying yourself that the employee organisations within the award have come to some arrangement or by having - granting an interest in the award with respect to a new employee organisation that that won't harm the public interest in the main.

Now, I cannot see - and I think the inference that has been drawn in section 63(11) is correct - I cannot see how that really has anything to do with an employer organisation, other than to say the employer organisation may not want to deal with it. Now, really, I mean what the commission is dealing with here is in section 63(11), I think quite rightly been pointed out, that it's the employee organisation that have to be notified and if there's no problem with that, then I think you're right, the application can be heard and the other employer organisation would then, I think quite rightly, be seeking leave to intervene. And I think that's the principal point on which this threshold matter rests.

And I think that on those grounds we concur with the submissions made by the - the institute. If the commission pleases.

DEPUTY PRESIDENT: Mm. Have you got a view, Mr Smith?

MR SMITH: No thanks, Mr Deputy Chairman.

DEPUTY PRESIDENT: Well, I'll give you another go, Mr Edwards.

MR EDWARDS: I'll be brief, deputy president. Firstly, in respect to the observations made by Mr Cooper going to the earlier parts of section 63, dealing with the question of the granting of registration or otherwise of an organisation.

DEPUTY PRESIDENT: Well, actually I was about to point out that that was under a different section of the act when it was before the Registrar. I mean -

MR EDWARDS: Yes, indeed.

DEPUTY PRESIDENT: - obviously -

MR EDWARDS: I merely point out, deputy president, that if the inference from Mr Cooper was that the TCI should have made its views known or made some application to be before the commission in respect of the registration of AIMPE that of course if not possible. And the act is quite specific that an objection can only be made to the registration of an organisation of employees by another organisation of employees, and the same can be said about organisations of employers.

And in that regard section 63(6) can be contrasted with the provisions of section 63(11). Section 63(6) makes it quite clear that where an application has been made by an organisation of employees to become registered, then another employee organisation may lodge in the office of the Registrar within 14 days an objection.

DEPUTY PRESIDENT: Where does it say that?

MR EDWARDS: Section 63(6).

DEPUTY PRESIDENT: Yes, I'm looking at section 63(6).

MR EDWARDS: It says:

Subject to section 7 - subsection (7), where an application under subsection (1) is made by an association of employees an employee organisation -

and I'll leave out the unnecessary words -

may as prescribed by the regulations lodged in the office of the registrar within 14 days.

It makes it quite clear that the only people can lodge that objection are the people of the same ilk, if I can just use that shorthand term.

That can be contrasted, deputy president, in our submission, by the provisions of section 63(11), which only impose on the commission an obligation to make certain notifications and make an obligation for the commission to hear certain people. It does not in any way restrict the commission from going beyond that obligatory situation required by section 63(11) and hear other people that have a vital interest in the matter that is before the commission. And that is, whether or not a particular organisation of employees, once registered, should be given interest in an award of this commission. And the contrast, in our submission, sir, is quite stark between 63(6) and 63(11).

There is no - as I indicated before, the inference can be drawn from 63(11), but in our view drawing of inferences from acts is not an appropriate means of interpreting the terms of act.

DEPUTY PRESIDENT: I don't know if I'm just drawing inferences. I think -

MR EDWARDS: I'm picking up the word you used, deputy president, that the inference you drew from 63(11) was that I may not be entitled, or my organisation may not be entitled to be here.

DEPUTY PRESIDENT: Yes. Well look, one would naturally tread very carefully in a preliminary discussion in relation to the matter.

MR EDWARDS: Certainly, sir.

DEPUTY PRESIDENT: You wouldn't want me to jump in and make a declaratory statement before I'd given anybody an opportunity to be heard.

MR EDWARDS: I understand that, sir, and I'm trying to tread just as carefully.

DEPUTY PRESIDENT: Are you?

MR EDWARDS: Indeed.

DEPUTY PRESIDENT: That's -

MR EDWARDS: Which is why I'm using the term inference and not interpretation, because I knew the commission wouldn't be interpreting the act.

DEPUTY PRESIDENT: Well, the commission as constituted is entitled to interpret the act, otherwise I wouldn't be - wouldn't be doing anything.

MR EDWARDS: Of course you are, sir, but as you've already indicated you weren't doing that when you made your introductory statement. You -

DEPUTY PRESIDENT: No. But that wouldn't be a -

MR EDWARDS: - were drawing an inference.

DEPUTY PRESIDENT: - that wouldn't be a formal binding interpretation.

MR EDWARDS: Oh, I understand that, sir.

DEPUTY PRESIDENT: But somebody trotted up the other day that the commission was making observations of an act and an award and deciding to proceed or not to proceed and was therefore issuing a declaration. What rubbish. Any way, Mr Edwards, I believe that on the first preliminary point, and that is, as to whether or not the act entitles you to be here and entitles you to be heard, on hearing what's been put, I don't believe you have an entitlement. And, in fact, I don't think you claim an entitlement.

MR EDWARDS: Not as of right, Mr Deputy President, no.

