

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. Nos 2587 and 2473 of 1990

IN THE MATTER OF applications by
the Tasmanian Prison Officers
Association and the Tasmanian
Public Service Association (now
the State Public Services
Federation Tasmania) to vary the
Prison Officers Award

re structural efficiency
principle

COMMISSIONER IMLACH

HOBART, 27 January 1994
continued from 24/6/93

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER IMLACH: Are there any changes in appearances from the last time?

MR NIELSEN: Well, Mr Commissioner, yes there is. No.1 - Mr Shirley has been appointed to private industry and is pursuing his career there and will no longer be with us. Having said that, Mr Commissioner, it's our desire during these proceedings to have myself address you, and our secretary Mr Hughes to address you on submissions, and we don't wish to embarrass the commission but we would desire our president, **MR MASTERS** to appear with us as an appearance today.

Having said that of course, Mr Masters did appear as a chief prison officer witness on 7th May. Now we have the option, I suppose, if that's not - if that's not available, then I suppose we need then to call Mr Masters at a later stage as a witness. But I just put that to the -

COMMISSIONER IMLACH: Well Mr Nielsen, a number of points in relation to all that; I don't think if Mr Masters is registered with this commission as a representative that I can refuse. Is his name on our list do you know?

MR NIELSEN: He is, Mr Commissioner.

COMMISSIONER IMLACH: Yes.

MR NIELSEN: The only point is he did - he did appear earlier in these proceedings last year as a witness in the chief prisoner's officers -

COMMISSIONER IMLACH: Yes, well we'll see what the other side say about that. The only other point, Mr Nielsen is that I hope it doesn't mean we're doubling up on submissions because we have been long enough and we don't want to be all that much longer as it is, do we?

MR NIELSEN: With great respect, Mr Commissioner, we don't desire to double up but it has been a fairly lengthy adjournment which I hope to give a report on - or will give a report on - and we don't desire, but there will be matters that we need to refresh our minds on.

COMMISSIONER IMLACH: Yes, thanks, Mr Nielsen. What do you say to that, Mr Willingham?

MR WILLINGHAM: I'm sorry, commissioner, to - to what?

COMMISSIONER IMLACH: The association availing of the talents of three advocates.

MR WILLINGHAM: Oh, my view is they can be represented however they choose which pleases the commission.

COMMISSIONER IMLACH: Thanks, Mr Willingham.

MR NIELSEN: We appreciate that, Mr Commissioner, and may I say that that is - starts us on a much brighter note for these proceedings today.

Mr Commissioner, as you are aware, this special case was adjourned on 24th June '93, and if I may, Mr Commissioner, I wish to refresh our memories by reading from the last page, No.414 of transcript dated 24th June, when I said, and I quote:

Mr Commissioner, we just formally wish to report that the - the TPOA seeks an adjournment to these proceedings for the reason of having discussions with the minister's advocate and the agency with a desire under award restructuring and the SEP principles to try to establish some understanding hopefully in a way of some agreement and then ultimately to report our position back to the commission and I would assume one can't expect that that would be a hundred percent position by way of agreement, and those matters that are not agreed to, then we ultimately bring them back to you with an idea of seeking finalisation to this special case.

And continue on with transcript:

COMMISSIONER IMLACH: Thanks, Mr Nielsen. What do you say to that Mrs Burgess?

MRS BURGESS: We have no objection to the union application for an adjournment in these matters, and as Mr Nielsen is aware our office is always open to negotiations with him and his organisation.

COMMISSIONER IMLACH: Right, that being the case, I'll adjourn this matter until I hear from the parties, which I hope is not too far distant.

Mr Commissioner, if I may proceed, the parties did hold meetings which were informal and of an exploratory nature with the object to pursue the prospects as to whether there was a possibility of putting together a package that would accommodate the position of the parties eventually to seek the approval of the commission.

There were at these meetings involved discussions and exchange of material between the parties on the conditions of being without prejudice and in confidence.

Also during this period, that is, from September 1993 to

November 1993, there were also meetings of the TPOA executive committee, the TPOA negotiating committee and a special general meeting to report to members as to what progress or direction on discussions with the parties had taken place.

From my diary notes, at least six meetings took place between the parties as previously mentioned. There were also TPOA executive and committee meetings, overall I believe approximately 14 meetings took place.

Mr Commissioner, it would be my understanding that the parties exhausted all their avenues under these exploratory meetings and as time progressed it became apparent that the agenda from the agency and minister's representative, which they were desirous of, and the expectations of the TPOA were not going to be accommodated.

The conclusion to these exploratory meetings to my understanding was that there was no confidence that an agreement would be achieved acceptable to all parties and therefore, Mr Commissioner, we requested to return to the commission to pursue our case today.

Mr Commissioner, I desire to refresh our memories briefly on the TPOA case before the commission when it commenced on 14th October to 23rd June '93.

As previously outlined to the commission on 14th October '92 in presenting the TPOA case we referred to the Risdon complex as being made up of the following divisions; the women's division, the hospital division, the maximum security prison divisions, medium security division. We pointed out at that time that the maximum security division had a number of areas or divisions within it which comprised reception, N Division, workshop fronts, laundry, tin metal shop, A to F Division, paint shop, woodwork shop, the bakery. The other areas that comprise the prison complex are the Hayes Prison Farm near New Norfolk, the prison at Launceston which services the Launceston, Devonport and Burnie areas of the north and north-west.

Also, Mr Commissioner, we advised then that initially the basic role of the prison officer was to attend to the duty of opening doors between the various areas of the prison, and ensure that inmates were accounted for and secure. Hence, the old term of 'turnkey' was a reference made to prison officers in that era, and as I understand that was up to about the late 1970s.

The TPOA also submitted that in the intervening period you would see and hear that this role, turnkey, of the prison officer has changed markedly with roles far more diverse and onerous. The TPOA also submitted that you would be advised that the role of prison officers changed from that of a purely

custodial role to be more interactive and rehabilitative. These include the participation and supervision of inmate programs that aid and assist the rehabilitative process for inmates, such as sporting activities like soccer, cricket, football, debating, athletics, music and computer skill courses.

Many of these activities occur outside the prison grounds, and more often than not are conducted in the prisoner's own time.

COMMISSIONER IMLACH: The prisoner's own time or the prison officer's own time?

MR NIELSEN: Correction, prison officer's own time - thank you, sir.

Now, Mr Commissioner, I've only made mention of some very early brief submissions that were submitted to you at the commencement of this case.

As you are only too well aware, this special case has had seven commission sitting days to 24th June '93, involving three days of inspections to various prison sites throughout Tasmania. Now it is not my intention to labour the commission to travel back over all these proceedings, but I believe I should repeat a summary to you on all those proceedings by saying there have been a number of significant changes to the activities, the roles and responsibility of prison officers for the period under consideration in this work case.

In essence, these relate to the changed role of the prison officer and his or her interaction with the inmate. Prison officers have taken on the role of a welfare office. You will remember the evidence of a number of officers who have told you that there was more interaction between them and inmates, indeed, the prison officer is now expected to interact with inmates as part of their normal daily duties.

The supervision and counselling required by prison officers of inmates has been developed during this work value period also. Requests are made of prison officers to contact family and relatives as part of their daily role. The prison officers assess inmates as to their demeanour and behaviour and that this assessment determines the privileges that an inmate will receive on a daily or weekly basis whilst in medium security.

The prison officers also arrange and supervise inmates visits. They are required to classify inmates who are presented after hours when the 5.00 pm chief prison officer is finished his duty. The remaining senior prison officer or prison officer is responsible for this activity.

During the same time and over the whole work value period other significant changes in work places - work practices, correction - that prison officers have performed without training include the issue, recording and administration of medication, supervision and administration of inmate records and personal files, muster books and regular inmate checks, daily work sheets, money handling, inmate accidents. Prison officers are expected to respond and attend to these accidents.

Filing system and inmate ledgers to record property, photographs for security purposes, provision ledgers, release of prisoners, the issue of CES cheques on inmate discharge, the management and reconciliation of travel expense float, budget preparation administration, and preparation of estimates.

Further, you will recall, Mr Commissioner, the evidence of prison officers who recounted the changes of their increased roles and responsibilities. Examples of these are at Hayes on afternoon and night shift - there is no chief prison officer. These shifts are staffed and the duties are performed by a prison officer with no equivalent remuneration to the chief prison officer classification.

The prison officer becomes the first officer in charge from 5.00 pm till 7.00 am seven days per week. During these two shifts the prison officer has all the responsibilities of officers of higher classifications without recognition for appropriate remuneration.

At Launceston, prison officers in this prison operate as a microcism of the Risdon Prison. Their working environment is a reflection of the Risdon Prison environment and prison officers perform all the duties which are undertaken by various classifications in Hobart.

They discharge inmate and record, store, administer inmate property. They are responsible for inmate admissions. Prison officers are required to handle superintendent requests, they conduct escorts to other prisoners, they complete travel warrants for inmate transfers. The key register is administered by prison officers in Launceston as is the tobacco register. All of these activities are performed by prison officers in Launceston where the same activities are performed by a variety of officers at Risdon in Hobart ranging from senior prison officer to chief prison officer.

After 5.00 pm and until 7.00 am every day there is no senior prison officer or chief prison officer on duty. Once again the prison officer is responsible for the efficient running of the prison without receiving appropriate remuneration.

Reception. On week days and public holidays there is no reception chief prison officer on duty. All the functions responsible - responsibilities - are performed by the prison officers in reception, once again without the appropriate remuneration.

The main gate - before the main gate was reconstructed the senior prison officer was in charge and would meet and be the first officer to make contact with the public. Since the main gate changed the officer to make that first public contact is a prison officer. The senior prison officer is not always on that post and when he or she is that officer is in a separate office which is secure. The prison officer has the responsibility of those duties which were once performed by a senior prison officer.

I cannot stress highly enough, Mr Commissioner, that these areas are not isolated cells of activity within the prison system. Prison officers are, and have been, required to perform their work in all areas of Her Majesty's prisons throughout the state.

Excuse me, Mr Commissioner. Any changes that have occurred affect all prison officers and because they can be asked or directed to work at any location in the state, all prison officers should be reimbursed accordingly with significant wage increases. This is the current situation with officers relieving in any position throughout the state.

Examples of this are, that currently a prison officer who is situated at Risdon is now acting as a senior prison officer in medium security farm - Hayes Farm. A chief prison officer situated at Risdon, usually the hospital, now acting superintendent in medium and a prison officer situated at Risdon now relieving at Launceston Prison.

Mr Commissioner, I also would like to make one other comment regarding the previous proceedings of this commission, and that is in regards to subject of infectious diseases and the increase of infectious diseases and the risk of all prison officers.

I'd like the - I would like the commission to note exhibit TPOA.60 and the transcript on pages 403, 404 and 405, where Prison Officer Cox suffered severe trauma and health reactions from his actions in carrying out his duties in saving the life of an inmate who attempted suicide.

I wish to emphasise, Mr Commissioner, that all parties to this award should realise that all operational prison officers can be another Geoff Cox, where their health and life are placed in question and I submit, Mr Commissioner, that this should be taken into consideration in the recognition of their work value claim.

Now, Mr Commissioner, before I ask Mr Hughes to address you, and I - excuse me - on our submission on the award restructuring and structural efficiency principles, I want to approach the item of inspections on the Victorian Corrective Services.

This matter was presented to you in reference to our submission on training and also allow the parties an opportunity of seeking various types of corrective services. One particular site was a staff training college for prison officers at Watsona - Watsonia - but this college has now been closed.

Also of course the - also of course the arrangements were made with a previous director-general. I understand training is now carried out at the corrective services complex instead of a central training college also the - Mr Commissioner, the TPOA regards that training of prison officers as a very important item and still would like to see a committee appointed from the commission to overview the training of corrective services in Tasmania.

Now, Mr Commissioner, the - the - if I may go back to TPOA.4, this is a document which we submitted to the commission and to the parties which allocated the metropolitan remand and the women's Fairlea, Tarrangarrah, Lodden and some of the areas and we also dealt with the principles at the time. As you realise of course there's been a change in government in Victoria and the director-general has gone by the way and some of those people and the authority that we had at that time to carry out those inspections has gone by the board.

Mr Hughes our secretary on Monday of this week attempted or did - did contact the corrective services and as I've just said the matter of training is done with each complex with each prison within itself - there's no centralised training college or system there now and in regards to inspections as far as we're able to establish, and as you realise this does cause us concern, we had all this set up, Mr Commissioner, last year - actually I think we stated in that exhibit that we had around about August or September and the problem there was that we didn't have, to our understanding, an agreement that we should proceed on those inspections.

