

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. Nos 4258 and 4259 of 1993

IN THE MATTER OF applications by
the Australasian Meat Industry
Employees Union, Tasmanian Branch
to vary the Meat Trades Award and
the Abattoirs Award

re export and local boning and
slicing tallies

COMMISSIONER GOZZI

HOBART, 29 June 1993

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER GOZZI: Could I have appearances in that matter please?

MR J. SWALLOW: SWALLOW, J.E. AMIEU.

COMMISSIONER GOZZI: Thank you, Mr Swallow. Oh, sorry. It is change in appearances, isn't it? Oh, no, it's first appearance. Mr Swallow, thank you.

MR T. EDWARDS: If it please the commission, EDWARDS, T.J., appearing for TCCI and the Meat and Allied Trades Federation. Appearing with me, **MR M. FLYNN, O. JAK, J. PASTORE, and G. CAMERON.**

COMMISSIONER GOZZI: Thank you, Mr Edwards. I'll just look at the other application, T.4259. Yes, you had better read that matter too.

I take it that the appearances are the same? Is there any objection to these matters being joined?

MR SWALLOW: No.

COMMISSIONER GOZZI: In that case, the applications are joined for hearing purposes. Mr Swallow?

MR SWALLOW: Mr Commissioner, the - it's a - it's another application by the union to have tallies inserted into the Abattoir Award for piecework boners and slicers along similar grounds to that which applies in the slaughtering section.

Over the last 25 years, Tasmania has been without tallies. There's tallies in every other state in Australia and I've argued that position before this commission on numerous occasions.

Now the position as far as the employees go in the boning and slicing section has got to a stage where, without tallies, they're expected to work all hours of the day and all it's done is created a problem for the meat industry in relation to workers' compensation. The most recent example of this I can give you is out of eight in one boning room at Killafaddy there was seven boners off on one particular day on workers' compensation and a recent meeting out at Gilbertson's out at Longford the concern was shown by management as to why there was so many workers' compensation claims at that plant and the obvious answer from the delegate was that they're expected to do too much.

Now, really I think it's - all the no tally system in Tasmania, by comparison to every other state, all it's done is created a workers' compensation monster here employees have got to get out of the industry at a young age instead of being able to work in the industry till they're 65 and retire like

they do in other states, and given the - what's considered becoming the norm with all these wage parity decisions that are getting common place - even for politicians. I see they're after their dividend, and the union believes it's about time employees in this section of the industry had tallies. They want it - they want tallies - and they intend to get them.

COMMISSIONER GOZZI: Mr Swallow, what was the reference to wage parity?

MR SWALLOW: Well in every other state they -

COMMISSIONER GOZZI: You mean parity with those in - those that get tallies, you mean?

MR SWALLOW: Yes. You've got tallies in every state, in - and rates - tallies and rates and what I've done - I've just done one of the - of the Western Australia position that I'd like to put forward as an exhibit and once they're studied, they'd give everyone a much better position.

COMMISSIONER GOZZI: What is that, is that the award?

MR SWALLOW: That's the award in respect to boners, tallies, and rates in Western Australia.

COMMISSIONER GOZZI: Is that the award, is it, or - ?

MR SWALLOW: No, that's the state award.

COMMISSIONER GOZZI: Yes. What's it called?

MR SWALLOW: I wouldn't have a clue. He only sent me the pages that are relevant to - I didn't ask for the whole award. I got -

COMMISSIONER GOZZI: No, that's all right. Well anyway it's the -

MR SWALLOW: I got the federal.

COMMISSIONER GOZZI: You can get the title later on. It's the WA state award.

MR SWALLOW: Yes. I've got the federal award there. I didn't get a copy of that either, but I just relate to the pages and you could have that. I'm sure Mr Flynn's got one in his office.

COMMISSIONER GOZZI: All right, we'll mark it exhibit AMIEU.1.

MR SWALLOW: So you've got the WA one, you've got the Newcastle and Northern one and, from memory, that's the Cumberland -

COMMISSIONER GOZZI: Yes.

MR SWALLOW: - the Butchers Cumberland Award, something like that.

COMMISSIONER GOZZI: Something like that.

MR SWALLOW: You've got your federal awards.

COMMISSIONER GOZZI: You're handing those up, are you?

MR SWALLOW: Yes You've got your federal award, you've got your Queensland award, you've got your Victorian award and you've got your South Australian award. Every one of them contains tallies and rates and are applicable to this type of work.

COMMISSIONER GOZZI: All right, well - are they all attached there, are they?

MR SWALLOW: No, they're not. I just gave you the Western Australian and the Newcastle and Northern one and the federal ones there -

COMMISSIONER GOZZI: Okay, that's exhibit AMIEU.2.

MR SWALLOW: And the federal awards ones are there.

COMMISSIONER GOZZI: Okay, we'll get the federal one and that will be AMIEU.3.

MR SWALLOW: It starts on page 109.

COMMISSIONER GOZZI: AMIEU.3.

MR SWALLOW: Now what they do, they -

MR EDWARDS: Excuse me, commissioner. Are there any more copies of AMIEU.3? I didn't get one.