DEPUTY PRESIDENT: As of right, no. Are there any other good reasons why, for instance, you should be allowed here as an intervener?

MR EDWARDS: We would make application to the commission to alter the appearance I announced earlier to one of intervention.

DEPUTY PRESIDENT: Right. Is there any objection to that intervention?

MR MATTHEWS: Mr Deputy President, certainly we object to their intervention. We expected this to be a hearing, and if it involved anyone at all it might employ - it might involve other employee organisations. Certainly we wouldn't have expected any intervention by someone representing an employer organisation on behalf of that organisation. I wonder - well, I'm not too sure of procedure here, Mr Deputy President, but it seems to me that we've heard argument this morning already about the rights of the Tasmanian Confederation of Industry to appear here.

DEPUTY PRESIDENT: Yes,

MR MATTHEWS: And it seems to me that what we're likely to hear now is substantially the same argument in relation to the reasons they want to intervene.

DEPUTY PRESIDENT: Well, no -

MR MATTHEWS: I - I'm -

DEPUTY PRESIDENT: - I've made a distinction.

MR MATTHEWS: Yes.

DEPUTY PRESIDENT: What we've done is we've looked at the Industrial Relations Act -

MR MATTHEWS: Yes.

DEPUTY PRESIDENT: - and on the reading of that we've debated as to whether or not the act conveys to us that there is only a right of employee organisations to appear in these types of matters or whether it's open to employer organisations as well as other employee organisations to appear. I've said that I don't think there is a right under the act under section 63(11), however, the act also says that any organisation may seek an intervention. And I'm really turning to that.

I was just thumbing through to see if I could find it. From memory it just says that, the commission may allow intervention on such terms as it thinks fit, or something like that. Can you - anyone else put their finger on it?

MR EDWARDS: Section 27, deputy president.

DEPUTY PRESIDENT: 20 -

MR EDWARDS: 7.

DEPUTY PRESIDENT: - 7.

MR MATTHEWS: I don't have that text in from of me, Mr Deputy President.

DEPUTY PRESIDENT: Well, if we -

MR MATTHEWS: I guess that -

DEPUTY PRESIDENT: Oh, hang on -

MR MATTHEWS: - I would have to be guided by the commission of course.

DEPUTY PRESIDENT: 27?

MR EDWARDS: 27.

DEPUTY PRESIDENT: Oh, I thought you said 20(7).

MR EDWARDS: No.

DEPUTY PRESIDENT: Right. We'll quickly read it out to you, Mr Matthews, so you'll know as much as we do.

The Minister may, on behalf of the Crown -

It starts off. It moves on:

An organisation may, with the leave of the Commission, intervene in any proceedings before the Commission.

That's all it says.

MR MATTHEWS: Right. So I should make a submission to the commission on why you shouldn't give leave. I'm a bit struck for - for a good argument at the moment, Mr -

DEPUTY PRESIDENT: Well, you don't have to put that one up if you don't want to.

MR MATTHEWS: Well, I think probably -

DEPUTY PRESIDENT: I'm just giving you the opportunity.

MR MATTHEWS: I don't want to sort of stand here and make noises just for the sake of it.

DEPUTY PRESIDENT: No.

MR MATTHEWS: I - I must say it's fairly obvious why we would not particularly want any kind of intervention from the Tasmanian Confederation of Industry, but in the end I realise we've got to leave it to the commission to decide -

DEPUTY PRESIDENT: Yes.

MR MATTHEWS: - so I think I'll leave the matter there.

DEPUTY PRESIDENT: Fine. Okay. Anything further, Mr Cooper?

MR COOPER: Mr Deputy President, no, it is not our application, but we'd be guided by the submissions of Mr Matthews.

DEPUTY PRESIDENT: Mr Smith?

MR SMITH: We'll be guided by the commission.

DEPUTY PRESIDENT: Right. Mr Edwards, apart from - well, you don't need me to repeat, do you, all this business about 63 - ? Apart from 63(11), is there any other good reason why I should allow you in under section 27?

MR EDWARDS: Essentially, Mr Deputy President, our application is for leave to intervene in accordance with section 72, subsection (2).

We believe the matters we need to place before the commission, as I have already indicated, fall from section 63(10), and in particular section 63(10)(iii).

We believe it is vital that the commission be properly informed in making deliberations on the granting of interest to employee or employer organisations for parties status to an award, and we believe the employer may be in the best position to advise the commission of certain matters that it ought to be aware of, or we believe it ought to be aware of, in making its deliberations under section 63(10).

DEPUTY PRESIDENT: Well, I think you should advance them now or forever hold your peace.

MR EDWARDS: Well, I thought you said, sir, you didn't want to hear me again on section 63(10). If you wish to, I am prepared to go back through 63(10).

DEPUTY PRESIDENT: Well, you are wasting your time, with respect, I think, because I have given you a fair go on 63(10). I -

MR EDWARDS: No, we have debated 63(11) I think, Mr Deputy President.