Anyhow, the position to us today and the events of time, not only with the training but to familiarise the parties, with respect to yourself as well, Mr Commissioner, it appears that we have to go back on an individual basis of dealing with individual prison complexes in Victoria to try to arrange these inspections and I can only say that I was privileged, I think in '92, to accompany the secretary, Mr Hughes, to these areas and I do believe that they were very informative. Some

of the prisons such as the Lodden one is quite outstanding in today's corrective services to my layman's viewpoint insofar that as I understand the punishment there is incarceration. It's rather an amazing prison, Mr Commissioner, insofar as you see tennis courts and swimming pools and the inmates themselves are able to walk around, in fact the stories given to us at Lodden where the governor of the day on one particular prison inmate had a - quite a vocal interchange of debate, discussion or argument and in the afternoon you saw the pair of them on the tennis court venting their feelings in the court.

Now, as I said, quite seriously and quite genuinely, I'm aware the time of this case - that hasn't all been on our - we don't believe that's all been on all our responsibility, but we don't - and our members - they are rather anxious, and as you realise most of the special cases that I'm aware of are - have - have finalised their positions and the decisions made.

We - we see ourselves today, Mr Commissioner, is to ask Mr Hughes to address you on award restructuring and he would have quite some submissions to make, some exhibits to present to you in that matter and then Mr Masters will present you on a loaded case submission that we've got here, if the commission pleases.

COMMISSIONER IMLACH: Thanks, Mr Nielsen.

Mr Hughes?

MR HUGHES: Just bear with me for a minute, Mr Commissioner.

Thank you, Mr Commissioner. Mr Commissioner, the association - when we asked for the last adjournment - wanted to pursue with the management of Corrective Services and, of course the government, SEP's and award restructuring.

Mr Commissioner, in July 1989 the TPOA embarked upon what we saw as a means of meeting our requirements in accordance with the Industrial Commission instructions, which were that industrial organisations take part in meaningful discussions in an effort to improve productivity and efficiency in the workplace.

In July 1989 a submission was made to prison management containing some 16 points which were considered by the association as worthy of discussion.

If I may, Mr Commissioner, I would like to hand up an exhibit.

MR NIELSEN: 70, I think, Mr Commissioner.

COMMISSIONER IMLACH: Yes. Thanks, Mr Nielsen. TPOA.70.

MR HUGHES: Mr Commissioner, the 16 points that were put up for discussion back in 1989 were put up by the association. Several meetings did take place between TPOA representatives, the other industrial organisation involved in our award, the Public Services Federation, and prison management, with the occasional appearance put in by a representative of the Office of Industrial Relations.

After a period of time, less than 12 months, in fact, and due to the failure of the Office of Industrial Relations or the TPSA to attend meetings, we were unable to come to any real agreement.

In March 1991, or thereabouts, these meetings were effectively discontinued, although in February 1991 some of the matters agreed upon as items for discussion were put on paper, with some being put into operation by the management of Corrective Services following the severing of those meetings.

If I may I would like to hand up another exhibit.

COMMISSIONER IMLACH: TPOA.71.

MR HUGHES: Mr Commissioner, as can be seen from this document dated 18 February 1991 there were a number of agenda items that flowed on from the 1989 document and there were some issues that we put down to agree to.

Some of these issues that are documented have been implemented by Corrective Services, and issue No. 5 on the second page, 'Prison Officers to drive escort vehicles when requested', that was agreed in principle and does in fact take place.

The senior prison officers position which was issue No. 9 in fact has gone to a chief prison officer.

On page 3 the issue No. 11, 'Senior Officer at Risdon Hospital hold the rank of SPO' and 'the deputy be a senior prison officer', that was an agreed outcome and was implemented by the Corrective Services Division.

And the rest of the agreed discussion items were held in abeyance because in July of 1991 the management of Corrective Services formed a prison review team.

Now at this time I have another exhibit that I wish to hand up, Mr Commissioner.

COMMISSIONER IMLACH: TPOA.72.

MR HUGHES: Mr Commissioner, this was a memorandum to all staff in Adult Custodial Corrections put out by the management of Corrective Services. It was put out in an endeavour, I

believe, to have award restructuring and SEP principles placed within the prison system.

However, as you can see, as indicated in the exhibit, Mr Commissioner, the TPOA took an active part in the review process. However, despite the declared aim on page 3 of the exhibit to - and I will quote from it - which was under 'When will all this happen':

The review will commence as soon as possible and will aim to have completed at least a draft report in September.

- bearing in mind that this is dated 18 July '91.

There appeared to be little or no progress to this draft report and, in fact, the TPOA withdrew its support from this review team when it appeared to our representatives that the main purpose of the review team centred around the first passage of the review guidelines which states on page 2, and I will quote from it:

That in its examination of the maximum security prison at Risdon the review will include consideration of the possibility of dividing the prison into smaller operational sections or units.

Mr Commissioner, the TPOA executive and its representatives believe that the review committee as structured main goal was not SEP's but to deal with implementing unit management within the Risdon prison, and we saw that the task of implementing award restructuring and SEP's didn't centre around unit management within Risdon prison but should actually take effect across the whole of the prison service in which we are involved.

And so, therefore, as I said, we withdrew from this review committee.

We had two persons nominated on that committee, and other persons who were on that committee were actually members of the association but were management representatives.

Corrective Services then, Mr Commissioner, produced another document following this, and this document was titled, 'An Alternative Plan for the Operation of Risdon Prison', and if I may, Mr Commissioner, I would like to pass this up as an exhibit.

COMMISSIONER IMLACH: TPOA.73.

MR HUGHES: Mr Commissioner, following the mass meetings of prison officers that was called by the management of Corrective Services where they shut down the prisons on the

basis that they would be able to talk to all prison officers and discuss this plan, and under the first introduction was in fact the purpose of the original review committee but this time it was actually put down on paper with the true meaning of what the plan was, which was to present an alternative way of operating the maximum security prison.

Now it goes into some detail from there. On page 1 it does say that this is not a final detailed proposal, it is a proposal for discussion. Much discussion did take place.

It had all sorts of nice words on page 2 about why we should change, and I quote from it. That there would be:

- . Improved opportunity for Prison Officers to use their skills and abilities in a satisfying and constructive manner;

- . Continuing staff training and career opportunities;

- . Organise all staff in groups or teams with an officer in charge who is responsible to provide leadership, direction, guidance and feedback on performance;

- . Improved communication;

- . Better continuity and consistency among staff;

- . Better knowledge of inmates;

- . A safer working environment.

At the same time we need to retain the better features of the present system, including:

- . Fair and equitable allocation of duties to staff;

- . High standards of security, surveillance and control.

It then went on under dot point 3, 'The proposal in Brief', which was how the prison itself would be divided up.

Dot point 4 then went on to detail how management saw that this draft proposal - and that's all it was. From what we could work out it wasn't a defined document. How the function of the accommodation teams would be, and how the jail would be split up including the posts within Risdon Prison that would go to each team.

Mr Commissioner, following this alternative plan for the operation of Risdon Prison which followed on from the defunct review team the TPOA then agreed to become involved in discussions with another committee that was titled the 'Restructure Committee'.

Many of the matters raised in our submission of July 1989 were discussed within the confines of this committee, as was the document of February '91.

The restructuring committee's final draft proposal was submitted to the General Manager of Corrective Services in February 1993.

I would like to present another exhibit, Mr Commissioner.

COMMISSIONER IMLACH: TPOA.74.

MR HUGHES: Mr Commissioner, the restructuring committee as outlined on the second page of this document, has added two officials of the TPOA, however most of those persons on that committee were TPOA, but again they were management representatives.

Now this restructuring committee took on the task of drafting up job descriptions, working out rosters, draft proposals for rosters, including - and actually on page 5 an example of a chief's roster was put in - as was on page 6 the security team, and then it went on to say what certain officers within the units - and that's where we became involved.

We agreed that if it was going to be unit management, then let's call it unit management, and we'll get involved with a committee that is actually working under the name that is intended and not trying to do it underneath the back door.

Mr Commissioner, the committee had many, many meetings and the draft document lists all the different tasks that would be allocated to each of the ranks - from the prison officers right through up the ranks scale.

It then included on page 9 model rosters as to how these units could be organised within the Risdon Prison.

Now this draft document dated January '93 was presented to the General Manager of Corrective Services in '93.

Mr Commissioner, the Manager of Custodial Corrections sent a letter to the members of the restructuring committee on 26th of February seeking confirmation of the committee's recommendations to the general manager, and the committee members were to acknowledge the report and any recommendations that were in the document that would go to the general manager they were to look it over, take it back to their various

organisations and then pass on any changes before it actually went on to the general manager.

If I may, Mr Commissioner, I would like to pass up an exhibit, please.

COMMISSIONER IMLACH: TPOA.75.

MR HUGHES: Mr Commissioner, this letter sent to all those on that restructuring committee, and I will quote from it:

Please find attached a draft memorandum to the General Manager in regard to the recommendation of the Restructuring Committee decided upon at our Meeting of the 26 February 1993,

Should you have any disagreement with the wording of memorandum to the General Manager could you please contact me by 12 noon on Friday the 5 March 1993. If I have not received contact from any Committee Member I will interpret that as an endorsement by that member of the wording of the memorandum to the General Manager.

Mr Commissioner, that document was circulated around the TPOA and received in-principle support from the TPOA Executive, and on 5 March the recommendation, the draft report, was sent by the chairman of the restructuring committee, the Manager of Custodial Corrections to the general manager, and I have a further exhibit, Mr Commissioner.

COMMISSIONER IMLACH: TPOA.76.

MR HUGHES: Thank you, Mr Commissioner. If I may read the letter onto transcript, and I quote:

Please find attached the recommendation from the Maximum Security Restructuring Committee.

The wording of the recommendation is fully endorsed by Members of the Restructuring Committee.

The Committee wish to stress that they see it as being important that the recommendation be responded to as soon as possible so that the momentum not be lost.

COMMISSIONER IMLACH: Excuse me, Mr Hughes?

MR HUGHES: Yes, sir?

COMMISSIONER IMLACH: Are you reading from TPOA.76?

MR HUGHES: A slight error there, sir. Please accept my apologies. You can keep that one and I think we'll mark it 77 when we get there.

COMMISSIONER IMLACH: TPOA.77. You'll come back to 76, will you?

MR HUGHES: We'll go back to the letter of the 5th of March, Mr Commissioner.

COMMISSIONER IMLACH: Right.

MR HUGHES: Just for my own sake, Mr Commissioner, the letter of 5 March '93 is number?

COMMISSIONER IMLACH: TPOA.77.

MR HUGHES: Thank you, sir. I will just go back to where I was before that, Mr Commissioner:

The Committee wish to stress that they see it as being important that the recommendation be responded to as soon as possible so that the momentum not be lost.

We look forward to your response to the recommendation.

That's on 5 March 1993, Mr Commissioner.

COMMISSIONER IMLACH: Well, what do you think, Mr Hughes, is it significant enough to change those two numbers?

MR HUGHES: Well, I would prefer it that 77 became 76 and 76 became 77, if that is -

COMMISSIONER IMLACH: Alright, we'll change it. That's no trouble. Not to me, anyone else? No? Right.

So we are on to TPOA - the new 77.

MR HUGHES: That you already have, Mr Commissioner, yes.

Mr Commissioner, a letter from the general manager of Corrective Services was forwarded to members of the committee on 9 March 1993.

Although the association as such has no record of receiving it, and if I may I will speak to this exhibit.

It sets out, Mr Commissioner, and I wish to read from the document:

I have now received a copy of the Report and Recommendation of the Restructure Committee on an alternative plan for the operation of Risdon Maximum Security Prison.

I would like to acknowledge the enormous amount of work that has gone into producing this Paper.

I note that at the beginning of the process we set out the following list of improvements which we should be trying to achieve:

- . improved opportunity for Prison Officers to use their skills and abilities in a satisfying and constructive manner;
- . continuing staff training and career opportunities;
- . organisation of all staff in groups or teams with an officer in charge who is responsible to provide leadership, direction, guidance and feedback on performance. (All officers should know who is their supervisor, and all supervisors should know who they are responsible to supervise).
- . improved communication;
- . better continuity and consistency among staff;
- . better knowledge of inmates;
- . a safer working environment.
- . fair and equitable allocation of duties to staff;
- . high standards of security, surveillance and control.