COMMISSIONER GOZZI: Have I got the -

MR SWALLOW: No, you got the whole one.

COMMISSIONER GOZZI: - the whole lot. I'd be pleased to give you some back, Mr Swallow, if you want. Have you got any more copies?

MR SWALLOW: No, I haven't, sorry.

COMMISSIONER GOZZI: Well could you undertake to -

MR SWALLOW: I sure will.

COMMISSIONER GOZZI: Yes, thank you.

MR SWALLOW: I'm sure Mr Flynn's got one in his office.

COMMISSIONER GOZZI: Well it's customary in proceedings, as you know. I can appreciate why you haven't got one, Mr Swallow, but we like to do these things properly.

MR SWALLOW: Right.

COMMISSIONER GOZZI: It's the federal award. For your reference, Mr Flynn and Mr Edwards, it's pages -

MR SWALLOW: It starts at 109.

COMMISSIONER GOZZI: One hundred and nine, is it? What's all the front stuff then?

MR SWALLOW: That's other stuff relative to the award - classifications. One hundred and nine starts at boning and slicing.

COMMISSIONER GOZZI: Page 109 and I've got a whole lot of pages here which go back to page - well, Mr Swallow, where's it start, page 40?

MR SWALLOW: One hundred and nine, is it?

COMMISSIONER GOZZI: Page 39 - hang on. Well, look, it starts with the page, whatever the page number is, with 'Title'.

MR SWALLOW: Oh, the whole award, you mean?

COMMISSIONER GOZZI: All the way through to - is this the whole award, Mr Swallow?

MR SWALLOW: Yes, it's the whole award.

MR EDWARDS: Does it have a code in the top left-hand corner, an M number of M003 or something similar to that? That would assist in locating it.

COMMISSIONER GOZZI: Pass it to Mr Edwards so he can have a look.

MR EDWARDS: I'm not sure that I want to locate it.

COMMISSIONER GOZZI: Right. So all those awards, you're saying, have got a boning and slicing tally?

MR SWALLOW: And rates.

MR EDWARDS: The code is F002, that's a FATEXT document, is it, John? It's been brought down on FATEXT.

MR SWALLOW: holus-bolus.

MR EDWARDS: Yes, from the federal award text retrieval system.

MR SWALLOW: Yes.

COMMISSIONER GOZZI: Right.

MR SWALLOW: Now what you'll see in all of those awards, Mr Commissioner, there's tallies, there's rates which are applicable, there is built-in incentives for follow-on labour, there's built-in incentives for piecework boners and slicers but the Tasmanian award there's no built-in incentives and that's what we're attempting to do and the way, I believe, we can do that is in the Abattoirs Award we currently have on page 11 - we have piecework rates. It starts with Division B - Piecework Rates.

COMMISSIONER GOZZI: Right.

MR SWALLOW: (a) Boners. And it carries over to page 15, the top half of page 15.

COMMISSIONER GOZZI: Right.

MR SWALLOW: And what the union believes should happen and should have happened in the past is if they be - those rates and conditions to be transferred to Division B - Boners and Slicers - Piecework, on page 71.

COMMISSIONER GOZZI: Division B - transferred to Division B, you mean?

MR SWALLOW: Yes, transferred to Division B - Boners and Slicers - Piecework, on page 71.

COMMISSIONER GOZZI: Right.

MR SWALLOW: We believe that reflects what the position is in other states in Australia.

COMMISSIONER GOZZI: Now in respect to those tallies there, in Division B on page 71, they're not used at the present time. So why are they there?

MR SWALLOW: Well history is that they were - years ago, probably 20 years ago or around about, the piecework boners

and slicers and, indeed, piecework slaughtermen never had a guaranteed weekly wage. Now it was quite easy for the slaughtermen to get their guaranteed weekly wage because there was a tally and there was rates, hence the guaranteed weekly wage came in for the slaughtermen. The only way, in the absence of tallies, the only way we could get a guaranteed weekly wage for piecework boners and slicers is to put a tally in so you could base your weekly wage on that tally.

COMMISSIONER GOZZI: Yes, that's what the proviso says.

MR SWALLOW: Yes, and that's the only reason it was there. Now that tally was extracted from the federal award. With the exception of the proviso the details of all of page 71 are extracted directly from the federal award, going back about 20 years ago.

COMMISSIONER GOZZI: So how does the piecework rate, commencing on page 11 of the award, match up with the production levels starting on page 71 of the award? Now how many a week would pieceworkers do subject to the piecework rate at the moment? What's the sort of production comparison?

MR SWALLOW: Oh, you could be looking at 600 instead of 400. You could be looking at more than that. With cattle you could be looking at 120 a week rather than 80.

COMMISSIONER GOZZI: From the piecework rate.

MR SWALLOW: Mm.

COMMISSIONER GOZZI: How do the piecework rates stack up vis-a-vis other rates in other states? The reason I ask that, I know Mr Edwards is going to jump up about comparative wage justice in a minute.

MR EDWARDS: Oh, commissioner.

COMMISSIONER GOZZI: But the reason I ask that is, it has always been my understanding that the piecework rates themselves provide an incentive amount.