DEPUTY PRESIDENT: I'm sorry, yes, 63 - yes - I beg your pardon.

Mr Edwards, all of the signals and all of the comments prompt me to the conclusion that I should ask you to leave these proceedings, because I don't think you really have the right to get involved in the interests of - in an interest matter - in relation to employee organisations; and, of course, I would be evenhanded if you were having union intervention in a matter involving a request for an employer organisation to have an interest in an award.

MR EDWARDS: I hear what you say, deputy president, and obviously I therefore have no alternative but to withdraw.

DEPUTY PRESIDENT: Yes.

MR EDWARDS: I do indicate to the commission that I will take further advice.

DEPUTY PRESIDENT: Yes, and I will issue some reasons later on.

MR EDWARDS: If you would be so kind, sir.

DEPUTY PRESIDENT: I hope you will forgive me for tossing you out for the first time ever - I think.

MR EDWARDS: It is not the first time I have been tossed out of the commission, deputy president, it is only the first time you have done it.

DEPUTY PRESIDENT: Oh. Have a good day.

MR EDWARDS: I don't take it personally.

DEPUTY PRESIDENT: No, I am sure you don't.

In our notification we really overlooked to notify that this is Matter T.3871 - it went out under the heading of the Registrar's number. So, for the record, it is T.3871 of 1992.

And, first of all we deal with the Shipping Award -

MR MATTHEWS: Mr Deputy President, if I may, I'm not clear on just whether Mr Smith is here to appear or to intervene?

DEPUTY PRESIDENT: Well, it's an application by the Australian Institute of Marine and Power Engineers - your organisation - and no-one has indicated to me to this time that they oppose your application. We've had two appearances entered earlier.

Mr Cooper, do you seek to object? Your organisation objects to the registration - the award interest?

MR COOPER: For the record, Mr Deputy President, no. No, we won't be objecting.

DEPUTY PRESIDENT: You won't be objecting?

MR COOPER: No.

DEPUTY PRESIDENT: Mr Smith, will your organisation?

MR SMITH: We agree with the shipping application, and appose the Marine Board application.

DEPUTY PRESIDENT: Right. I see. Well, when your application was advertised, Mr Matthews, it was all other employee organisations and it would seem certain employer organisations also got a copy of the notification of today's

hearing, as we are required to do under the act, as we have already covered.

MR MATTHEWS: I think perhaps I was in error in that point that I just raised.

DEPUTY PRESIDENT: Yes. I think the process ought to be that you seek to inform the commission as to why you should be granted an interest first of all in the Shipping Award, and it would seem that we can dispose of that one without the need to hear objections because there are no objectors.

MR MATTHEWS: If the commission pleases. Mr Deputy President, the Australian Institute of Marine and Power Engineers has sought registration under the - in the Tasmanian Industrial Commission - somewhat belatedly, and now we seek an interest in two of the commission's awards, that is the Shipping Award and the Marine Boards Award, also, again, I would say somewhat belatedly.

The Australian Institute of Marine and Power Engineers is one of three maritime unions. It's an organisation - well, of the three - perhaps it would be better phrased, three organisations which have pretty much exclusively seafarers as members in Australia.

The Australian Institute of Marine and Power Engineers has in the past appeared in this commission by leave of the trades hall on those occasions when it's needed to represent its members' interests.

Because we are a seafaring organisation we do need to come here from time to time. It became clear to us that it was an anomalous situation that an organisation that is the organisation in Australia and in the States of Australia which represents marine engineers who are the engineers on ships, and have a range of other functions in places like, well for example marine boards. A matter we will come to later.

It seemed anomalous to us that although we had members we were not able to appear in our own right to represent them, and the reason for that is that although we have been an organisation representing marine engineers for 110 years we have not made the effort I suppose in the past to seek representation in this commission; and that's not something I think that we have got any right to be proud about, because I think it is something to be ashamed of. But, nevertheless, better late than never.

We wanted to redress this situation so that we could come here and represent our members in our own name.

I don't suppose - to be honest - our interest is a large one, but we do have members under that award, and of course we have

got quite a number of Tasmanian members who are covered by state and federal awards, and as I say, it seemed anomalous not to be able to come to this commission in our own right. It really is no more complicated than that.

We have members who are employed under the Shipping Award, and that is the reason we seek to be recognised in relation to it. In particular, we have members on the vessel 'Anson' which is in the award. It is also subject to a separate agreement, as you would be aware.

From time to time in the past we've had members on other vessels covered by the Shipping Award. The river tug, for example, which no longer operates. That was one such vessel; or I think there may have been more than one tug that did that run from time to time.

But that's the substance of our submission. We have got some members covered by the award; we would like to be able to appear in our own right and represent those members.

DEPUTY PRESIDENT: Yes. The act lays down strict criteria that I have to be satisfied on, and they are contained in 63(10)(c) of the act.

MR MATTHEWS: 63(10)(c).