It seems to me that your proposals would achieve these without introducing a major and disruptive change in operations.

I look forward to proceeding to implement these changes without unnecessary delay, and to keeping you informed about the process.

Thank you again for your work on this task.

Ben Marris
GENERAL MANAGER
CORRECTIVE SERVICES

Mr Commissioner, that document was 9 March 1993.

Following the letter of March the 9th I regret to say that no information has been forthcoming from the management of Corrective Services or, for that matter any government department or representative, although monthly prison service consultative committee meetings since March 1993.

I have endeavoured to find out its fate, and have raised the lack of progress in the decision regarding the draft proposal.

Mr Commissioner, if I may, I desire to hand up more exhibits at this time.

COMMISSIONER IMLACH: TPOA.78.

MR HUGHES: Mr Commissioner, these are the Minutes for the April 16th meeting of the PSCC - the Prison Service Consultative Committee meeting - and if I may draw your attention to page 4, item 3, and if I may read:

Mr Hughes asked had any decision been made by the Department regarding the recommendations of the Review Committee for the changes to management practices in Risdon Prison. Mr Halloran undertook to take up this matter with the General Manager and advise Mr Hughes.

Mr Commissioner, these PSCC's are monthly, and if I may I would like to hand up another exhibit.

COMMISSIONER IMLACH: TPOA.79.

MR HUGHES: If I may bring your attention, Mr Commissioner, to page 2, dot point 2, under the heading of the 'Loaded Rate Proposal':

Bill Harvey advised he had had further discussions with Basil Masters regarding the loaded rate proposal. It will be considered in conjunction with the proposal from the Restructuring Committee. Mr Hughes queries if the proposal had been accepted by the General Manager. Mr Harvey advised that the General Manager is favourably disposed towards the recommendations. If he proposes any changes they would be discussed with the committee. Mr Nielsen advised that the loaded rate proposal will be part of award restructure and part of the Special Case.

Mr Commissioner, we now go on to the Minutes of the PSCC meeting of June 11th, 1993, and I would like to hand that up as an exhibit.

COMMISSIONER IMLACH: TPOA.80.

MR HUGHES: Mr Commissioner, if I may bring your attention to page 5, item 9, under the heading, 'Review Committee on Restructuring' where it states:

The meeting was advised that the General Manager had given verbal agreement to the recommendations of the review committee. Alison Hawkes, Manager Personnel, is currently having discussion with the Department of Premier and Cabinet to ascertain the government's strategy on implementation. Mr Harvey said it was difficult to talk about specific dates for finalisation but gave an assurance that the issue was being actively pursued. It was hoped that implementation would occur within the next six to twelve months.

This is June 1993, Mr Commissioner. The recommendation was handed in to Corrective Services management in February of '93.

Mr Commissioner, I have another exhibit, if I may..

COMMISSIONER IMLACH: TPOA.81.

MR HUGHES: On page 1 of the document at dot point 2, Mr Commissioner, under the heading of, 'Review Committee on Restructuring', and I will read from it:

Mr Hughes queried if there had been any further developments on the implementation date of the recommendations of the Review Committee on Restructuring and was advised there as nothing to report at the time of the meeting.

It's becoming a bit of a progression now, Mr Commissioner, and we were having extreme difficulty trying to understand why a draft report that was sent on workplace reform - which is what it basically was - was being delayed so long by the government.

If I may hand up another exhibit, Mr Commissioner.

COMMISSIONER IMLACH: TPOA.82.

MR HUGHES: These are the Minutes of September 10, 1993.

COMMISSIONER IMLACH: Some consolation, Mr Hughes, we can't go on forever, can we?

MR HUGHES: No, sir. We are running out of months, but there is always this year.

On page 4 of the PSCC Minutes of the 10th, the third dot point under the heading of, 'Restructuring', and I'll read:

Mr Hughes asked what was happening with restructuring. Mr Marris assured the meeting that the proposal was continuing through the appropriate government processes.

Mr Commissioner, following a meeting with management in October 1993 of which the subject of the draft proposal was not mentioned - we were probably getting a bit sick and tired of getting negative answers - I can't actually remember why it is not minuted at the PSCC because it was something we had a vital interest in seeing pursued.

A meeting was held in relation to this association's special case with the general manager of Corrective Services and other management representatives.

Following that meeting - where the original document that I did say of 9 March the association had no record of it being received, and that was Exhibit -

COMMISSIONER IMLACH: TPOA.77.

MR HUGHES: Thank you.

The general manager of Corrective Services forwarded on correspondence in relation to that draft report on restructuring at Risdon Prison.

If I may hand up another exhibit, Mr Commissioner.

COMMISSIONER IMLACH: TPOA.83.

MR HUGHES: Mr Commissioner, this letter had attached to it the original - well, not the original but a copy of - the document TPOA.77, and it is dated 1 November 1993.

Now this letter, Mr Commissioner, was merely forwarded on to the association with Exhibit 77. However, as can be shown by this documentation even on November 1, 1993 there was still no information in this piece of correspondence as to the fate of the draft report or the list of recommendations made by the committee.

As I have said, it makes no comment on the February/March draft report.

Being it December it wasn't raised at the PSCC minutes, or at the meeting in December. I think we were all looking forward to the end of the year and restarting the year.

There was no Prison Service Consultative Committee meeting in January. Our next meeting is the second Friday of February this year, and I have no doubt that it will be asked on those Minutes, Mr Commissioner, as to the progress made on the draft report, because then it will be a year old, and considering the words used were that 'the momentum should not be lost in dealing with this matter' it has been a long time.

As you have heard, Mr Commissioner, we've attempted to progress workplace reform in this matter but have been successfully stalled by a seemingly reluctant and disinterested management and government.

The Tasmanian Prison Officers Association, Mr Commissioner, is a very responsible industrial organisation, and how we would have been able to force management or the government's hand in this matter I am really at a loss to say, because I don't know what more we could do to progress this matter, as it seems to us that whether we have committees that make recommendations, those recommendations are sat upon - for whatever reasons - there's nothing forthcoming.

I believe that the association has done its utmost in the last 12 months, particularly on workplace reform, as can be seen by the document in front of you.

That 1994 leaves us in a big hole in regards to workplace reform. We have award restructuring, and I am very concerned that the government is seeing that perhaps workplace reform, award restructuring, may cost money, and that these would be the reasons, or perhaps be a reason that this draft report has been sat on and not progressed at all.

If the commission pleases.

COMMISSIONER IMLACH: Thanks, Mr Hughes.

MR HUGHES: Well, I have just been informed, Mr Commissioner, that I will be staying on my feet to address you on award restructuring, if I may.

If you will just bear with me, Mr Commissioner, while I organise my -

Mr Commissioner, the Tasmanian Prison Officers Association recognises that there are certain inadequacies within the Prison Officers Award, and that prison officers and the government would be better served by having an award that reflects a more efficient operation of the Corrective Services Division.

Having said that, it is not our intention to allow this process to further erode hard-won conditions, but is in fact a

genuine attempt by this association to improve the award to the benefit of all concerned - employer and employees.

As we see it, changes are required to be made to the Prison Officers Award as follows:

1. -

Mr Commissioner, we have copies of the award if anyone would require them.

COMMISSIONER IMLACH: I've got one.

MR HUGHES: As I have said, we believe that changes are required to be made to the following parts of the award.

The first part would be clause 8, which relates to classifications.

Clause 15, which relates to qualifications.

Clause 16 which deals with recreation leave allowance.

And clause 19 which in part deals with rosters.

If I may address the first part of that, Mr Commissioner, to deal with classifications, which is page 7, clause 8, subclause (i) of the Prison Officers Award.

Mr Commissioner, the current award does not identify the full extent of the rank, structure or classifications of the Corrective Services Division as currently operating with throughout Tasmania.

It's our association's proposal that the award be updated and varied with the classification structure being as follows. Under subclause (i) it would have Prison Officer, followed by Level 1 Prisoner Officer on Probation; Level 2(a) - Prison Officer 1st Year of Service; Level 2(b) - Prison Officer 3rd year of service; Level 3 - Prison Officer 1st Class - 5th year of service; Level 4 - Senior Prison Officer; Level 5 - Chief Prison Officer; and we come to Level 6(a) - Deputy Superintendent Class 1; and these are the deputy superintendents at the Ron Barwick Medium Security Prison, the Launceston Prison, the Female Prison and the Hayes Prison Farm. Level 6(b) which is the Deputy Superintendent Class 2 at the Risdon Maximum Security Prison; Level 7(a) - Superintendent Class 1 which would be the superintendents of the Ron Barwick Medium Security Prison, the Launceston Prison, Female Prison and the Hayes Prison Farm. Level 7(b), Mr Commissioner, would be Superintendent Class 2 - the Risdon Maximum Security Prison superintendent; followed by Level 8 - Chief Superintendent.

MR NIELSEN: If I may just interrupt, I have had a request and if we could seek perhaps five or 10 minutes adjournment, the documents that my colleague is reading from we'll make them available so that you can sight and perhaps -

COMMISSIONER IMLACH: I think that would be a very good idea, Mr Nielsen. And -

MR NIELSEN: Or unless you wish to adjourn -

COMMISSIONER IMLACH: Well I think it might be a good idea if we all adjourn - return at, what do you say?

MR NIELSEN: Well, if I may, Mr Commissioner, we seem to be proceeding fairly well today and I see actually today we'll go very close to concluding the - our proceedings if we - so we've sort of got time on our hands to be frank with you.

COMMISSIONER IMLACH: We'll return at noon.

MR NIELSEN: Noon.

COMMISSIONER IMLACH: How's that?

MR NIELSEN: Thank you, I appreciate that.

COMMISSIONER IMLACH: Any objections?

SHORT ADJOURNMENT

MR HUGHES: If I may, Mr Commissioner, I'll hand up - appear to be a bit of confusion, two bits of paper.

COMMISSIONER IMLACH: TPOA.84.

MR HUGHES: Mr Commissioner, after Level 8 - that being the Chief Superintendent, there will of course be the second dot point which is the trade instructors. Is there a need for me to go back through these - through 84, Mr Commissioner?

COMMISSIONER IMLACH: No, not really, Mr Hughes. What was that about the trade instructor? Is he coming after the chief - ahead of the chief superintendent is he?

MR HUGHES: Well, no, Mr Commissioner, the prison officer which is currently in the award under dot point (i) and (ii) is prison officer on page 8 of the award.

COMMISSIONER IMLACH: I see, yes, yes.

MR HUGHES: So the (a) or (b) or (i) or dot point (ii) - double 'i' - is the trade instructor.

It is also the desire of our association, Mr Commissioner, that all persons who carry out custodial functions within corrective services should at some stage in the near future be covered by the Prison Officers Award. That is to say, we desire that the award should be varied to reflect this by having classifications such as prison officer (transport), prison officer (store). This would eliminate having persons carrying out prison officer function whilst not being covered by an appropriate award or by statutory requirements as is the current case.

If I may hand up another exhibit, Mr Commissioner.

COMMISSIONER IMLACH: TPOA.85.

MR HUGHES: Mr Commissioner, this is a letter sent by the manager of custodial corrections to a member of the Tasmanian Prison Officers Association who is a driver currently employed at Risdon and of which a copy was sent to the association as well, and it actually supports the position that I have just put that classifications such as prison officer (transport) and if I may read part of that document, and I quote:

It has been determined today, after discussions with the General Manager, that the vacant Drivers position created by the retirement of Mr Alan Hutt should be occupied by a Prison Officer.

The person to occupy that position will be appointed when the new Recruit School comes onto roster at the end of March. The Prison Officer may be a member of the new Recruit School or an existing Prison Officer who requests a transfer to that position. This person will not necessarily become the Senior Driver.

It has also been determined that the title 'Senior Driver' not be conferred on any staff member until this position is filled. Consideration of the process of appointing a Senior Driver from the pool of Drivers will then be determined.

This is what the association is seeking sometime in the near future, Mr Commissioner. At this stage we didn't want to muddle what we were seeking to achieve and that we would at some time in the not too distant future perhaps come back to the commission to vary the award so that there would appropriate classifications to deal with this sort of situation.

This should come as no surprise to the department, Mr Commissioner, as what I have outlined is consistent with the

proposal put forward by the association to the agency in February of 1991.

Mr Commissioner, I wish to present an exhibit now supporting our proposal.