MR SWALLOW: Yes, up until that 400, for example.

COMMISSIONER GOZZI: Yes.

MR SWALLOW: That was the incentive to get in and get them done in 6 or 7 hours, to get that 400 done.

COMMISSIONER GOZZI: Well could I put it this way. I thought that the piecework rate was always a loaded rate whether you did one or whether you did 400 or whatever. That it comprehended - the very nature of piecework is that there is some incentive in there. That's why I'm asking why do these -

MR SWALLOW: Well it's -

COMMISSIONER GOZZI: How do the piecework rates line up with piecework rates elsewhere?

MR SWALLOW: Well we're behind. See, is the answer to your question - is the answer to your question - does that piece where rate, say, on mutton, for example, on page 11 where it's 98.26 - does that rate - how does that 400 work into the - the bonus rate of \$374 on page 10, for example, is that - was that your question?

COMMISSIONER GOZZI: Yes.

MR SWALLOW: It - there's very little difference - about \$20.

COMMISSIONER GOZZI: So you're - you're proposing that the piecework rates on page 11 - commencing on page 11 - get transferred to page 71 - Division B?

MR SWALLOW: Yes. Mm.

COMMISSIONER GOZZI: And what's your proposal - what happens after the tallies that are specified there?

MR SWALLOW: Well once the tallies have been achieved they - the slicers, for example, get paid these - these penalties and they're paid at the rate of two for one for additional specified cuts such as the Japanese cattle - we done some inspections on there recently at Gilbertsons.

COMMISSIONER GOZZI: Well, let's just look at the - let's just - so I don't get confused on it -

MR SWALLOW: Right.

COMMISSIONER GOZZI: - let's look at sheep -

MR SWALLOW: Right.

COMMISSIONER GOZZI: - which at the moment goes for 98 - .9826 for each carcass -

MR SWALLOW: Mm.

COMMISSIONER GOZZI: - right? Now sheep in Division B have a 400 per week tally for the proviso that's specified there, but let's just say it's a 400 week - per week tally -

MR SWALLOW: Yes.

COMMISSIONER GOZZI: - what are you proposing that the rate should be, a), for the first 400 and then for beyond 400?

MR SWALLOW: Ninety eight point two six for the first - for the first 80 - or the first 400 if you want to talk in those terms.

COMMISSIONER GOZZI: Yes - let's talk about that. So 98.26, .9826 rather, for the first 400 -

MR SWALLOW: And over, rate and a half.

COMMISSIONER GOZZI: Overs - rate one half. For all overs?

MR SWALLOW: All overs - yes.

COMMISSIONER GOZZI: Right. And the same sort of rationale for the others?

MR SWALLOW: Yes.

COMMISSIONER GOZZI: That the piece work rate from the - page 11 to the tally on page 71 - rate and a half beyond the tally?

MR SWALLOW: Yes.

COMMISSIONER GOZZI: Right. Now you're going on to another proposition - two for one - where does that come in?

MR SWALLOW: For the - for the slicers. All of those specified cuts that the slicers do -

COMMISSIONER GOZZI: Well we've got slicers - where are we?

MR SWALLOW: On -

COMMISSIONER GOZZI: Page 14.

MR SWALLOW: - still on page 71 and - and -

COMMISSIONER GOZZI: Page 14.

MR SWALLOW: Yes.

COMMISSIONER GOZZI: So, hang on, so we have slicers - page 14. So again the rates there up to the tally is specified?

MR SWALLOW: Yes.

COMMISSIONER GOZZI: What happens after that?

MR SWALLOW: Rate and a half.

COMMISSIONER GOZZI: Rate and a half. And where do you get the two for one?

MR SWALLOW: For additional specified cuts such as those Japanese requirements that we -

COMMISSIONER GOZZI: Which are not in the award at the present time?

MR SWALLOW: No, no.

MR EDWARDS: They're a separate claim aren't they?

MR SWALLOW: I thought we were dealing with them altogether.

COMMISSIONER GOZZI: I mean we have in the - in the - on page 15 -

MR SWALLOW: Yes.

COMMISSIONER GOZZI: - we have additions to piece work rates. We've got mutton exports, square and descending backstraps - it's an additional 5% which I think goes back to the Blue Ribbon exercise, way back when.

MR EDWARDS: Eighty five.

COMMISSIONER GOZZI: Eighty five. We've got denuded topside - an additional 6.25 per hindquarter. I think that was a Longford -

MR EDWARDS: Eighty eight.

COMMISSIONER GOZZI: - Longford one.

MR EDWARDS: Eighty eight version.

COMMISSIONER GOZZI: Eighty eight. And we've got seaming shin muscles and so on, and those rates there which is not two for one.

MR SWALLOW: Will that be included - two for one for these.

COMMISSIONER GOZZI: So what are you saying - in respect of the Japanese?

MR SWALLOW: The Japanese?

COMMISSIONER GOZZI: What's this, Mr Swallow, it's exhibit AMIEU.4?