DEPUTY PRESIDENT: Now as a precursor to that, the Registrar has as you have already briefly mentioned dealt with your application for registration, and in his decision of the 25th of June this year the Registrar ends up by saying:

I am satisfied that the application for registration by the Australian Institute of Marine and Power Engineers complies with the requirements for registration specified in the Act, and the application is now granted.

A certificate of registration will be issued under 64(1) of the Act following the determination by a Commissioner of award interest.

And that's why we are here. So, yes, the Registrar has recognised and registered your organisation but not yet issued a certificate, and I have drawn your attention to the requirements that I need to be satisfied on under the act under those three categories.

Before you do go to those, on the 'Anson', for instance, you quietly point out that it would be covered by the award but for the existence of an agreement. I point out to you that an agreement overrides - a registered agreement - overrides any award to the extent of any inconsistencies.

Does the award to which you seek an interest have any effect at all, can you tell me?

MR MATTHEWS: I haven't got the 'Anson' Agreement with me. I suppose what I would have to do is I would have to go through them both, both the award and the 'Anson' Agreement. It's an oversight that I haven't got that with me.

But my understanding of the situation is, to the extent that there were inconsistencies, that it would - the certified agreement - would override the award. But I have always understood the award was the basic - the underpinning - of the agreement, and that if there's any matters that are not covered by the agreement that one would go to the award to determine what those matters were - you determine those in relation to the award.

DEPUTY PRESIDENT: Right. Fine. Okay. Would you care then perhaps now to take me to those three matters that you must satisfy me on if I'm to grant -

MR MATTHEWS: That's 63(10).

DEPUTY PRESIDENT: (c).

MR MATTHEWS: 63(10)(c). If I could just read aloud to the commission and then I will endeavour to respond to each.

63(10)(c)(i) The membership of the organisation consists of, or includes members who are employers or employees -

- in this case employees -

- in the industry or occupation which the award stated in its application pursuant to subsection (1)(a)(vii) relate, or who are State employees to whom those awards relate.

Well, Mr Deputy President, I can affirm that that is the case.

DEPUTY PRESIDENT: That you have members covered by an award, fundamentally.

MR MATTHEWS: Yes, we do, Mr Deputy President. If I can pass now to (ii).

DEPUTY PRESIDENT: But before you leave that -

MR MATTHEWS: I beg your pardon. Sorry.

DEPUTY PRESIDENT: Before you leave that, might you indicate the number of members and where they are?

MR MATTHEWS: Well I don't think it's a large number, probably about half a dozen.

DEPUTY PRESIDENT: And they are on the 'Anson', you've already told us.

MR MATTHEWS: Yes.

DEPUTY PRESIDENT: Anywhere else?

MR MATTHEWS: Just trying to think where the others are. I'm not certain of it. We did have people on the tugs. I'm certain of the 'Anson' people.

DEPUTY PRESIDENT: Right.

MR SMITH: About three there.

MR MATTHEWS: Three.

DEPUTY PRESIDENT: Three, is it?

MR SMITH: Three.

MR MATTHEWS: Three engineers - other members of the - I might add, Mr Deputy President, that other members who - of - other employees of the same employer do relieve on the 'Anson' from time to time, so there are three permanent engineers on the 'Anson', but there are several others who, from time to time, relieve on the 'Anson' who are otherwise covered by the Federal Tug Award, but when they relieve on the 'Anson', they're obviously covered by the 'Anson' Agreement, and hence they would come under the scope. So I think it would probably be accurate to say half a dozen - of those I'm certain and I can substantiate.

DEPUTY PRESIDENT: Thank you. Roman (ii).

MR MATTHEWS: Right. Passing now to roman (ii), it reads:

- that membership is consistent with the organisation's rules or constitution a copy of which has been lodged with the Registrar pursuant to subsection (1);

Yes. Well we did lodge that - our rules and I can assure the commission and I can affirm it that we - that the members that we have comply with our eligibility rules.

DEPUTY PRESIDENT: Can you elaborate on that?

MR MATTHEWS: Yes. Well I would need to actually go to the eligibility rule and read it but basically in Tasmania the people that we're talking about are marine engineers who are

the holders of a certificate of competency issued by the relevant department - that could be either the Federal Department of Transport or it could be the Navigation and Survey Authority in Tasmania as the case might be or in another state it would be the relevant state authority in that state. They would be holders, in Tasmania, of tickets, if it was issued by the Navigation and Survey Authority such engine driver tickets - that is marine engine driver tickets - I should be specific about that or possibly an engineer third class ticket in this state. I think that's the terminology. It's certainly a pretty uniform classification structure throughout all the states, so if I've got the terminologies slightly other than correct, you'll find that the structure is there.

Federally, they could be holders of tickets which are basically marine engineer watchkeepers ticket, a class 2 engineer ticket or a class 1 engineer ticket - that could be in either motor or steam, depending on the training and the type of vessel that they can be employed on with that ticket. There are several other federal qualification - there was a first - what was known as a first class coastal ticket which is now basically a redundant ticket but there's still some people that hold them and seek employment. These tickets are the basic qualification for membership of our organisation. There is also eligibility for people who are electricians - joiners and marine electricians, however, I think you'd find that that would be a very rare species indeed in the State of Tasmania because marine electricians have been phased out of our industry and are in fact only employed on specialists vessels and in the off shore oil and gas industry. Within the state jurisdiction you wouldn't find people like that at all.