COMMISSIONER IMLACH: TPOA.86.

MR HUGHES: Mr Commissioner, this is an expanded version of exhibit 84 and in it is the association's proposals in relation to the rank structure, the responsibility levels, supervision levels and qualifications insignia. The first level being that of which I outlined before - Prison Officer on Probation goes on to deal with the responsibilities, supervision, qualifications and this - this document, 86, goes from the Prisoner Officer on Probation right through to the level of Chief Superintendent.

Mr Commissioner, it is the desire of the Prison Officers Association to have inserted into the Prison Officers Award a rank classification structure that will reflect a more realistic operational structure and therefore we contend giving a more efficient and effective structure than is the present case affording prison officers for the first time with a defined organisational structure and a clearly laid out career path and at the same time, giving the management of corrective services the flexibility that it requires within its work force.

The current award, Mr Commissioner, does not mention a first class officer rank and is a proposed new classification. This is consistent with other state corrective services. Currently those officers who have qualified to become a senior prison officer receive no recognition of that qualification aside from a small yearly allowance, the sum being \$286, Mr Commissioner.

These officers who would hold the rank of 1st Class Prison Officer have limited opportunity to relieve in the position of senior prison officer and are indistinguishable from 1st year officers although they may have up to 20 to 30 years of service.

These officers make up a large percentage of prison officers at the maximum security prison. Officers who have successfully passed the senior prison officers course are called upon to carry out the duties of senior and occasionally chief prison officer on a random rotational basis as well as whenever the need arises whether it be for 2 hours or 2 days and they are currently performing the duties of higher ranks but these temporary acting duties are few and far between.

Mr Commissioner, there is no mention of the prison officers -
pardon - Mr Commissioner, there is no mention of

superintendents in the Prison Officers Award apart from superintendents specifically for the female prison. I take it that this is because in past years this position has been occupied by a female officer which is not the current case.

There is a superintendent currently at the medium security prison who is paid the rate of a second year principal officer, a rank which you will have noticed that the association wishes to have deleted from the award.

There is a superintendent at Launceston Prison who is currently paid the rate of a 1st year deputy superintendent at Risdon.

The award, Mr Commissioner, makes mention of deputy superintendents, however the deputy superintendent at Launceston Prison is paid as a 1st year chief prison officer, the deputy superintendent at Risdon as per the award and the deputy superintendent at the Female Prison at the award rate which is as for a senior prison officer, whilst at the Hayes Prison Farm there is no deputy superintendent.

It is the association's belief that with the existing award classifications it places an unnecessary restriction on the flexibility of corrective services to organise officers positions and must therefore also restrict career opportunities for these officers and is an unnecessary imposition on both prison officers and, we believe, the management of corrective services.

Mr Commissioner, the rank of chief superintendent is currently not within the Prison Officers Award although we contend that as it is the higher rank uniform classification within corrective services, and therefore completes the proposed classification structure and career path for uniformed officers, that it is reasonable for that rank to be included in the Prison Officers Award.

Mr Commissioner, the Prison Officers Award classification structure has in it two classes of trade instructor, however over the last two to 3 years corrective services have not replaced trade instructors who have either retired or taken a redundancy package and now only employs five trade instructors - previously there were seven trade instructors employed.

The remaining trade instructors who were the lower paid class 1 trade instructors currently find that now as well as being responsible for the normal day-to-day running of their individual workshops are now required to operate their particular prison industries on a commercial basis. They are expected and are required to prepare quotes and are required to contribute to the management of the prison industries tasks that were previously allocated to a manager of industries and training and the Class 2 trade instructors.

These trade instructors that are left are paid a small allowance per fortnight, however this allowance does not take into account - is not taken into account - for calculations of RBF, the SAF or the SGC. Given these changes to the prison industries and to the tasks allocated to the trade instructors, it is the association's desire to have the two class structures for trade instructors varied and replaced by only one classification.

Mr Commissioner, the current award has in it, nine levels of classification, these being the following: Prison Officer on Probation, Prison Officer which has three levels of salary by way of yearly increments, Senior Prison Officer which has one increase of salary by yearly increment, Chief Prison Officer which also has one increase of salary by yearly increment, Principal Prison Officer - again with one increase of salary by yearly increment, Deputy Superintendent Womens Prison, which has one increase of salary by yearly increment, the Superintendent at the Womens Prison which has two levels of salary by yearly increment, a Deputy Chief Superintendent which has one increase of salary by yearly increment, a Deputy Chief Superintendent, again with two levels of salary by yearly increment, and finally that of trade instructor that has Class 1 and Class 2 classifications and between them four levels of increment.

With these mentioned classifications, the current classification, goes a total of 24 separate levels of salary. If I just have a minute here, Mr Commissioner.

Thank you, Mr Commissioner. As indicated in the last exhibit, Mr Commissioner, it is the desire of the association to broadband the classification structure eliminating classifications that are no longer used and at the same time utilised with more efficiency the ones that are reflected within the current award.

Mr Commissioner, with the current classifications, officers are restricted, so to speak, with the jobs that they currently do, as is, we believe, the management of corrective services in its ability to allocate officers to various positions within the prison system.

What the association is seeking to achieve, Mr Commissioner, is that prison officers of all ranks are afforded the opportunity to perform a wider range of duties that come within their classification levels - multiskilling, if you prefer.

The association believes that the structure we have placed before you will allow prison officers to have an improved opportunity for access to better paid, more fulfilling and more highly skilled duties within corrective services

therefore bringing about, we contend, a higher level of expertise across the service.

Current restrictions, Mr Commissioner, placed upon prison officers by the classification structure as it is today in our award, include the fact that the senior prison officer at the Medium Security Prison even though he is second in charge of that prison and only holds the rank of a senior prison officer and has and is today acting up in the position of superintendent at Medium is severely restricted in career opportunities because of the current rank structure.

The deputy superintendent of Launceston Prison who is paid at one particular rate, if given a transfer to the deputy superintendent's position at the Female Prison would suffer financially because of the loss in salary. The superintendent at Medium Security, Mr Commissioner, is currently a 7-day a week shift worker, paid at the rate of principal prison officer and who would lose salary if transferred to the Hayes Prison Farm as superintendent for a period of time because that position is a Monday to Friday position.

It is the firm belief that if the association exhibits TPOA.86, Mr Commissioner, was implemented, then it could only be of benefit to the corrective services division whilst at the same time giving increased job satisfaction to its employees.

Mr Commissioner, TPOA exhibit 86 provides for nine classification levels and only 11 salary levels giving as I've outlined greater employment scope, more flexibility in duty allocation and a more realistic operational structure as compared to the current restrictive 11 classification levels and 25 different salary levels.

And if I may hand up another exhibit, Mr Commissioner, which will clarify this matter for you.

COMMISSIONER IMLACH: TPOA.87.

MR MASTERS: Eighty seven - does that mean it's out next time?

MR HUGHES: Mr Commissioner, TPOA exhibit 87 is the present and proposed award positions put forward by the association in what we believe is required to make the service more efficient, give the prison officers a realistic career structure. We have abolished - we are proposing to abolish the rank of the Principal Prison Officer and that those ranks that are currently varied in the Superintendent level all become under the one class as do the Deputy Superintendents.

Mr Commissioner, as I have said, that the proposed classification structure by the association has nine levels

and only 11 salary levels as compared with the current restrictive classification levels, 11 of them, and 25 different salary levels.

If I may, Mr Commissioner, I would now like to move on to the next area of the award that we seek to have varied, that being qualifications which is on page 9, clause 15 of the Prison Officers Award.

Sorry, Mr Commissioner, page 11, clause 15 of the award.

Mr Commissioner, it is the association's proposal that clause 15 of the award requires being varied and should read - and this is in part reflected in exhibit 86 - that clause 15 should read - no person shall hold any of the positions as specified below and which is classified under this award unless that person fulfils the following requirements of that position. Prison Officer on Probation - successful completion of a preliminary examination, acceptable level of physical fitness and qualifications deemed by the controlling authority to be appropriate. Prison Officer - the requirements for Prison Officer on Probation and in addition completion of an approved prison officers examination within 6 months of appointment or qualifications deemed by the controlling authority to be the at least equivalent thereto.

Then comes the new rank that we wish to have, Mr Commissioner, that of a first class prison officer; the requirements for a prison officer and in addition 4 years satisfactory service as a prison officer and successful completion of an approved senior prison officers examination or qualifications and practical experience as a prison officer which in the opinion of the controlling authority is at least equivalent thereto - provided always that a prison officer should be afforded the opportunity to complete an approved senior prison officers examination before the completion of 5 years service. Where an opportunity to complete the senior prison officers examination is not afforded a prison officer within that period, such employee on successful completion of the examination at the first attempt shall be paid as a first class officer from the fifth year anniversary date.

Then to Senior Prison Officer, Mr Commissioner: the requirements as for a First Class Prison Officer and in addition demonstrated supervisory abilities.

Mr Commissioner, then Chief Prison Officer: the requirements for Senior Prison Officer and in addition satisfactory service as a Senior Prison Officer and successful completion of an approved Chief Prison Officers course and examination or qualifications and practical experience as a Prison Officer which in the opinion of the controlling authority is at least equivalent thereto.

We then move to Deputy Superintendent Class I and Class II. The requirements as for a Chief Prison Officer and in addition satisfactory service as a Chief Prison Officer or prior experience and qualifications as deemed appropriate by the controlling authority for the duties of the position.

Superintendent Class I and Class II: the requirements for Deputy Superintendent or prior experience and qualifications deemed appropriate by the controlling authority for the duties of the position followed by Chief Superintendent which would be the same requirements as for a Superintendent or prior experience and qualifications deemed appropriate by the controlling authority for the duties of the position.

And the last, Mr Commissioner, the Trade Instructor: full qualifications as a tradesperson in the appropriate field in which employment is sought.

Now, Mr Commissioner, what we are seeking to do with having clause 15 of the award varying, is that currently the requirements for a prison officer - the requirements - it says currently for a prison officer the requirements for a Prison Officer on Probation in addition successful completion of an approved prison officers examination. This examination, Mr Commissioner, usually takes place at the end of 12 months probation. What we are seeking that that 12 months is reduced to a 6-month period.

COMMISSIONER IMLACH: Mr Hughes -

MR HUGHES: Yes, Mr Commissioner?

COMMISSIONER IMLACH: - will you be submitting a draft for that?

MR HUGHES: My understanding is, Mr Commissioner, if it - if this is successful that there would be drafting conferences to deal with that.

MR NIELSEN: TPOA.86.

COMMISSIONER IMLACH: It will help me if you did draw one up anyway.

MR HUGHES: Well I'll get you a copy of this at the next break, Mr Commissioner.

COMMISSIONER IMLACH: Yes, there's no rush. Also my associate tells me that association already has an application in, in relation to this clause. Is that going to be joined or are you going to withdraw it or what?

MR HUGHES: My understanding on that, Mr Commissioner, is -

COMMISSIONER IMLACH: It's a very old one. I'll leave it with you; you can let me know later.

MR NIELSEN: Thank you, Mr Commissioner, we'll respond.

COMMISSIONER IMLACH: It seems to me it ought to be withdrawn or joined; as it's an old one it may be withdrawn.

MR NIELSEN: Yes.

COMMISSIONER IMLACH: I'll leave it with you.

MR NIELSEN: Thank you.

COMMISSIONER IMLACH: Yes, I'm sorry - Mr Hughes?

MR HUGHES: Mr Commissioner, as you have heard it is the desire of the association to have the full range of classifications included within the award. What I have outlined to you will lead to an end to the current situation where the only requirement to qualify for any rank above prison officer is the successful completion of a senior prison officers examination. The association views this current situation as totally unacceptable and believes that it does little to project the professional image or to enhance the status of prison officers to others outside the service.

Mr Commissioner, we are requesting in our proposal that there be a chief prison officers examination of which there is no current requirement. It will no doubt not have escaped your notice, Mr Commissioner, that the current requirement for prison officer - and I quote from the award: Successful completion of a preliminary examination in the subjects of arithmetic, composition and handwriting of a standard at least equivalent to 6th grade of state primary schools - has been totally deleted from our submission - as well as it should be. It is an indictment on all respondents to the Prison Officers Award that to this day it is still part of the Tasmanian Prison Officers Award.

Mr Commissioner, this bring me to the next clause of the award that we desire to have varied: Recreation Leave Allowance, page 12, clause 16 of the Prison Officers Award.

I will only speak briefly on this, Mr Commissioner.