MR SWALLOW: They're the sorts of requirements that - that the Japanese are asking for, and what we're putting forward is it's about time they was included in the award. That - that special - that special additional cut that we had a look at the other day out at Longford has been - the employees out there have been requested to do that since Christmas.

COMMISSIONER GOZZI: Is that on this list? It's not is it?

MR SWALLOW: No, that's another one. Can someone help me?

MR EDWARDS: L & M Johns.

MR SWALLOW: L & M.

MR EDWARDS: L & M.

MR SWALLOW: Yes, so what the slicers at Longford are saying basically, that they shouldn't be expected to do all of these new things for 6 months without getting any more money.

COMMISSIONER GOZZI: Alright. Mr Swallow, just before you go much further so that we can keep it as simple as we possibly can, you've got applications - the one we're dealing with at the moment is putting boning and slicing tallies in both awards - right?

MR SWALLOW: Yes.

COMMISSIONER GOZZI: But you've also got other applications - you've also got other applications specifically dealing with boning and slicing of Japanese cattle - double rates. Now they haven't been called yet.

MR SWALLOW: The boners are getting paid for that.

COMMISSIONER GOZZI: No, hang on, we've got four applications. The ones we're dealing with at the moment go to export and local boning, slicing and tallies.

MR SWALLOW: Right. Right, I see, right.

COMMISSIONER GOZZI: And you've put in another two applications dealing with boning and slicing of Japanese cattle - double rates. Now we're not dealing with that at the moment.

MR SWALLOW: Okay.

COMMISSIONER GOZZI: Well I can - I think -

MR SWALLOW: No, it doesn't matter.

COMMISSIONER GOZZI: I think it's better to leave them to one side.

MR SWALLOW: No, no, that will do. That will do.

COMMISSIONER GOZZI: Yes - so let's stick to the - the - so the AMIEU.4 - I'll - I'll just cancel that.

MR SWALLOW: Right.

COMMISSIONER GOZZI: And we'll hold that to the other applications. Okay. Is there anything further on boning and slicing tallies?

MR SWALLOW: Yes, there's one very important point, that the - the - I suppose the best example I could - I could give you - and you have a look at the - the workers' compensation premium at - at Blue Ribbon, for example, and yet you could have a look at your workers' compensation premium really anywhere else in Australia and you could see it's through the roof - it's just got to a ridiculous stage. It's got to a stage in fact that the company have said to their employees, we've got to gear you back to see if we can't reduce the workers' compensations claims.

COMMISSIONER GOZZI: You mean slow the speed?

MR SWALLOW: Yes. And of course what tallies do, they become - they become self-regulated and I don't - I don't think that Blue Ribbon would mind if I put forward a - a proposition that they put forward to their employees some time ago - it's in relation to that 90.

MR: Could we have a look at it please?

MR EDWARDS: Yes, we'd like to have a look at that, Mr Commissioner. I don't know what it is.

COMMISSIONER GOZZI: Oh, well if you don't want to -

MR EDWARDS: It's a company document.

MR: It's an internal memorandum. Well first of all the document is not the -

COMMISSIONER GOZZI: That's exhibit AMIEU.4.

MR: - what currently applies. That was distributed, discussed and then withdrawn and changed, so I mean it's - and it's an internal document. I mean I have the document -

MR EDWARDS: I don't know what use Mr Swallow wishes to put this to, commissioner, but I'm advised by Mr Cameron from Blue Ribbon that this is not anything like a current document; this has been withdrawn and has been superseded by a new document which we're prepared to make available to the commission which would reflect what actually happened, but this one is, in our view, irrelevant because nothing ever happened with it. That document is withdrawn.

MR SWALLOW: Have you got a copy of the latest one?

MR EDWARDS: It's the letter to you, John, dated 8 June, which summarises it.

MR SWALLOW:

MR EDWARDS:

MR SWALLOW: Yes, yes, I've got that one.

MR EDWARDS: Slip him up.

COMMISSIONER GOZZI: So is that replacing the one I've got?

MR SWALLOW: No, that replaces it all right, but it wasn't the company that replaced it Anyway, I'm sure Mr Cameron can - he can get up and have his say afterwards.

COMMISSIONER GOZZI: AMIEU.5.

MR SWALLOW: Now all I'm - in document 4 you'll note that what I said there really was that the company at long last has decided enough is enough. That's all document 4 was and that was just to verify that industry employers have woken up at last, that there's problems. Right?

Now that document 4 was put to the employees out at Killafaddy and it was rejected. Document AMIEU -

COMMISSIONER GOZZI: Rejected by whom?

MR SWALLOW: By the employees, and in turn the employees put forward a document dated 8 June '93. In other words, your tally, on your second paragraph, was reduced from - the employer proposition was 90 in exhibit 4, the employees' proposition, on paragraph 2, was reduced to 80. And quarters of beef, in the employer request, was 54 and the employees' request was 51, in your second paragraph there.

So all they're really for and all they are intended for is to give the commission, to give the commission an update, if you like, on what the position is in relation to excessive amounts of work that have been required in the past. It even got to a stage out there at Killafaddy that they --

COMMISSIONER GOZZI: Thanks, Mr Swallow. AMIEU.6.