We have the ability also to cover ex marine people who work in the power industry, but we don't have any of those in Tasmania nor is it our intention to try and cover any of those people. We also have ex marine engineers who work as hospital engineers but we don't have any of those in Tasmania nor is it our intention to endeavour to cover any of them. We've given undertakings in front of the Registrar in relation to those matters.

DEPUTY PRESIDENT: Yes.

MR MATTHEWS: But broadly speaking, that's the extent of our coverage and those are the sorts of things that people who want to belong to our organisation have to be able to demonstrate that they have qualifications in relation to.

DEPUTY PRESIDENT: Yes. On the folder forwarded by the Registrar there is an affidavit signed before a Justice of the Peace which certifies in part that:

- eligibility for membership of the Association as specified in rule 4 of the AIMPE rules as follows -

- and they are quite extensive and I don't propose to read them all, but as an example it starts off by saying:

The union shall consist of -

(1) an unlimited number of marine engineers. Marine engineers shall mean and include chief engineers, Chief engineers, second engineers, third engineers, fourth engineers, fifth engineers, electrical engineers, junior engineers, assistant engineers, cryogenic engineers, refrigeration engineers, trainee engineers, engineers in training, cadet engineers, marine surveyors, senior marine surveyors, chief marine surveyors -

- and it goes on for a considerable way.

MR MATTHEWS: If I could draw the commission's attention, the subsection of that rule, subsection (vii) and it goes to what I have just submitted to the commission about the actual qualifications that they require, and I think that's the underpinning really for the eligibility for our organisation; because, for example, we could have, if we look at subsection (i) to which you just referred, we could have a person with a first class ticket - a motor ticket for example, which would be quite common - sailing as a fourth engineer on a ship, because there is a seniority grading system within each shipping company. And so you wouldn't necessarily have a minimal qualification to sail as a fourth engineer. It is sort of a ladder, really. For example, in the offshore industry you would find almost all of the vessels that operate in Bass Strait, the support vessels that go out to the platforms in the oil and gas industry, you'd find almost all of the engineers there have first class tickets. But of course the mandatory requirement is far lower, and so you have got a ticket structure, a qualification structure, and then you have got the actual positions on the ship to which (i) refers to.

DEPUTY PRESIDENT: So that other people could hold certain technical qualifications and be occupying positions? Because they are the only position available at the time, but they are qualified to perform duties of a higher order?

MR MATTHEWS: That's right. Well some companies actually have a policy of requiring a minimal ticket regardless of whether it is above, and in many cases it is far above the minimum mandatory requirement for the person to have that job; i.e. they must have a certain technical qualification to do the job.

DEPUTY PRESIDENT: Yes. Well, anyway, that affidavit is before me and if anyone wants to have a look at it - to save me reading the whole lot of it - they are welcome to do so here and now today.

MR MATTHEWS: Thanks, Mr Deputy President. I am not sure, did I go to the last point? Shall we proceed to that?

DEPUTY PRESIDENT: Indeed, I have to be satisfied on all three.

MR MATTHEWS: Going now to (iii):

The organisation being granted an interest in an award or awards would not prejudice the orderly conduct of industrial relations in Tasmania.

DEPUTY PRESIDENT: Well, would there be any repercussive effects with the granting of your interests which would be against the best interests of orderly industrial relations in Tasmania?

MR MATTHEWS: Well, to be absolutely honest, Mr Deputy President, I don't imagine that this commission would see us very much more frequently than you have in the past. It is just simply that we would appear in our own right.

I don't honestly think that there is going to be an eruption of industrial strife if we are registered. I suppose in the day to day affairs of any industrial jurisdiction, I mean we are here for a purpose, and as the jurisdiction exists for a purpose. I could see it being conceivable that we could come here from time to time in relation to a matter that could be raised. For example, in the Shipping Award in relation to the 'Anson' Agreement.

The fact that I don't ever remember us coming here in relation to a dispute on that matter, anyway. We've come here from time to time to update the award, or to certify an agreement.

So I must say that I don't imagine that we can -

DEPUTY PRESIDENT: I suppose the worst thing in the minds of some other people might be that you're going to embark upon a massive recruitment campaign to take over people who are already members of other organisations with an interest in the same awards and we'd have a demarcation type dispute on our hands, and obviously no tribunal wants to do anything which might create that sort of problem if it could be avoided. Do you know what I am talking about?

MR MATTHEWS: Yes, I do, and I think I can respond to it. At the registration stage we were able to satisfy objectors who had concerns in that area.