Clause 16 of the award deals with the recreation leave allowance, and in a submission following mine from the president of the association on the loaded or composite rate proposal.

If the association's proposal in total is accepted, then this will mean that the majority of this clause can be deleted from the award as it will be replaced with the wording to

accommodate the loaded or composite rate calculations and conditions.

Mr Commissioner, next I wish to move on to rosters as outlined in the award on page 16, Clause 19C of the award.

This deals with rosters, and it is the desire of the association that amendments to this clause be made which we believe will improve management's flexibility and, indeed, has the potential to reduce costs for the department, whilst at the same time giving prison officers the ability to be more flexible within the confines of the current rostering system.

Clause 19C, subclause (c) of the award provides that, and I quote:

... an employee's place on such roster shall not be changed, except on seven days notice of such change, or payment of the penalty rates more particularly set forth in subclause E hereof.

The association's desire is that this section of the award should be varied to read:

An employee's place on such roster shall not be changed except on 48 hours notice of such change, provided that there is mutual agreement between the employer and employee concerned. Where there is no agreement, seven (7) days notice of such change or payment of the penalty rates, more particularly set forth in subclause (e) hereof.

This, Mr Commissioner, will give the management of Corrective Services the ability to better utilise its workforce, allowing it more flexibility in its allocation of staff throughout all prisons, and has the potential to assist the Corrective Services Division with its budget, whilst at the same time this proposed variation will allow prison officers to change shifts with the sure knowledge that they will not be in breach of the award.

This is what prevents prison officers changing shifts at short notice currently, Mr Commissioner, even though it may suit them to change their shifts as they are requested to by management.

However, they don't change the shifts because it would be in breach of the award and they are not 7 days' notice.

Mr Commissioner, on page 17 of the Prison Officers Award clause 19E relates to overtime, and the association believes that rather than the current condition which states in part, and I quote:

For work performed by a shift worker outside the ordinary hours of his shift, or on a shift other than a rostered shift, double time shall be paid

...

We believe that the introduction of TOIL - Time Off In Lieu - could be included in this provision. Again, provided that it was agreeable to both employer and employee concerned, and that the time off was instead of the amounts that would have been paid to the officer.

That is to say, Mr Commissioner, that if a prison officer was to be paid 4 hours overtime but elected to have TOIL, then the time off in lieu would have to be 8 hours.

There would have to be, Mr Commissioner, numerous checks and balances stipulated in the award in relation to this proposal so that all parties are left in no doubt as to how a time off in lieu system would be administered.

Mr Commissioner, the Prison Officers Award is linked to the General Conditions of Service Award, and I quote from the Prison Officers Award page 8, clause 9:

Unless otherwise prescribed in this award, conditions of service shall be as prescribed in the General Conditions of Service Award ...

Mr Commissioner, currently if a prison officer is required to work a shift following on from a rostered shift, then that following shift attracts the penalty of double time.

However, 3.9, subclause (c) of Clause 11B of the General Conditions of Service Award provides that where an employee resumes work without having an 8-hour break from duty the employer must pay double time for any work until they are released from duty for at least 8 hours.

What this provision in the General Conditions of Service Award requires, Mr Commissioner, is that both shifts must be paid at the rate of double time if a recall shift is performed before a rostered shift.

It is, therefore, our proposal that prison officers who work a recall shift before a rostered shift should be paid at the rate of double time only for that recall shift.

This would require that the Prison Officers Award would need to be varied to provide that where an officer performs work for a period immediately before a rostered shift then the officer should be paid double time for that work and then revert to normal time for the rostered shift.

This proposal, Mr Commissioner, would eliminate the current situation where for working a 16-hour shift one officer may be receiving 24 hours' pay - that is, 8 hours single time, and 8 hours double time - and another officer working the same 16 hours may, in fact, be receiving 32 hours' pay - that's 16 hours at double time.

The association puts this proposal forward in an effort to remove an inequity from the award, and at the same time we contend that this will reduce costs to the Corrective Services Division.

To summarise, Mr Commissioner, the Prison Officers Award is a very basic award. The award variations that I have outlined for you will, we believe, bring the Prison Officers Award up to date, reflecting the 1994 standards of today's professional prison officer and prison service.

These proposed changes will allow for improved efficiency and productivity in all the prisons.

They will provide prison officers for the very first time with a classification structure and a career path that actually has relevance.

It will, Mr Commissioner, provide that the skills and the knowledge of prison officers of all ranks, so far greatly under-utilised by the Corrective Services Division.

Will in the future be able to be demonstrated with prison officers being able to take a broader range of tasks throughout the prison service.

These proposals before you, Mr Commissioner, will also remove many award impediments for the management of Corrective Services, allowing them greater flexibility in their allocation of staff, as it sees warranted, whilst at the same time reducing the costs for the agency.

If the commission pleases.

COMMISSIONER IMLACH: Thanks, Mr Hughes.

MR NIELSEN: Mr Commissioner, with respect, if I may suggest - unless you desire to pursue any questions on what's been put before you - that we adjourn these proceedings until about 2.15, and we have two further matters to put before you and I would see at this stage of proceedings that today we'll go very close to concluding our position before you, sir.

COMMISSIONER IMLACH: Yes. Just one point, Mr Nielsen. The work value period - just remind me what the position is in relation to that.

MR NIELSEN: I do desire to address that at a later stage this afternoon.

COMMISSIONER IMLACH: Alright, we'll leave it at that, then.

Thank you. Well, you have no objection to adjourning, Mr Willingham?

MR NIELSEN: Mr Commissioner, if I may be so bold, I have got the draft orders in regard to that earlier matter. It's the parties desire that I make them available to them.

COMMISSIONER IMLACH: Well, perhaps if you do that now. That's a point I raised with Mr Hughes?

MR NIELSEN: No, no, I am sorry. In regard to our \$8.00 application this morning.

COMMISSIONER IMLACH: I see. Yes, I will take that. Thanks, Mr Nielsen.

Now, as to the adjournment, Mr Willingham?

MR WILLINGHAM: Mr Commissioner, I was encouraged by Mr Nielsen saying that is might be concluded today, and I thought we should press on with all despatch just to make it come true. But I am in your hands, as always.

MR NIELSEN: Mr Commissioner, if I may respond. I think that confidence will be maintained with Mr Willingham.

COMMISSIONER IMLACH: Is that an out and out commitment, Mr Nielsen?

MR NIELSEN: Yes.

COMMISSIONER IMLACH: Alright. We'll adjourn until 2.15.

LUNCHEON ADJOURNMENT

COMMISSIONER IMLACH: Well -

MR NIELSEN: Mr Commissioner, just a couple of comments before I ask Mr Masters to present a submission on the loaded or composite rate.

My first comment, Mr Commissioner, is that on behalf of the association my instructions are to withdraw the application that was submitted some time ago in regards to the entry qualifications.

We believe today that the submission presented by our Secretary, Mr Hughes, adequately covers that particular issue.

Secondly, Mr Commissioner, the draft that you have requested in regard to that earlier submission, we'll have that hopefully available either tomorrow or early next week.

And, thirdly, we'll call on Mr Masters to present his loaded rate. On the completion of that submission I will get up and make a final submission, and that's how we see the outcome of today's proceedings.

And then perhaps at the end of that, Mr Commissioner, and at the end of your questions or thoughts, we may give consideration to the minister's advocate when he sees he will make his submission to us.

COMMISSIONER IMLACH: No doubt we will, Mr Nielsen.

Before Mr Masters commences, are you agreeable to that withdrawal, Mr Willingham?

MR WILLINGHAM: Yes, commissioner. I didn't have time over the luncheon adjournment to check it out, but on the understanding that I gained from Mr Nielsen that it deals with matters that have already been addressed in this particular matter, I don't have difficulties with the application to withdraw.

COMMISSIONER IMLACH: Right. Thanks, Mr Willingham. I grant that application to withdraw.

MR NIELSEN: Thank you, Mr Commissioner.

COMMISSIONER IMLACH: Thank you. Mr Masters?

MR MASTERS: I thank you, Mr Commissioner, for giving me the opportunity to present to you this submission on the loaded, or composite rate - or at least that's the title, we the association, have given it.

In this respect, I would like to present an exhibit which is in fact our proposal for the loaded rate, or the loaded or composite rate.

COMMISSIONER IMLACH: TPOA.88.

MR MASTERS: The basic principle in this proposal, Mr Commissioner, is to dispense with penalty rates and leave loading for shift workers and in their stead apply a loaded or composite rate which incorporates these rates into the average fortnightly payments.

The benefits to Corrective Services are, we believe, incalculable and represent a considerable savings in pay preparation time both in human and computer resources for payroll staff.

All clock cards, for example, will no longer need to be physically checked for the penalty rate content of them. The only variations to 'regular pay' will be for abnormal absences such as sickness when the rate will be lowered and for overtime where, in fact, their pay rate will be increased, for which a consolidated weekly or daily summary sheet may be initiated.

The association believe that it will also allow Corrective Services a far greater degree of flexibility of work force utilisation if the full extent of this submission is followed. In addition, it will also assist greatly in budget preparations because two headings will be removed, namely, penalty rates and leave loading. The benefits to TPOA members are that they will have a stable income every fortnight and will not have to contend with flat pays and therefore will be able to budget their income more efficiently.

The operation of this loaded or composite rate, Mr Commissioner, is based on a complete roster cycle covering a period of 84 weeks. This ensures that each officer is rostered on all posts three times, each time on a different shift rotation. In each cycle of 28 weeks all officers are rostered on each post only once with the exception of the workshop front, but then even on a different rotation. This minimises the stress factor of contact posts and the relative boredom of the noncontact posts.

In each 28-week cycle, there are - therefore the each 28-week cycle consists of 4 weeks of recreation leave or accrued days off, 3 full night shift cycles each of 3 weeks, and 1-week on each of the 15 remaining rostered posts. In the calculations before you, Mr Commissioner, it is covered - it is based on a 52-week cycle, therefore, in 52 weeks each officer would work 32 - sorry, 35 Saturdays at 50 per cent, 35 Sundays at a 100 per cent, and 93 shifts which attract a 15 per cent penalty rate.

The figures that I've put before you, Mr Commissioner, are calculated on the current rate of a 4th year prison officer in which a 15 per cent shift is worth \$15.14; a 50 per cent shift is worth \$50.48, and a 100 per cent shift is \$100.96, therefore the total annual earnings in 52 weeks would be, at an annual salary of \$24,933, plus the 15 per cent shifts which are worth \$1,408.02; the 50 per cent shifts which are worth \$1,766.80; and for the 100 per cent shifts, \$3,533.60. That, Mr Commissioner, means that there is a potential earning, inclusive of penalty rates, of \$31,641.42 per annum. As the

leave loading is based on a projected roster for shift workers, this has been incorporated in these figures.

In the proposal, the suggested loaded or composite rate for a 4th year, full shift working prison officer is \$31,641.42 or a base rate of \$24,933.00, plus 26.91 per cent.

I'd now like, Mr Commissioner, to cover the area of long service leave in this proposal. Long service leave at present is accrued at the rate of 9 days per year - they are continuous days. I realise there is, Mr Commissioner, a move afoot to change long service leave to working days. We're not aware of the content of that. That has not gone through Parliament yet and is not legislation so we've obviously presented this to you in it's present state. Therefore to enable long service leave to be taken whilst still on this proposed loaded or composite rate, the appropriate adjustment would need to be made, that is, the difference between the base rate and the loaded or composite rate per day; multiply that difference by 9, and with the figures placed before you, Mr Commissioner, that would amount to \$244.08. Therefore, in this proposal, to have long service leave paid at the loaded or composite rate, that rate that was previously 26.91 per cent, would need to be reduced to a base rate plus 25.93 per cent.

For a day shift worker - a day shift worker, that is, the officer that works in reception, kitchen, the hospital or such similar positions, they work 35 Saturdays and 35 Sundays. 35 Saturdays at 50 per cent would equal \$1,766.00 and 35 Sundays at a 100 per cent would equal \$3,533.60, plus their annual salary of \$24,933.00, amounts to \$30,233.40 per annum.

Therefore, Mr Commissioner, in this proposal the suggested loaded or composite rate for a 4th year day shift working prison officer is \$30,233.40 or the base rate plus 21.26 per cent. For a day shift worker to have long service leave paid at the loaded or composite rate, that rate would again need to be reduced and it would need to be reduced by the - using the same calculation and it would come at the base rate, plus 20.28 per cent.