MR SWALLOW: It even got to a stage out there at Killafaddy that they had problems in relation to overtime. They even devised a way, if you read there - even devised a way if you was off on workers' compensation you wouldn't get picked for any overtime on the Saturday. So all those three documents

are really for is to give the commission an insight of the radical changes that have taken place in the meat industry in Tasmania. And, of course, when you've got a workers' compensation bill that's close on \$3/4 million a year you've got to do some adjustments.

What I've been saying here for years is exactly that, is exactly that. Pages and pages of transcript, you will see from me, that employees in this industry in Tasmania surely are entitled to work in the industry until such time as they are 65 and they can't do that with these excessive work loads that they're expected to do. And the only way we can make that work load at a safety level is adopt some self regulating measures, that there are penalties attached for anyone that requires these excessive work loads.

COMMISSIONER GOZZI: The penalty being the overs.

MR SWALLOW: The over tally.

COMMISSIONER GOZZI: How is that going to fix the workers' comp. problem?

MR SWALLOW: Well it will be a very simple exercise, Mr Commissioner, a very simple exercise. How the pieceworkers work, they start work and they gear themselves to a particular speed. And, for example, if those times were adhered to I think people would be able to work in the industry until they're 65. How you get your workers' compensation claims, by and large, is that at midday the employer comes up and says: Look, we want you to bone another 200 or 300 sheep, and they've geared themselves to finish at a particular time and then they've got to up the tab on their speed so they can get out at a reasonable hour. And, of course, what happens then the work load gets immediately handed back to the follow-on labour, they start cutting themselves and injuring themselves and doing all sorts of things that they wouldn't otherwise do.

And, of course, the simple way to do it is to, instead of employing 20 boners, and you've really got work for 25, you'd employ another five boners. That would be the simplest way. If I had anything to do with running a meat works that's what I'd do because I couldn't cop a \$3/4 million workers' compensation premium bill and even threats such as they can't get insurance from anyone.

COMMISSIONER GOZZI: Well, Mr Swallow, knowing the industry as I do, how would your members react to having another five boners in there, because that has a direct impact, hasn't it, on their earnings?

MR SWALLOW: Well those 80s in the 51 quarters came from the members; they didn't come from me. So they must have thought that.

COMMISSIONER GOZZI: Yes, but let's say if they had some thought that that was a reasonable figure, which obviously they did, and the production requirements would require overs which would give them higher earnings, how do you think they would react to that if extra boners or slicers were put on the chain, which would then give you the same level of production but it wouldn't give them the overs?

MR SWALLOW: Well if that happened, well they'd be going by that request there. They'd be as happy as Larry. You see? See, that becomes the exception rather than the rule. The rule is now - and those documents show you and all of the transcript that I've put forward in the past will show you - that there's no tallies and really it got to a stage here and there that either do them or you're down the road. That's when it got to that stage. That's when it got to those requests coming from the employees. You do that or you're down the track.

COMMISSIONER GOZZI: What happens in states where tallies do operate? Is there over tally work done?

MR SWALLOW: Not a lot, not a lot.

COMMISSIONER GOZZI: And the tallies, by and large, equate with what's in the Tasmanian award?

MR SWALLOW: Yes, plus the incentives that I haven't spoken of yet. There's incentives for follow-on labour in just about every state where the extra stuff that goes through, the extra product that goes through, the follow-on labour get a dividend out of it when they've got to work harder. They get nothing here.

COMMISSIONER GOZZI: Was that comprehended in your application? Are you going to talk about that as well, are you?

MR SWALLOW: Most certainly I was, yes.

COMMISSIONER GOZZI: Well we'll have to be a bit careful. We'll see what your application says. I don't think -

MR SWALLOW: Oh well, we'll have to make another application for that.

COMMISSIONER GOZZI: Or you can - I'm not saying you should do that, but I'm just simply saying that if you want to talk about follow-on labour as well, then the application doesn't comprehend it. So if you want to talk about incentives for follow-on labour, then you should amend your application. We can put 'and incentives for follow-on labour'. Mr Edwards, do you object to that type of amendment?

MR EDWARDS: It seems pretty evident, commissioner, from what we've heard thus far this morning, that the application is far broader than originally framed. Mr Swallow's submissions have tended me to believe that's the case. We may as well address the application as it is intended to be made rather than addressing a narrow issue and then coming back in a week's time and addressing a new one. I'd rather deal with it in one go.

COMMISSIONER GOZZI: All right. That's my view too. So, Mr Swallow, we'll put on the application 4258, amend your application to include 'and to provide incentive payments to follow-on labour involved with boning and slicing'.

MR SWALLOW: Boning and slicing -

COMMISSIONER GOZZI: Pardon? 'Engaged in boning and slicing work'. How do you want to phrase it? It's your application. 'Involved'.

MR EDWARDS: 'Associated with'.

MR SWALLOW: I couldn't include the slaughtering section in this, could I?

MR EDWARDS: He's a fair bit naughty.