Mr Cooper from the AWU is here today and we've had a discussion about matters of that type, and I've been able to give Mr Cooper an assurance in relation to that; and I've no doubt that we will be able to settle any of those sorts of things in an amiable fashion without concerning this commission, to be honest.

DEPUTY PRESIDENT: Well, the commission is not shying away from its responsibilities, but it doesn't want to facilitate disputes unnecessarily.

MR MATTHEWS: I'd be extremely surprised if that was to be the outcome. I don't believe that there is going to be any discernible change.

DEPUTY PRESIDENT: Right. Okay. Thank you. Mr Smith, you have no objection in the shipping?

MR SMITH: No objection, Mr Chairman.

DEPUTY PRESIDENT: Alright. Very well. In that case, there are no objectors and I believe that there is sufficient material and evidence before me to grant an interest in the Shipping Award, and I will confirm that in writing.

Now, insofar as the Marine Boards Award is concerned, would you care to assure me that you can meet the same criteria in relation to the Marine Boards Award, and whilst we haven't joined the two matters both Mr Cooper and Mr Smith have been privy to what you've said in relation to satisfying the three essential criteria generally.

MR MATTHEWS: Yes. Thank you, Mr Deputy President. Well, if I can address 63(10)(c)(i) again.

DEPUTY PRESIDENT: Yes.

MR MATTHEWS: It might be the best way to go about it:

- the membership of the organisation consists of or includes members who are employers or employees -

In this case employees:

- in the industry or occupation to which the awards stated in its application pursuant to subsection (1) (a) (vii) relate or who are State employees to whom those awards relate;

DEPUTY PRESIDENT: Right.

MR MATTHEWS: If I can address that particular matter. The institute has members who are surveyors in the Port of - I beg your pardon, the Hobart Marine Board, the Port of Launceston Authority. I am not aware of - in relation to Burnie Marine Board, whether we've got surveyors there or not, but I'm certain of the first two. And the Port of Devonport Authority I'm not sure about either.

DEPUTY PRESIDENT: So, we're talking about the Port of Hobart.

MR MATTHEWS: Yes.

DEPUTY PRESIDENT: On Hobart Marine Board.

MR MATTHEWS: These people are blokes who are - oh, I beg your pardon, these people are marine engineers who work for those organisations as - as surveyors of vessels -

DEPUTY PRESIDENT: I see.

MR MATTHEWS: - for the Navigation and Survey Authority. And I'd estimate there - well, I think there are three in those two bodies.

We also have members who work on the 'Port Frederick', which is a self-propelled dredge in Port - I beg your pardon?

DEPUTY PRESIDENT: Could I just -

MR MATTHEWS: Sorry?

DEPUTY PRESIDENT: - make a note there, because it's so important, Mr Matthews. These people that you mentioned are marine engineers who are employed as marine surveyors -

MR MATTHEWS: Yes.

DEPUTY PRESIDENT: - in Hobart and Launceston, at least.

MR MATTHEWS: Yes. And they - they work for the Navigational Survey Authority of Tasmania.

DEPUTY PRESIDENT: Right. I'm just wondering about the tie-up between the Navigation and Survey Authority and the Marine Board -

MR MATTHEWS: Well -

DEPUTY PRESIDENT: - as to whether or not they are employed by the Marine Board.

MR MATTHEWS: Well, as I understand it, they are seconded from the Marine Boards to the Navigation and Survey Authority.

DEPUTY PRESIDENT: Right. And are they actually employed by the Marine Board for that time or by the Navigation and Survey Authority?

MR MATTHEWS: Well, as I understand it, they're employed by the Marine Board.

DEPUTY PRESIDENT: Right. It's not a trouble shooters situation?

MR MATTHEWS: No, it's not. And in fact there are some slight differences between Launceston and Hobart which I hope to be able to address.

DEPUTY PRESIDENT: Right.

MR MATTHEWS: But I don't - Once again, I don't imagine that's going to be any major -

DEPUTY PRESIDENT: Right.

MR MATTHEWS: - matter. It's to do with whether one has got a car and the other one - the others haven't -

DEPUTY PRESIDENT: Right.

MR MATTHEWS: - and that sort of thing.

DEPUTY PRESIDENT: Right.

MR MATTHEWS: You know, it's really consistency between the two places.

DEPUTY PRESIDENT: So we're talking about three people, was it, you said?

MR MATTHEWS: Yes.

DEPUTY PRESIDENT: Right. Okay. Any others - members?

MR MATTHEWS: Not amongst the marine surveyors that I know of.

DEPUTY PRESIDENT: Right.

MR MATTHEWS: The - in Port of Devonport we have marine engineers who - who work on the 'Port Frederick', which is a self-propelled dredge. And also there is a - a small vessel which operates as, I think it's called the 'Mersey' as a matter of fact, which operates from time to time as - well, we think of it as half a tug, because there is a tug called the

'Gawler' in Devonport and now and again they want - that one tug wants some assistance and the 'Mersey' provides assistance as a sort of a quasi tug.