For the day worker, Mr Commissioner, that worked Monday to Friday, there would be no need to apply a composite or a loaded rate because there would be no loading applicable to it and therefore no adjustments are necessary. His entitlement would be the base rate, plus the general accepted 17.1/2 per cent leave loading.

We see the objectives of this proposal, Mr Commissioner, as: (1) to allow a stable weekly rate to be payable and therefore it is envisaged that the time and effort to prepare for reduce computer time is also reduced as the only adjustments necessary will be for sickness and overtime; (2) and this is

where I see a big saving to the department, Mr Commissioner, sickness and overtime will be paid at the basic rate; (3) it will allow for easier and quicker budget preparations for both the department and for officers; (4) it will align prison officers to other emergency services such as the ambulance and the police; (5) it will eliminate the necessity for recording and adjusting rates for penalty rates; and (6) it will allow easier calculation for sickness and other absences.

To summarise, Mr Commissioner, as I stated in my introduction to this proposal, it will decrease the time and effort required to prepare the pay; decrease computer commitment time; allow for more accurate budget procedures and forecasts by eliminating penalty rates and leave loading from budget requirements. With sickness and overtime paid at the basic rate, a potential saving on overtime payments; align prison officers to other emergency services; allow - eliminate a necessity for recording and adjusting for penalty rates and allow prison officers to budget on a constant income.

Mr Commissioner, it is the belief of the Tasmanian Prison Officers Association that this proposal will make for greater and efficiency and productivity whilst at the same time, considerably reducing payroll preparation costs.

We are of the opinion that we have, in general terms, an understanding with management of the corrective services on this proposal, subject to it being applied to each respective roster. We agree that this would be impeccably fair, however, were this to be followed, it is our view that this would decrease the flexibility of redeployment in the work force.

There will, to accommodate this, Mr Commissioner, be a need to adjust some rosters, the most important of which being the chief prison officers' roster. We are of the opinion that in fact the strength of chief prison officers could be reduced by one. With a change to the chief prison officer roster to accommodate this we believe there is an out and out saving, merely on that change of the chief prison officers' roster, of a figure in excess of \$50,000 per year - per annum.

From the figures that I've presented to you, Mr Commissioner, we would therefore propose that the loaded or composite rate be applied as follows: for a full shift worker his base rate plus 27 per cent. With a long service leave component incorporated into that, it would be the base, plus \$26.00. For a day shift worker, the base rate, plus 22 per cent and with the long service leave component, a base rate plus 21.5 per cent, and as I have already said, Mr Commissioner, there would need to be no adjustment for the day worker.

This proposal, Mr Commissioner, is put forward in line with the association's structural efficiency principle guidelines. The figures that I have quote throughout this proposition are

those based on the current 4th year full shift working prison officer as this is the bulk of the work force.

Mr Commissioner, that is the association's submission on the loaded or composite rate. If the commission pleases.

COMMISSIONER IMLACH: Yes, thanks, Mr Masters.

About long service leave, because that's controlled by an act of parliament although it would affect, I presume, cost efficiencies if there are any in this proposal. What is your understanding of the rate that ought to be paid during long service leave?

MR MASTERS: In this proposal, Mr Commissioner, what we are saying is that if - if the loaded rate - loaded or composite rate is paid throughout the entire year, in other words, whether on leave or not on leave, the appropriate legislation is already in place to cover absence on recreation leave. For long service leave each officer would in fact annually be contributing a figure to ensure that the composite rate was maintained throughout the course of the long service leave. The figure I quoted to you, Mr Commissioner, was each year every officer would in fact be contributing on this pay scale the figure of \$244 per annum towards - in other words, in a 10-year period that officer contributing at a constant rate for 10 years would contribute towards the loaded rate being paid to him whilst he was on long service leave would - his contribution would be \$2,440.

COMMISSIONER IMLACH: So if we just go back to the - the claim for the composite rate for a shift worker - the base plus 27% - but in fact you're seeking the base plus 26% to cover for long service leave - is that correct?

MR MASTERS: That's right, Mr Commissioner.

COMMISSIONER IMLACH: Right, thanks, Mr Masters.

MR MASTERS: Thank you, Mr Commissioner.

MR NIELSEN: Mr Commissioner, you did raise a question with me before adjourning for lunch in regards to the datum point, I think, as to where do we see our case and we did actually cover that particular issue, Mr Commissioner.

COMMISSIONER IMLACH: Yes, you might remember I asked to be reminded.

MR NIELSEN: Oh, I'm sorry. Well those - that particular question - I'm not trying to lose all my papers here - was in regards to - was covered in page - in transcript - 388 - and proceeds through those periods - through 388 and 389 of transcript - and 390 - and with respect and the questions at

the time in my particular memory and perhaps if I quote so that what I am saying is what I believe to be the position - it's the eighth paragraph on transcript, page 388 - and I'm not quite sure who is speaking but the transcript reads:

This was a preliminary hearing, and at the time on 14 October 1992 Mr Nielsen addressed you on a -

- I think it's Mr Shirley speaking -

- number of matters and one of them was the previous work value case, and you'll see on page 3 at the very top, Mr Commissioner, I have referred to two dates, 25.9.81 and 20.12.84, the work value cases already being conducted for prison officers in the state in 1984 by the then Commissioner King.

However, our submissions regarding the periods for work value is as follows: T.16 of 1985 on 11 February 1985, Mr Commissioner King handed down a decision on work value case presentation by the TPOA and the TPSA.

.... seven days between the 7 November 1984 and 20 December 1984. Evidence was adduced and submissions received up to and including 20 December 1984 when Commissioner King reserved his decision on the work value change.

The hearing dates

It was apparent when reading the decision that during the work value case, Commissioner King determined that not all classifications were covered by the evidence and that submissions - and we seek at this stage to present the exhibit of Commissioner King's decision, Mr Commissioner, if I may, and the document that was tendered, TPOA.1, from which I am reading - I am reading from the transcript of those proceedings.

And I don't wish to -

The next part I would like to draw your attention to is immediately below that decision:

As indicated earlier, this claim by the P.O.A. for increased salaries can only succeed if it satisfied the requirements of Principle 4, Work Value Changes. Significant changes in the nature of the work of Prison Officers must have taken place during the period 23 September 1981 to 2nd December 1983. Across-the-board salary adjustments based on the averaging of work value changes are not allowed

by the current Principles. Accordingly, each classification by the award must, by the adducing of evidence, show a change in the nature of the work -

And then if I pop down to - one, two, three, four, five, six - I think it's the seventh paragraph:

Therefore, Mr Commissioner, we suggest that you are able to accept evidence and submissions on these classifications from 20 December 1984 through until today -

And that was up until 14th October. And what I think perhaps getting back - forgive me for - are those two dates - 25.9.81 where Commissioner King did not make any decisions and 20.12.84 where he did make decisions. That we see

Mr Commissioner, then if I may make our final position to you and I'd like to present an exhibit, if I may.

COMMISSIONER IMLACH: TPOA.89

MR NIELSEN: Now, Mr Commissioner, that's an internal memorandum from the Corrective Services Division and the covering note there is - covering page - is dated 26 March 1993, but I wish to go to the second page of that document and make reference to a letter there from the general manager, and if I may, I desire to read it:

It's dated 19 March 1993

Secretary
Department of Justice

Subject: Cost of Corrective Services in Australia.

I attach for your information a copy of a table that has been prepared by the Australian Institute of Criminology concerning the cost of Corrective Services in Australia.

The AIC has taken the cost of prisons and the cost of Community Corrections in each State and divided them by the total population in the State to obtain the annual cost of Corrective Services to each member of the population.

The average per capita cost of Corrective Services in other States (excluding ACT where the figures are for Remand prisoners only) is \$222.

It is therefore reasonable to say that:

. Tasmanians are paying less than half the price for Corrective Services in other States;

. the cost per capita of Tasmanian prisons is approximately half that of New South Wales and South Australia, and 30% less than the next cheapest State, which is Victoria.

This information is forwarded for your consideration in the Budget context.

General Manager.

And if you care to read the last page of that exhibit, Mr Commissioner, you'll see where it does clearly state that the - the figures as compared against Tasmania and then as compared to the other states. And I think the document then does speak for itself.

Mr Commissioner, we've also desired to present to you two other exhibits which ultimately will take in the - with great respect to my colleague, Mr - the minister's representative keeps on asking us to when we'll put our proposal and -

MR WILLINGHAM: years.

MR NIELSEN: Correction, Mr Commissioner, he says all the year. In fairness I think it's actually for the last 2 years. And what we've attempted to do that - sorry, look I've misled the commission - in that - in that proposal that I've just given you it's actually a comparison of - of information that we've got from other states - it's my next - next -

COMMISSIONER IMLACH: The one after the one you want to give me now?

MR NIELSEN: Yes.

COMMISSIONER IMLACH: Well we'll just hold this in abeyance, then if you -

MR NIELSEN: No, if I may, I may proceed with that to call it 'T' -

COMMISSIONER IMLACH: Right, well TPOA.90.

MR NIELSEN: - 90. Again is another comment from my - from the minister's colleague that we would try to - that we may reach 100 exhibits, but I think I - I think that is why I'm not going to - in that exhibit, Mr Commissioner, if I may take the first page, from the information that we've received from other - from our other colleagues we've endeavoured to

try to just show some comparison of the national officers pay and just taking down the various figures there before you.

To be very frank to the commission, we have two awards, that of course is the Tasmanian award and the Western Australian Award. The other figures that we've got are from our contacts in other states, but they are not formal awards but we - would suggest to the commission that we've got them in good faith and they - they - we accept them in good faith.

If I may turn to page 2, Mr Commissioner, and that's - they're by way of graft - graph - forgive me - apologies to the commission - that just denotes the prison officer on probation which indicates the Tasmanian situation there as compared to the other states - the non-existent one of course in Victoria where other than South Australia, Tasmania is basically behind the other states. And of course then in our award with the second year of service again on that page it shows the Tasmanian second year prison officer as well behind the other states in regards to those figures there.

I take you to - to page 3 of that document that I've just submitted to you, Mr Commissioner, and again it shows the third year of service and the graph identifying the various states as compared to the - to - the fourth year of service of course below that - again the graph speaks for itself in regards to those particular figures. If I may take you to page 4 of this document. The first class prison officer, as Mr Hughes has submitted to you earlier today, of course which is non-existent in the current award and therefore not shown in Tasmania and of course in Victoria, but in the other states of WA, South Australia and Northern Territory, New South Wales and Queensland they're all operating first class prison officer classifications.

The senior prison officer down below in that graph - again speaks for themselves in regards to what the Tasmanian position is as compared to other states.

If I may take you to page 5 which shows you the chief prison officer position, Mr Commissioner. Again the Tasmanian position there and as compared to the other states.

The deputy superintendent Class 1 at the bottom of the page, again shows you the Tasmanian scene with the only other three states that we're able to meet comparison of were WA, South Australia and Victoria.

I take you to page 6, Mr Commissioner, the Deputy Commissioner Class II. It again gives you comparisons of the Tasmanian position as compared to South Australia, Northern Territory, Victoria and New South Wales.

Superintendent Class I, the same as the Tasmanian position there as compared to South Australia and Victoria.

Again on page 7 is a similar situation of the Superintendent Class II and the comparisons of the other four States.

And the Chief Superintendent at the bottom of the page is the Tasmanian position as compared to Northern Territory and Victoria.

We go to the next page, page 8, and there is an endeavour by us to show you the Tasmanian position as compared to what we've established are the average rates, right from the Prison Officer on Probation to the Chief Superintendent, and again by way of a graph is the same situation.

Now, Mr Commissioner, if I may then move on to my final submission - it's TPOA.91, is it?

COMMISSIONER IMLACH: That's correct.

MR NIELSEN: 91. If I may hand that up?

Mr Commissioner, with this exhibit we have - this is a repeat of TPOA.86 - and the only difference is if you refer to page 1 and the following pages it will show you the salary range that this association is proposing in regards to what we see as the position in regards to our desires or submissions that we've placed with you over the various months.

I won't go through, Mr Commissioner, and labour you with the pages from 1 to 6, but to ask you if I may to ultimately turn you to page 7 and that's a document that, with great respect again to my colleague from the minister, has been seeking I think since '92 was the first question he asked of me.

And what we have endeavoured there to do, Mr Commissioner, is to place before you - and as you realise, that is consistent with the submissions again of our secretary earlier this morning where he has brought in on that right-hand side the first class prison officer and he also refers to those common deputy classifications, or Deputy Class I at the \$35,000 level, which ultimately involves the women's prison, the medium security and the Launceston Prison and the Hayes Prison Farm.