COMMISSIONER GOZZI: Well I think we'll stick to boning and slicing tallies and follow-on labour -

MR SWALLOW: Well that's what I mean. What I actually mean is incentives for boning and slicing to classifications carried by that award. They cover abattoir follow-on labour.

COMMISSIONER GOZZI: Well, look, no, we're starting off with boning and slicing. We'll stick to that.

MR SWALLOW: Right, good.

COMMISSIONER GOZZI: So we've got 'include new provisions for export and local boning tallies, export and local slicing tallies and to provide incentive payments to follow-on labour associated with boning and slicing'.

MR SWALLOW: Yes, that'll do fine.

COMMISSIONER GOZZI: And if you want to do anything else then you'd better get another application in.

MR SWALLOW: Right.

COMMISSIONER GOZZI: So that's amended, T.4258 of 1993. There appears to be no problem with that.

MR SWALLOW: What I've been saying there -

COMMISSIONER GOZZI: Hang on, Mr Swallow, just let me get rid of this technicality here. And we'll also amend application T.4259 of 1993 in the same way. Mr Edwards, any objection to that amendment?

MR EDWARDS: No, commissioner, on the basis that I signified before, that I'd rather deal with the claims all in one go.

COMMISSIONER GOZZI: Right. Now, I think I did join those applications for hearing purposes, didn't I?

MR EDWARDS: Yes, sir.

COMMISSIONER GOZZI: Yes. Thank you. Okay. So, would you like to continue, Mr Swallow?

MR SWALLOW: Yes, Mr Commissioner. All really the union's attempting to do is to put something in place that's operates very satisfactorily in every other state in Australia, by all indications, and we see no reason why it shouldn't apply here in Tasmania. We've been out of it for too long. The members believe they are entitled to it, and they've asked me to go about getting it. That's all I've got to say.

COMMISSIONER GOZZI: Mr Swallow, have you given any thought to how your application or more precisely applications might be processed in accordance with the current wage fixing principles?

MR SWALLOW: I -

COMMISSIONER GOZZI: Have you given that any thought?

MR SWALLOW: No, I haven't. In fact, I think it might have a bit of difficulty, but I've been asked to put the claim in. It's in. I've run it and I'll say some more after Mr Edwards has finished and if those wage fixing principles are the problem, well we'll have to address that at a later time.

COMMISSIONER GOZZI: Yes. Okay.

MR SWALLOW: Because it doesn't seem to have - those wage fixing principles doesn't seemed to have held up anything anywhere else. They seem to be going along reasonably well. Everyone seems to be reasonably happy and it just seems to be that just because we haven't got a tally here that everyone in the industry is missing out and if that's a problem that's got to be addressed, that will be addressed at the appropriate time.

COMMISSIONER GOZZI: I would have thought the appropriate time was in the hearing.

MR SWALLOW: Well I thought I was doing that.

COMMISSIONER GOZZI: Yes. I'd like, you know - I'd certainly encourage you to give it some thought.

MR SWALLOW: Probably the right time to respond to that is after Mr Edwards says a few words and once that's on transcript, I'll - it will give me a better opportunity how I should respond. What do you think?

COMMISSIONER GOZZI: Well I think it's quite a novel approach to the whole exercise which is not uncommon I'd have to say in this particular area -

MR SWALLOW: No.

COMMISSIONER GOZZI: - but, you know, the -

MR SWALLOW: Well I've just got a funny feeling of what the employer's response is going to be and I want to hear it to be truthful. I want it on transcript.

COMMISSIONER GOZZI: I mean, to be brutally frank about it, the union - the AMIEU - has a commitment to the wage fixing principles and from that point of view I'm just wondering how you would say the commission should process the claim because the commission, as you are aware, is bound by the provisions of the wage fixing principles which I think you should address. But if you want to wait, then obviously that's a matter for you.

MR SWALLOW: Yes, I just sooner wait until the employers respond and then - then I could respond to that part of it.

COMMISSIONER GOZZI: Yes.

MR SWALLOW: That's what I'd prefer.

COMMISSIONER GOZZI: You see, quite frankly the wage fixing principles provide for wage increases to be in accordance with those - with those principles unless it's a special case. Now the only area for potential increases currently is the structural efficiency principle, and we've been there and we've done that and I don't see how the - how I can process this sort of an exercise unless it's - unless it's in accord with the wage fixing principles. And I thought you might have got around to that at some stage in your address.

MR SWALLOW: Who's to say the employees are not going to agree to it?

COMMISSIONER GOZZI: Well, the employees can agree to it and they might agree to it - we'll wait to hear from Mr Edwards. But the requirements of the principles apply equally to employers. I mean whether a matter comes up by consent doesn't really make any difference. It's got to fit the requirements of the wage fixing principles and the public interest. And in some cases if it was a consent matter there might - there might be agreement that the matter should go forward as a special case.

See the point I'm making is, it's all very well to make the claim and I understand the motivations but the processing of the claim and how it can be accommodated - that's one of the rules that every commissioner is bound by, and I think you need to address that - that particular circumstance.

MR SWALLOW: Yes, as I said, I believe that the appropriate time for that is after the response from Mr Edwards.