So we think of it as about one and half tugs rather than two. But we do have people that work on that in the capacity as - as engineers - marine engineers. And they are employees of the - of the - I think it's the Port of Devonport Authority.

DEPUTY PRESIDENT: Right.

MR MATTHEWS: In fact it's the same people that work on the 'Port Frederick' that do the work on the 'Mersey'.

DEPUTY PRESIDENT: Right.

MR MATTHEWS: I think there are - I believe there are two of them.

There was up until a couple of years ago the - of course the tug in Devonport was covered by the Port of Devonport Authority, but that's now become a private concern; it's run by North-West Shipping and Towage which runs the tugs here in Hobart, and also in Portland nowadays. And so we - the person that was on the tug that we had as a member has now gone into the private sector -

DEPUTY PRESIDENT: Right.

MR MATTHEWS: - and is under a federal award.

DEPUTY PRESIDENT: Right.

MR MATTHEWS: I think that's the extent of it.

DEPUTY PRESIDENT: So that's the extent of your membership. Right.

MR MATTHEWS: Yes. If I could pass to (ii), Mr Deputy President.

DEPUTY PRESIDENT: Yes.

MR MATTHEWS: The membership is consistent with the organisation's rules or constitution, a copy of which has been lodged with the Registrar pursuant to subsection (1).

DEPUTY PRESIDENT: Right.

MR MATTHEWS: Well, to be honest, going back to our - the Shipping Award, which we've just looked at, our response would be exactly the same.

DEPUTY PRESIDENT: Yes.

MR MATTHEWS: It's exactly the same situation.

DEPUTY PRESIDENT: Right. And I've said those rules are here
-

MR MATTHEWS: Right.

DEPUTY PRESIDENT: - on the file, if anyone wants to have access to them to help them.

MR MATTHEWS: Going also to (iii), the organisation being granted an interest in an award or awards would not prejudice the orderly conduct of industrial relations in Tasmania.

DEPUTY PRESIDENT: Yes.

MR MATTHEWS: I's have to respond in exactly the same way again. I don't believe that it will.

DEPUTY PRESIDENT: Right.

MR MATTHEWS: I see the sorts of things that I may be required to do or my organisation might be required to do as being of a fairly low level and mundane nature.

DEPUTY PRESIDENT: Right. Thank you. Mr Smith? I'm sorry, Mr Cooper, you have any objections?

MR COOPER: With respect to the submissions made by Mr Matthews, Mr Deputy President, we have had discussions, or our branch has had discussions with our federal office with respect to this application, and our federal office expressed little or no concern with the application.

DEPUTY PRESIDENT: Right.

MR COOPER: On meeting with Mr Matthews this morning we have outlined some assurances that - that we required, and we are - we have at this stage no objection at all on the basis that - of the assurances that Mr Matthew gave us. And we do not think that the application will in any way provide any reason for the commission to think that the orderly conduct of industrial relations in Tasmania will be affected.

DEPUTY PRESIDENT: Thank you.

MR COOPER: If the commission pleases.

DEPUTY PRESIDENT: Mr Smith?

MR SMITH: Thank you, Mr Deputy President. Yes, we have - unfortunately we do object and I am sorry to be sitting on

this side of the table from my colleague over there. We're not usually in this sort of mode.

DEPUTY PRESIDENT: Oh right, it happens in the best of - best of circles sometimes.

MR SMITH: However, we do oppose their application and reasons for doing so are that the guild traditionally represented all marine operative employees and the Marine Board and the port authorities. These employees include masters, mates, engineers, duty officers, wharfingers, coxswains, boatmen and marine surveyors, et cetera.

Our membership eligibility rules provide for a standard of marine engineering certificates required to operate all existing port authority-marine board vessels. During the last award - award restructuring in the wage increase negotiations, the employees demanded that the members - numbers of unions, parties to awards, be reduced. The unions acknowledged the employees claim and informed the employers that the reduction would occur as a result of amalgamation and/or ACTU industrial union policy.

We do not believe that the AIMPE application is necessary or desirable because, a), the employees of the port authorities and marine boards have and will continue to be represented by this union and, b), should the application be approved we believe the potential for dispute or demarcation will arise. And while we concur with your thoughts on that, Mr Deputy Chairman, the - I must admit my colleague over here must be a little nervous because he only gave me 5 minutes adjournment - or he asked for a 5-minute adjournment to say that we may be able to railroad this. With regard to the surveyors and I'm not disputing Mr Matthews claim that they are in the - either covered by their award or they represent them, but that maybe that also the engineer on the 'Mersey' because she is launch, not a tug, it is only classed as a launch, and I'm led to believe that people do man her as well, so there could be -

DEPUTY PRESIDENT: Whose people man the -

MR SMITH: The Merchant Service Guild.

DEPUTY PRESIDENT: The Merchant Service Guild.