And we've tried to show you the different comparisons of the different markings, the different squares, and dot points and arrows as making comparisons.

COMMISSIONER IMLACH: Are they the intended translation points?

MR NIELSEN: Yes, Mr Commissioner, yes.

COMMISSIONER IMLACH: Thanks, Mr Nielsen.

MR NIELSEN: If I may take you to the next page, page 8. Ultimately again that is the real hard ball game to show you on page 8 the current Tasmanian wage rates, the national average, and the proposal we have put to the commission here today.

And the last page, again, is a graph which shows the different identifications of the current Tasmanian scene, the national average scene and the proposed scene - the Tasmanian proposed scene.

Forgive me, that sometimes put me in mind when I have been watching the cricket and seen our local team in reverse.

Now, with no disrespect, Mr Commissioner, I would like to finally say to you that the documents that I have already spoken to you about and the various symbols and comparisons that have been illustrated on the graphs before you is that TPOA has been extremely patient in seeking to achieve progress in the work-value case award restructuring and structural efficiency principle.

It is the belief of this association that we have more than demonstrated changes in the work-value period.

We have, Mr Commissioner, been able to support our position and we have attempted to achieve workplace reform in line with the structural efficiency principle.

Further, we have placed before you significant proposed award variations which we contend go to show the association has and is endeavouring to adhere to the Tasmanian Industrial Commission's directives on award restructuring and structural efficiency principle.

No doubt you may receive from the minister's advocate that there is no work value been established. It would clearly go against the overwhelming evidence and submissions placed before you by the association's advocates and members.

What we are seeking, Mr Commissioner, is a just and suitable recognition of the work-value changes by the awarding of appropriate remuneration in accordance with the submissions placed before you.

If the commission pleases.

COMMISSIONER IMLACH: Yes, Mr Nielsen. What about an operative date?

MR NIELSEN: Forgive me, my many years of answer to that has always been the date of application, Mr Commissioner, and I haven't received any instructions to the contrary, and I am receiving a nodding to me, so, with respect, Mr Commissioner, that would be our position.

COMMISSIONER IMLACH: When was that?

MR NIELSEN: That was the 14 October 1992 - correction - the first hearing was the 14 October 1992. I'm not quite sure when we actually did place the application.

COMMISSIONER IMLACH: Perhaps, I mean, we could all look. Perhaps if you have a look while -

MR NIELSEN: I will, and that's two jobs we've -

COMMISSIONER IMLACH: Perhaps someone else might while you are listening to the other submissions.

MR NIELSEN: That actually concludes our position before you, Mr Commissioner, as I am aware from my colleagues today.

And, it's a little bit - I suppose in answer to that question there is a little bit of history to it, as you are only too well aware, for us to get a work-value case before you, and I believe it takes us back to 1989. We submitted in consistency with those guidelines and directions an application to the Industrial Commission, eventually, and the date I am not aware of. Perhaps Mr Willingham may be able to assist, but there was an anomalies conference that took place, and then from that conference I believe the matter would have been referred to you, Mr Commissioner. And then I think at some point we then - so I proposed the date of application, that's a pretty wide wand to raise, and I suppose ultimately if I go back to my original notes the first hearing date if my memory serves me correctly was the 14th of October.

So, I suppose we still come back to that position, Mr Commissioner. I suppose it is the first day of hearing, I suppose. It's a little bit difficult to establish the date of application.

COMMISSIONER IMLACH: October?

MR NIELSEN: The 14th of October 1992.

COMMISSIONER IMLACH: 1992. Even that's a good while ago.

MR NIELSEN: Yes, it is, it is 1994.

Mr Commissioner, you are only too well aware that we did seek tomorrow, which we don't desire now, and we did seek - if my diary serves me right - the 17th February.

With no disrespect to you, sir, and to my advocate from the minister, we are rather mindful as to when the case may resume in regards to seeking a conclusion of the proceedings before you.

COMMISSIONER IMLACH: Yes, well perhaps we will hear from the other side about that.

One final point, Mr Nielsen, I am a bit disappointed, I must say, that there does not seem to be one whit of agreement between the parties. Is that true?

MR NIELSEN: I think in the very early days when we sought an adjournment there seemed to be - I must say, from my position as one of the prominent players in the game, there appeared to be very goodwill between the parties in trying to achieve what, I suppose for want of a better word, a package.

There was never any real heat or any abuse or any threat of calling in the police. In fact, we lunched on a couple of occasions and we had our morning tea, and it was always held in a very relaxed atmosphere.

And I believe on both sides of the - in answer to that - there was a genuine effort, as far as my position is concerned, of trying to resolve the position.

But we did come up with difficulties in the end, and some of those difficulties were - without embarrassing my colleagues - that first of all there were two ministers, as I understand, involved with the agency and with the minister's advocate. Point one.

Point 2, they had in mind various directions and instructions and agendas. On the other side of the fence we were subject to our executive and subject to our members in general.

And as time developed and developed it became very clear and clearer - although I suppose we could have bit the bullet in the very earlier meetings and just said, 'Look, there is no ability', but we didn't do that - we went through and we exchanged some quite documentations - amounts of documentations from quite clear thoughts of view - and I thought they were very honest, very open, but in the end that really didn't bring us close.

In fact, as we got down the track we thought that what either party was trying to achieve became more and more - and that was a disappointment, for sure, Mr Commissioner.

But I can only say that there was genuine effort and a genuine desire to try to achieve some understanding, and ultimately we didn't achieve that.

But there were, as I said, over 16 meetings. I think there were only 6 formally between the parties, or informally. Between ourselves there were even special general meetings where some of our members were making quite clear comments and accusations of what wasn't going on or what was going on, so we had a special general meeting to inform them.

We had various executive meetings. We brought the whole of the executive down to Hobart into our meeting rooms where we were. I'm not quite sure whether the whole of the executive met the management - no, it was only our type of thing.

But I can assure you there was quite a lot of effort and quite a lot of work put into trying for the parties to come together to a common plane, but, yes, as we said it was a disappointment. But -

Just a moment, Mr Masters would like to comment.

MR MASTERS: In direct answer to your question of not one - I am sorry, what was the word, Mr Commissioner?

COMMISSIONER IMLACH: Whit.

MR MASTERS: Of agreement. I think there was one minute whit of agreement, and that was I was involved with the loaded rate literally from the outset and as I've implied, Mr Commissioner, we did have pretty considerable agreement on most points. The only point that we really differed was that management thought that it should be applied to each individual roster.

We didn't disagree with that, but our main point of disagreement was that. But if that were to be the case, then it would take away some of the flexibility that was intended by the use of the loaded rate, because it would mean that people temporarily deployed from one roster to another roster for that particular shift, albeit for only 1 day, would need to be paid at the appropriate loaded rate for that.

Apart from that, I think, yes, it would be wrong if we didn't recognise that there was a great deal of agreement with management on the loaded rate, Mr Commissioner, and I would hate you to go away with a false impression that we didn't reach any agreement.

Maybe we didn't come to a conclusion, but at least there was some agreement along the way.

And I thank you, Mr Commissioner.

MR NIELSEN: Mr Commissioner, I would just like to finally comment and say that they were exploratory meetings, and

that's most important. One. Two, there were two golden rules, they were within confidence and 'without prejudice'.

But without breaking those, I don't think it was actually altogether negative. In fact, I would say on my own thinking there was a lot of optimism.

It was just unfortunately they weren't able to come to fruition.

And for me to perhaps speak a little stronger would then tend to be breaking those two conditions that the parties met under.

Thank you, Mr Commissioner.

COMMISSIONER IMLACH: Thanks, Mr Nielsen. I am in fear and trembling at what's going to come from the other side as to the distance of the gap. Mr Willingham?

MR WILLINGHAM: I'm sorry, I thought you must be speaking of someone else, commissioner, when you talked about fear and trepidation.

Which gap is it you want me to talk about first?

COMMISSIONER IMLACH: Well, it seems to me you have the whole ambit before you, Mr Willingham. There's nothing before me that shows any agreement at all, except I acknowledge there has been an acknowledgement as to the composite rate, but it didn't come as far as an agreement - a full agreement.

MR WILLINGHAM: It had been my intention to seek an adjournment, commissioner, for preparation of our substantive submission. That was on the basis, of course, of the anticipated - that the association would occupy a great deal more than the few hours that we have had so far.

But let me just work from a couple of comments which have fallen - particularly your last remarks to Mr Nielsen - at your disappointment, I think you expressed it, about the lack of agreement. And that's as may be.

I think I would endorse generally the comments that Mr Nielsen made about the persistence of his organisation and his willingness to take the organisation into discussions with the minister's representatives to see if agreement could be reached.

And I subscribe very firmly to the view that such discussions have no part in being revealed in a place such as this, and I don't intend to go into them.

So I was a little disappointed at the remarks about the loaded rate because I am very conscious of the fact that such remarks, if left unchallenged, can sometimes influence the commission's consideration of certain matters, and because the loaded rate aspect is one of some significance to the association's claim before you I would have to say that whatever Mr Master's put to you about the management's agreement, or level of agreement, or level of disagreement, is his view only. It does not reflect the minister's view, and to say that we had reached - and I am paraphrasing Mr Masters - agreement on all, say, a couple of issues is simply not correct.

There were some fundamental differences between the parties, both as to the application of the loaded rate and the quantum which might be applied to it.

And as with the salary claim overall.

And most other matters in your experience, I have no doubt, commissioner, it all ended up being a question of degree - the degree of money - and what could be achieved for both parties in relation to the sums.

To adopt a particular proposal in principle and say, yes, that concept is worth exploring and is worth exploring in a constructive and genuine way, and to say, yes, I agree that there are some advantages, some aspects that we should go into in a great deal more detail, is far removed from saying in the context of 'without prejudice' and confidential discussions that there is a large degree of agreement. And it shouldn't be interpreted that way.

And I didn't want the record to stand without that point being made.

The fact before you, commissioner, is that the parties are before you seeking arbitration on the matter, and that of itself should be sufficient, and I would respectfully submit that the only things the parties have to do now is bring argument and submissions before you on the basis of merit, and let the commission as constituted decide as it will.

Now, if I can go then to the question of operative date. I might as well deal with that now.

And, without in any way wishing to belittle my colleagues, I just thing the opportunism and the suggestion that the operative date of any positive decision that you reach in this matter should be October 1992 is just farcical.

This matter was brought before the commission in an anomalies conference in September 1989. I have put on record before, commissioner, and you have heard it, that for 2 years we

exhorted the Prison Officers Association to actually start their case.

Most of the time that has been occupied since proceedings before the commission as constituted commenced have been at the determination of the association.

It has chosen its own path to its own destiny at its own speed. We have not sought to impede the course that it has followed, as best we are able without compromising our own position, we have not sought to frustrate it.

Neither do I believe there is any suggestion that that is the case.

But to suggest that the dilatory speed with which this matter has been handled by the association should then be rebounded back upon the minister's representatives so that we pick up what would effectively be nearly a 2 year retrospectivity bill, is absurd.

Not only is it absurd, commissioner, unless Mr Nielsen wants to advance more argument to you, you could not under your obligations under the Tasmanian Industrial Relations Act accede to the request for retrospectivity.

Firstly, because no agreement exists, and that is one of two criterion upon which the commission may consider retrospectivity, and we do not agree to it and, secondly, because if there is no agreement the commission must find that there are compelling circumstances in existence which make it fair and proper so to do.

And Commissioner Imlach, you would be aware that the question of retrospective awards has been subject to a recent full bench decision of this commission and the guidelines have been reaffirmed as recently as I think about 3 months ago. I am not sure, sir, I think you may have even served on that full bench.

And excellent decision it was, too, I might add, commissioner.

So I just make those preliminary comments our view so that we can't have any possibility of subsequent of course as it always would be that in the absence of any compelling circumstances, and certainly in the absence of any agreement between the protagonists, then any positive decision arising from your deliberations, Mr Commissioner, should be date of variation of the award.

Not date of decision, sir, date of variation of the award.

Mr Commissioner, there are a couple of other matters perhaps I could usefully - if it is convenient for you - that I could just go into.

One was the question of the datum points, and the other was the question of the fundamental basis of this application before you which, of course, derives or has its genesis from the anomalies conference of 1989.