COMMISSIONER GOZZI: Well I guess what I'm saying to you is, that before Mr Edwards gets to his feet, I don't see, unless this was a special case, having listened to what you've said thus far, which is obviously -

MR SWALLOW: Well wage parity cases seem to get up as special cases don't they?

COMMISSIONER GOZZI: Well wage parity cases get up on the basis that the teachers have got up because there was a special case.

MR SWALLOW: Well this is what I'm saying. Really, I'm saying -

COMMISSIONER GOZZI: The teachers special case wasn't based on parity per se, it was done on the basis of a work-value assessment, so that the teachers ran what was in fact a work-value case, and it as an extensive work-value case and the full bench of the commission said, yes, based on work-value criteria, structural efficiency and public interest, we're going to give you a rate of pay of 'X' dollars, which just happened to be in respect of one class of teacher the same as what happens on the mainland. But in respect of teachers in promotable positions there is no wage parity. The wage parity, if that's the right phrase, stops with respect to teachers who are on the automatic incremental scale. And the work-value finding just happened to accord to what happens to automatically - well teachers on an automatic incremental scale elsewhere, but in terms of promotable positions there is a different outcome.

MR SWALLOW: We've got no promotional positions. I'm talking about -

COMMISSIONER GOZZI: Yes, but the process was, as I say, a special case. Now I suppose - I'd like to hear Mr Edwards on - on this at some stage; the only reservation I have about the special case aspects and the wage fixing principles themselves goes to the way that you've presented your case thus far, and that is, that you want to transpose piecework rates - existing piecework rates - into Division B which in effect then provides a limitation provided by the tally, and your claim is for an over tally payment and I'm not sure that that necessarily - and I'd like to hear some argument on it - I'm not sure and I'm thinking out aloud and I might as well do it given the nature of these proceedings - I'm not sure that that necessarily constitutes or could constitute a special case requirement given that it may be argued that an over tally or a penalty, if you like, is not a wage increase - is not a wage rate per se.

Now I've gone down this track because obviously it's an argument that would be mounted by Mr Edwards, but I also want you to think about it over the luncheon adjournment because it seems to me that there is potential for the case to hit a rock at this point - not that I particularly want that to happen - and I don't want to frustrate what has been a long-running saga not only in this - you know, in other applications as well.

MR SWALLOW: Unfortunately for this industry that's the way we operate. You know -

COMMISSIONER GOZZI: Well -

MR SWALLOW: Well - that's one -

COMMISSIONER GOZZI: - I know your feelings -

MR SWALLOW: - the people at Longford, for example, have been required to do that for 6 months and nothing's been done about it.

COMMISSIONER GOZZI: Well your slicing one for Longford, that application is still to be called. We're not -

MR SWALLOW: Well that's the point I'm saying. Does the wage fixing principles allow 6 months delay and people expected to do something and do something until such time as 6 or 12 months down the track?

COMMISSIONER GOZZI: Well, no, I don't see, with respect to the Longford application, that the wage fixing principles may necessarily provide an impediment. I don't know. I mean, we haven't dealt with that. I'm talking about your application for boning and slicing tallies and what's involved there. And I'm really thinking out loud as to how that can be processed under the wage fixing principles. And I've said that there

might be some problem but I've gone a bit further to say, well, there may in fact not be a problem depending on the view that one may hold with respect to what constitutes an over tally payment. And I'll leave that in the capable hands of Mr Flynn and Mr Edwards.

I'm really saying that, you know -

MR SWALLOW: Well I'm -

COMMISSIONER GOZZI: I'm really saying that perhaps you ought to take some advice on that as well.

MR SWALLOW: But what I'm saying is simply this. There ought to be a tally there like there is everywhere else.

COMMISSIONER GOZZI: Yes, I understand that.

MR SWALLOW: Right. There should be a rate up to that tally and if the employers want to pay the rate and a half penalty, that's their fault. That's what I'm saying.

COMMISSIONER GOZZI: Yes, look, I understand the application perfectly. I know what it is that you're saying.

MR SWALLOW: So in other words, they could get out of it by not paying a cent.

COMMISSIONER GOZZI: All right. Have you got anything else that you want to raise in respect of -

MR SWALLOW: No, sir.

COMMISSIONER GOZZI: All right. Mr Edwards, we've still got a few moments.

MR EDWARDS: I seek at this stage some clarification from the commission as to whether or not I have understood correctly the interchange that has just taken place. I mean, you've quite rightly pointed out, commissioner, that the principles will, of course, be debated as part and parcel of responding to this application. But do I understand Mr Swallow to be saying that he doesn't intend to try and categorise his claim in accordance with the principles until after he's heard our rebuttal? Because if it is I would like to hear Mr Swallow's claim before I do commence a rebuttal. I think it's quite unreasonable to ask us to respond to a claim which hasn't yet finally been made and the submission certainly isn't concluded, as Mr Swallow, himself, has already indicated. That he intends to reserve his further comments until after he's heard our response. And I think that's totally

unreasonable. I think we're entitled to the benefit of the full claim and the full support arguments before we're required to commence a rebuttal. I really don't think that's unreasonable.