MR SMITH: Because she is a launch and not a tug, she's classed as a launch and I'm also led to believe that we do cover surveyors as well in the port, so there is some conjecture there. Thank you, Mr Commissioner, that's -

DEPUTY PRESIDENT: Thank you. Well, Mr Matthews, you have a right of reply on that. Usually in this sort of situation, the commission encourages organisations, particularly employee organisations, and it's usually employee organisations, to see

whether or not they can't do as you've already done with the AWU and come to some understandings if it's possible in relation to areas of demarcation and - and sort out where one's existing rights will be recognised and where they won't. It is an important area I say to you so far as the commission is concerned. It encourages - encourages parties to have understandings in exchange of letters as the union movement would appreciate and sometimes those things are even sorted out in the - in the local Trades and Labor Council if - if both parties request it, and I'd guess you'd understand what procedures there exist rather - better than I.

But I would do no more than encourage you to see whether or not you can't sort out what sort of potential problems might be seen to exist and so that you can give the assurance to this commission that under that third criteria that it wouldn't be against the orderly conduct of industrial relations in Tasmania to grant you that interest.

MR MATTHEWS: Thanks, Mr Deputy President. While it's been - the same kind of guidance was offered by the Registrar in relation to the registration and we accepted that advice and - and - because we felt that the best way to go.

DEPUTY PRESIDENT: Yes.

MR MATTHEWS: And - and - our experience in these matters is that it is the best way to go, so we would accept that advice and we will seek to discuss with the guild just what the substance of the problem is -

DEPUTY PRESIDENT: Yes.

MR MATTHEWS: - as I indicated at the very outset of this hearing as a matter of some surprise to this organisation that they are here as an objector. I don't know whether it's worth enlarging on that. There were some things that Mr Smith said that I felt required a little clarification, on the 'Mersey', for example.

DEPUTY PRESIDENT: Well they're the sorts of things I think that you probably ought to talk about.

MR MATTHEWS: Yes, well if I might just say for the commission's benefit, a ship doesn't just have a marine engineer on it and that's not - that's the case with the 'Mersey'; it would have a master, it would have an engineer and it would have a deckhand. So it's true that the Merchant Seamen's Guild does have people on the 'Mersey'. But it doesn't mean to say we haven't got somewhere to - someone there as well. And I just think that's a really fundamental thing that needs to be clarified.

DEPUTY PRESIDENT: Yes, right.

MR MATTHEWS: On the other matters, yes, I think we should take them away and -

DEPUTY PRESIDENT: Yes.

MR MATTHEWS: - talk to them.

DEPUTY PRESIDENT: I think it's a good idea. You'd be quite happy with that, Mr Smith?

MR SMITH: Yes, I'm happy, Mr Chairman. On the 'Mersey' - and I'm not going to get into a debate over it - because it's a launch you can have a dual certificate, whether it be the coxswain - the coxswain of the 'Mersey' would be a member of the - a member of the Merchant Service Guild, and he'd also hold a MED3 or 5, just to be able to drive that vessel. I'm not saying that this doesn't happen - they don't have a marine engineer on there, but it's quite within the rules.

DEPUTY PRESIDENT: Yes.

MR SMITH: You can operate - the same as the pilot boat down here -

DEPUTY PRESIDENT: Yes.

MR SMITH: - our member there is the coxswain and also the engine driver as well.

DEPUTY PRESIDENT: It might well be that you need to look at these sorts of things on a state-by-state basis even - I don't know.

MR MATTHEWS: I could respond on the 'Mersey', but I'm going to resist the temptation because it becomes more complicated -

DEPUTY PRESIDENT: Yes. Well we don't want to - I don't want to -

MR MATTHEWS: - about what capacity it's being used in.

DEPUTY PRESIDENT: I'm trying to go the other way.

MR MATTHEWS: Right.

DEPUTY PRESIDENT: Yes. All right. I think it's appropriate then that they adjourn these things and I - in inverted commas - 'put all of you into conference' and so that you can report back to the commission at some mutually convenient time. I've got another matter listed for this morning so I don't have a lot of time, and that matter concerns an alleged unfair dismissal so it's not likely to be one that I can duck into

and out of in - some people might have travelled some way today.

MR MATTHEWS: I imagine that this is a matter that will have to be conducted at a federal level within our organisation.

DEPUTY PRESIDENT: Right.

MR MATTHEWS: If it's going to be resolved by discussion simply because Mr Smith is here on instructions -

DEPUTY PRESIDENT: Yes.

MR MATTHEWS: - and it's not going to be resolved between me and Mr Smith. So - if the commission pleases.

DEPUTY PRESIDENT: All right. I'll adjourn this particular matter as it goes to the Marine Boards Award - I've already dealt with the Shipping Award. I'll adjourn this matter to a date to be fixed and ask the parties to confer and with the object of trying to sort out issues which arise in the context of section 62(10) - (iii) - in particular and report back to the commission on the next hearing date. And I would hope that you would probably even arrive at a mutually - date that you can notify the commission of and hopefully I can meet that date for you. All right?

MR MATTHEWS: Thanks.

DEPUTY PRESIDENT: Anything further? Right. We'll adjourn these proceedings.

HEARING ADJOURNED