Now we have spoken on the question of the datum point, both I think in chambers with you and subsequently as Mr Nielsen has pointed out in submissions from the bar table.

Now it is complicated. The two issues to some extent, in my view, not separable.

If you go to the anomalies conference of 1989 which was the genesis for this current special case, as I have pointed out before the prison officers application for special case reference was in respect of all officers up to and including senior prison officer.

That was the basis upon which they made their application, that is the basis upon which it was referred by the then president, that is the basis upon which the matter was referred to you, Mr Commissioner.

It is important to bear that in mind, because if we then take Mr Nielsen's submission to you this afternoon that the datum point for those classifications which were not dealt with by the then Commissioner King in 1984-85, should go back to the then previous Public Service Board determination of 1981, my in-principle contention would be that Mr Nielsen cannot claim of you that datum point because he doesn't have the reference under this commission's wage fixing principles to deal with classifications above senior prison officer.

So the question is academic.

I am prepared to concede that in general terms - and I can't think of any exceptions to them at all - so at this stage let me rephrase that by saying that in my submission the datum point ought to be the date of Commissioner King's decision which I think my colleague said was late '84 or early '85.

Having said all of that, commissioner, I'm not sure how much turns on it because in a review of the evidence that has been presented by Mr Nielsen and his colleagues, in anticipation of this particular question being developed before you I am not aware of any major matter or even any semi-major matter which arose from the evidence of the various witnesses which would have a significant or, indeed, any effect on your deliberations.

In other words, there is no significant piece of evidence going to alleged work-value change which occurs between September 1981 and December 1984 which is unique to this case.

So it probably wouldn't matter if the date was 1984 or 1981 except for the special case reference out of the anomalies conference.

And I suppose that that's not particularly surprising because we after all are talking now of 10 years, even if we take the latter date.

So, whilst I'll be pedantic on detail, I'm not sure that I am going to get strung up about it which ever way it falls.

The other issue is that our friends from the Tasmanian Public Service Association - now the State Public Services Federation Tasmania - as I understand it, commissioner, at that anomalies conference of 1989 had their special case reference dealt with in identical fashion to that of the Prison Officers Association, and course their reference was for all classifications above the then level of senior.

You'll be aware, commissioner, that the TPSA, or its latter day successes, have played a singularly conspicuous role in these matters.

I saw Mr Smyth here. My heart leapt for a short while this morning. I thought, 'Goodness gracious, better late than never' but he disappeared at the barrier rise at 10.30.

So, to this day, to this hour we don't know what the TPSA's intentions are in relation to an application which is validly before the commission and which clearly has a very significant and material effect upon Mr Nielsen and the organisation that he represents.

And I know that we have had this discussion before, but I think it's an intolerable position from the employers perspective.

We have a situation here where, irrespective of what you accept as being Mr Nielsen's legitimate charter in respect of the special case reference, we have absolutely no idea what, if anything, the TPSA might deem it wishes to do in relation to an application before you. For all we know, commissioner, the TPSA might lob up here next week, next month, the month after, after hearing perhaps our response and Mr Nielsen's response to our reply and decide to mount a case all over again for the same group of people.

Now I know that Mr Nielsen - and I give him credit for this because he has behaved, as always, in a most - with the greatest of integrity right throughout all of these matters,

so I cast no aspersions on him. I know he has tried to bring the TPSA to the table to get some sort of comity of purpose between his organisation and that of Mr Vines, but as I understand it, without much success. In fact, with no success.

One of the things that we will be suggesting - and I'm foreshadowing this now so that I give advance warning, not only to my colleague Mr Nielsen, but also through the transcript to my colleagues at the SPSFT - when I make my substantive submissions to you, commissioner, I will be asking you to consider acting on your own motion and removing that application from the lists - and at that time, I - if you accept that proposition, I will be withdrawing my opposition, as it currently stands, to Mr Nielsen's organisation being able to validly represent all levels, all classifications in the award, but until such time as that outstanding matter of the TPSA is dealt with, my position is as I have placed it before you.

I just do want to place on record, Mr Commissioner, and I think even in a good frame of mind as I am, first day back at work this year and all that sort of thing, I've got no chagrin in me at all. I think it's an intolerable state of affairs. When you go back to 1984-85, I mean, the TPSA scarcely lift it's head up for its performance in that particular matter and now, in a - almost a repeat performance, both the TPOA, and more particularly ourselves, because we're the employer, we're the ones who are going to pay whatever the piper demands in this particular matter, have been totally, totally unsuccessful in trying to get the merest smidgin of an indication from the TPSA about what they wanted to do with an application that they took before the Anomalies Conference which now stands into its 5th year - 5th year. This hearing is on. Everyone knows, everyone knows that these proceedings are in their last days - we're at the business end. Even Mr Nielsen had to produce the figures today. He knows it's nearly all over. Kept those from me for 4 years, commissioner, he has; 4 years. Wouldn't produce them in the Anomalies Conference and he's waited until today - day after Australia Day. Top performance. Top performance, mate.

COMMISSIONER IMLACH: Perhaps he could see them mounting up elsewhere, Mr Willingham.

MR WILLINGHAM: But, truly, commissioner, I urge you to give consideration to using what powers are at your disposal to sorting this matter out. I mean, we raised this first with you I think some 2 years ago and we're no closer to a solution to what is potentially - from our perspective - a thorny problem.

Now I think those are probably the matters that I wish to cover as a result of this morning's - this afternoon's

proceedings, Mr Commissioner. It might be useful if I indicate to you the sort of order that I intend to take our substantive submission in. The first part of our reply would deal with the evidence of the witnesses in the order in which they appeared before you and where necessary, working from the summary of the evidence provided to you, I think, on the occasion by Mr Shirley and where necessary, going individually to the transcript of the evidence of the witnesses.

I anticipate that that would probably take me a day or the best part of it, commissioner, and after all that's fairly natural because that was the substantial part of the case before you.

I would think I would then need - and these are very loose times, commissioner. You would appreciate better than most people that I think it's very hard to predict with any accuracy what you need, but I would suggest about a day, maybe a day and a half to go to the general principles of work value to give you the weight of that we place upon the material which has been put before you by the association, and to give you our views in relation, particularly to exhibit 91 and 86, those matters particularly, commissioner, that go to the proposed new structure of the award and the classification structure, particularly, within the body of that proposed award; the incremental progressions, where they exist and particularly where they don't. The qualifications which attach to each of those levels; the considerations that we may have to take from structural efficiency principle, particularly that going to career paths because that's been a feature of the association's submissions and of course to go to the salary levels.

I might indicate to you, commissioner, that we note now that the wage fixing principles in general, proscribe comparative wage justice, so we don't know how much consideration we will be giving to those exhibits which seek to demonstrate the rates which exist in other states, vis-a-vis, those in Tasmania, but I did note one important disclaimer from Mr Nielsen in relation to TPOA.90 where he said that the only areas that the rates of pay shown on the first page of exhibit 90 could be authenticated by reference to an award were Western Australia and Tasmania and all of the other figures which is five columns out of seven, commissioner, were derived from contacts with colleague officers interstate and I'm not sure that I believe that that's a very satisfactory basis from which the commission ought to determine such major matters and if it is going to be a major consideration in the commission's mind, I - with respect - submit that the commission ought to ensure that the basis upon which these figures has been provided, holds up to rigorous scrutiny.

And the other matter that I would foreshadow so that - I'm doing this partially through you, commissioner, for Mr

Nielsen's benefit - the other matter that I would foreshadow is that whilst I would never suspect Mr Nielsen has done other than making a genuine attempt to show a comparison, and he's done it - as always - with great integrity, it is a fact that the classification structures interstate in the prison service do vary quite markedly from state to state, for instance, some don't have chief prison officers which could be evident to you from the chart before you. What is called a chief prison officer in one state is not what we know as a chief prison officer and you see from your chart, Mr Commissioner, that many states don't have deputy superintendents because that's in fact what they call chief prison officers which is why the rate, superficially, seems out of kilter with what we pay.

There are a number of differences like that and I'm not going to go into them in detail now. I'll save that for my major submission, but I think - I thank Mr Nielsen for his candour. Always a pleasure dealing with a man of his integral honesty; it really is, but I do think that great care and great caution has to be exercised before the commission itself, with respect, proceeds to weigh this matter on the basis of figures which could be very misleading, unintentionally so.

So, Mr Commissioner, if I can just conclude by saying, yes, maybe two and a half days - I would very much appreciate an opportunity to spend the time snuggled up in a warm cosy place with the transcript for about a week - that is, the transcript of today's proceedings. I don't require a great deal of time for previous days of proceedings. We are reasonably well prepared, so if a time could be set for me to commence, let's say, about a week after the receipt of transcript, that would do me fine. If that doesn't inconvenience the commission or my colleague, Mr Nielsen.

COMMISSIONER IMLACH: No, I think that's quite reasonable, Mr Willingham, and I would expect that transcript will be unfortunately 2 or 3 weeks down the line at the earliest, so - and also I expect to be away for about 1 to 2 weeks early in March, so perhaps if you leave it - we ought to leave it till we know about the transcript before we fix a date.

MR WILLINGHAM: I'm happy, commissioner, and again, this is predicated to your convenience, but Mr Nielsen had booked the 17th of February, I think it was.

MR NIELSEN: That's correct, yes.

MR WILLINGHAM: If that date stands conveniently or remains conveniently in your diary, commissioner, I'd be quite happy to pick that up to deal with the witness evidence. That's not a matter that I need to await anything. That's just waiting to go, and as I've previously indicated to you, I would spend about a day going through that. So if it meets with the convenience of my colleagues and yourself, I'm quite happy to

pick that day up. I certainly wouldn't be in a position to go tomorrow.

COMMISSIONER IMLACH: No. Well that sounds all right to me.

MR NIELSEN: That's okay with us, Mr Commissioner.

COMMISSIONER IMLACH: All right. We'll make it -

MR WILLINGHAM: I'm sorry, commissioner, and then I would assume around about that time, if you're talking 3 weeks for transcript, we'd see the transcript probably arrive by then, if you could give me - for safety sake - two consecutive days, say, a fortnight after that, having regard to your leave commitments.

COMMISSIONER IMLACH: Yes. Well it will be when I return, I should think, by which time the transcript should have been available.

MR WILLINGHAM: I'm sorry, sir, would you remind me of the days you are going to be on leave?

COMMISSIONER IMLACH: Well its from the 1st of March and I won't return till the - Monday the 14th.

MR WILLINGHAM: Well I'm in your hands, sir. If you could - so that Mr Nielsen doesn't accuse me of stalling, if I could dates - double days soon after your resumption from leave as possible, I think we'd appreciate that.

COMMISSIONER IMLACH: Right. Shall we tentatively fix the 15th and 16th of March?

MR WILLINGHAM: The 15th's very unlucky, commissioner, Beware of the Ides of March.

COMMISSIONER IMLACH: Only for Julius Caesar.

MR WILLINGHAM: Yes. Well -

COMMISSIONER IMLACH: You're not going to put that one on me, are you, Mr Willingham?

MR WILLINGHAM: I've never yet appeared in the commission on the Ides of March. Mr Lane did it once in the teaching service.

COMMISSIONER IMLACH: Is that a serious request?

MR NIELSEN: you return.

MR WILLINGHAM: No, it's not - it's not. The 15th of March. Perhaps - is it convenient, commissioner, if you could set the 15th and 17th of March?

COMMISSIONER IMLACH: It's all right with me - St Patrick's Day.

MR NIELSEN: Mr -

MR WILLINGHAM: I'll need - I'm sorry, my colleague, you've got a - ?

MR NIELSEN: I have a little bit of difficulty with my delegation. If we could just have a few minutes, Mr Commissioner?

MR WILLINGHAM: Could we go off record, commissioner, on this matter?

COMMISSIONER IMLACH: Yes.

OFF THE RECORD

COMMISSIONER IMLACH: Well thank you very much, gentlemen, for all that. I'll leave you with the matters that we have discussed to attend to, however, we will resume at 9.30 am on the 17th of February so that the minister's representative can put his case as to the evidence of the witnesses and then we set dates now to continue on the 15th and 17th of March and the 21st and 22nd of April. Those dates, as far as I am concerned, are fixed, but they will be changeable - if perhaps we think optimistically if the parties can arrange it and if we're agreeable. Anything else?

MR NIESLEN: No, Mr Commissioner.

COMMISSIONER IMLACH: This matter is adjourned till 9.30 am on the 17th of February.

HEARING ADJOURNED