COMMISSIONER GOZZI: I don't think it's unreasonable, Mr Edwards.

MR SWALLOW: Well the answer is simple and I just said it a moment ago. The union's position is simply this, that claim as far as the union is concerned is and can be handled within the wage fixing principles for the reasons I just explained. Now if you can't understand what I just said, and I probably - really all I'm saying is this, that we want a tally in the award, we want a penalty after the tally and that penalty doesn't necessarily cost the employee - sorry, the employer, one cent. That's what I'm saying, and for that reason. The union believes it does come within the wage fixing principles. We can argue about whether it does or not after. What I'm saying, the claim - it doesn't necessarily have to cost a cent.

COMMISSIONER GOZZI: Mr Edwards?

MR EDWARDS: That, frankly, commissioner, still doesn't tell me anything. We have a claim before us which must be processed - as you've already said, sir, quite rightly, in my opinion - must be processed in accordance with the principles. I'd like to know which principle it's being processed under. I can't commence a rebuttal until I know that. Is this a work-value case we're required to address? Is it a change in conditions of employment in which case the considerations are different and we go to a different principle? Is it to be considered under the structural efficiency principle in which case I'd have some different submissions to make? Is it enterprise bargaining principle? It's hard to consider this to be an enterprise so I can't see that it could.

I'm not trying to be difficult but I do think it's fair that I be advised which principle and which headings this claim is being run under.

COMMISSIONER GOZZI: Yes, look, I don't have a -

MR EDWARDS: And until that happens I don't think any of us can deal with anything, sir, including yourself, to be quite fair.

COMMISSIONER GOZZI: Mr Swallow, you heard what Mr -

MR SWALLOW: Well we could have an adjournment then.

COMMISSIONER GOZZI: All right. I mean, I think it's not unreasonable for an applicant to make a more specific

submission in respect to the wage fixing principles, which your organisation is bound by, the employers are bound by and the commission is bound by. And I think it goes to the heart of how this thing can be processed.

MR SWALLOW: Well I ask that this matter be adjourned to a date to be fixed to give me the amount of time I need to put this together.

COMMISSIONER GOZZI: I don't think that's unreasonable. I really think that it's necessary to take some time to look at just how it can be accommodated and what the procedures should be because I don't want to have to deal with what obviously you hold near and dear to your heart on behalf of your membership - I don't want the merit of the argument to be necessarily thwarted by what I would regard a legitimate argument on wage fixing principles.

Now it either primarily can be supported within the wage fixing principles or it can't. And I think if we can establish that and if I can come to some conclusion about that, then we can deal with the merit a lot better. And the chances of it getting to determination in an orderly way are going to be a lot better. So I'll certainly grant you the adjournment to look at that situation.

All right, Mr Edwards, anything further you want to add at this point?

MR EDWARDS: Not on those claims, commissioner, but I wonder if I could perhaps seek some assistance, again, of the commission. Mr Flynn can't return to the commission this afternoon, unfortunately. I just wondered if we can get any indication as to how long Mr Swallow's submission might be in respect of the other applications.

MR SWALLOW: No, I meant today. This might take me a week or so.

COMMISSIONER GOZZI: Oh, no, the other -

MR EDWARDS: No, no, the slicing application, John. Jap. beef.

COMMISSIONER GOZZI: After lunch, the other two. How long will they take, do you think? How long do you think you'll take on those other - that's the Japanese ones?

MR EDWARDS: It perhaps might be an appropriate time if I indicated, commissioner, as we understand the claim, it's in respect of both Meat Trades and Abattoirs Awards.

COMMISSIONER GOZZI: Well they're not before me at the moment.

MR EDWARDS: No, I understand that, commissioner, I'm just trying to make the point, it might be able to save us some time. When Mr Swallow has made his submission, I suspect that it's 99.999% certain that we'll be asking for an inspection at least at the Smithton Abattoir who are also involved in the boning of Japanese beef - or Japbeef as it's colloquially called. Mr Swallow has taken you to Longford which he's entitled to do. It would appear to us and from the instruction I have thus far, we'll be asking for a further adjournment to take the commission to at least Smithton to view the what we consider to be the differences involved.

COMMISSIONER GOZZI: Yes.

MR EDWARDS: And given the broadness of the claim as it will be called, there could well be other places we may need to go as well - I don't know. We would need to ascertain that. But it's certainly against both the Abattoirs and the Meat Trades Award and it's against the industry generally - not against any single employer, so we'd need to have a far more wide-ranging inspection program we suspect.

COMMISSIONER GOZZI: Alright, Mr Edwards.

MR EDWARDS: I'm just trying -

COMMISSIONER GOZZI: Yes.

MR EDWARDS: - to help us all out, commissioner, rather than us all come back and get to that point anyway.

COMMISSIONER GOZZI: I might make some observations in a moment. We'll just go off the record for a moment.

OFF THE RECORD

COMMISSIONER GOZZI: The proceedings that - going to boning and slicing tallies are adjourned to 10.30 am on 19th July at which time the issue of the wage fixing principles will be addressed by Mr Swallow. Thank you.

HEARING ADJOURNED