

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. No. 392 of 1986

IN THE MATTER OF an application
by the Shop Distributive and
Allied Employees' Association
for interpretation of the
Retail Trades Award

re Section Manager/Manageress
and/or Buyer/Orderer

PRESIDENT

HOBART, 4 June 1986

TRANSCRIPT OF PROCEEDINGS

PRESIDENT: I will take appearances thank you.

MR TARGETT: Thank you, Mr President. **TARGETT, P.E.** I appear for the Shop Distributive and Allied Employees' Association and with me is **MRS GEEVES.**

PRESIDENT: Thank you, Mr Targett.

MR BLACKBURN: Thank you, Mr President. **BLACKBURN, J.G.** from the Retail Traders' Association of Tasmania.

PRESIDENT: Thank you, Mr Blackburn.

MR EDWARDS: If it please the Commission, **EDWARDS, T.J.** I appear for the Tasmanian Chamber of Industries.

PRESIDENT: Thank you, Mr Edwards. Yes, Mr Targett?

MR TARGETT: Thank you, Mr President. Our application for the interpretation covers 2 related sections of the Retail Trades Award, namely Part I of the award, clause 2, Section A, sub-clause 3. (i). Perhaps it might be appropriate if I handed up a copy of the Retail Trades Award as an exhibit, Mr President.

PRESIDENT: I have it but by all means hand it up if you wish.

MR TARGETT: I have brought them all here, Mr President.

PRESIDENT: That will be Exhibit T.1.

MR TARGETT: As I mentioned, Mr President, Part I of the award, clause 2, Section A, sub-clause 3. (i) and that reads:

"3. Section Manager/
manageress and/or buyer/
orderer (as defined)

(i) Of a section where 5 or more employees (including the section manager/manageress and/or buyer/orderer) are employed."

MR TARGETT:

The other section is Part II of the award, clause 25, 'Definitions', which reads, inter alia:

"`Section manager` and/or `buyer/orderer` or `section manageress` or `buyer/orderer` means an employee in charge of a section or an employee who buys or supervises the buying or selection of stock, and who is responsible for the keeping of stock of the section and who is actually employed in that section and in direct contact with the customers, notwithstanding that he or she may be under the orders of a supervisor who does not devote the whole of his or her time to the management of the section."

As background, Mr President, following discussions with our member, Mrs Geeves, we claimed from Purity Supermarkets wages and back-pay for our member in accordance with the Retail Trades Award, Part I, clause 2, Section A, sub-clause 3. (i).

The basis for our claim was that the duties performed by Mrs Geeves were those required by the Retail Trades Award for a person in the aforementioned clause and because Mrs Geeves performed these duties she should be paid for the same. The fact that differing titles were used was not an issue.

The company refused our claim and we made application to the Commission under section 29 (1). That application was not proceeded with and a request was made to the Department of Labour and Industry to enforce the award in this matter. This request was made on 12 December, 1985.

A reply was received from the Department of Labour and Industry on 2 April, 1986 some 4 months later and

GM/CW - 04.06.86

TARGETT

MR TARGETT:

this response was, in our opinion, ... the response from the Department of Labour and Industry was, in our opinion, inadequate.

We contend that the duties of the employee and the wording of the award are quite clear but it would appear that the Department of Labour and Industry had placed a different interpretation on the words of the award, in fact an interpretation which supports the employer's position.

As the matter of interpretation is within the jurisdiction of the President of the Tasmanian Industrial Commission under the Industrial Relations Act, we requested the interpretation.

Mr President, I intend to present, with your permission, three exhibits and call one witness, namely Mrs Geeves, to substantiate our reading of the clause, subject of this hearing.

It is our submission that the pivotal point in this whole matter are the duties performed by the employee and whether those duties are in fact those described in the clauses in the application.

Clause 25 in Part II of the Retail Trades Award in part gives the definition of a section manager/manageress and/or buyer/orderer. The definition given is by means of stating the duties of an employee in that position and those duties, we contend, are stated in two parts.

The first part, which is after the titles subject of the definition and it reads:

"... means an employee in charge of a section..."

The second part continues on from there and we see them as two

MR TARGETT:

distinctly different things; the second part reading:

"... or an employee who buys or supervises the buying or selection of stock, and who is responsible for the keeping of stock of the section and who is actually employed in that section and in direct contact with the customers, notwithstanding that he or she may be under the orders of a supervisor who does not devote the whole of his or her time to the management of the section."

We submit, Mr President, that these words mean that an employee whose duties are either those described in the first part or in the second part, or both (as I have just illustrated), that employee is in fact a section manager/manageress and/or buyer/orderer and to ascertain that person's wage rate, reference is made to Part I of the award, clause 2, Section A, sub-clause 3.

Within sub-clause 3. you must then determine whether the applicable rate is that under (i), (ii) or (iii). This is done by counting the number of employees working within the relevant section, be it 2, 3, 4 or 5, and using the wage rate allocated to that section's size and, in this particular matter, 5 employees as illustrated under (i).

Mr President, I now seek to put forward the specific facts of the matter which gave rise to this application for the interpretation and I would submit that the facts relevant to this matter can best be given by calling Mrs Geeves as a witness first and then I would follow that with some exhibits, if the Commission pleases. I would call Mrs Geeves as a witness now.

PRESIDENT:

Yes. You are aware of course that this Commission cannot entertain any

GM/CW - 04.06.86

PRESIDENT - TARGETT

PRESIDENT: evidence or submissions going to merit?

MR TARGETT: Certainly. The object of calling Mrs Geeves as a witness, Mr President, is to give the specific facts relating to the duties which we see as the pivotal point.

PRESIDENT: Very well. Thank you. You're not likely to be bobbing up too much, Mr Edwards, are you?

MR EDWARDS: I wouldn't think I would be bobbing up too much, sir. I won't say I won't bob up at all.

Wenda Faith GEEVES sworn.

MR TARGETT: Thank you, Mr President. For the record, could you please state your name and address?

MRS GEEVES: Wenda Geeves, 2 Hoffman Street, Midway Point.

MR TARGETT: Could you also, for the record, state your employer and your occupation please, Mrs Geeves?

MRS GEEVES: I work for Purity, Glenorchy and I am a service delicatessen stock keeper.

MR TARGETT: Thank you. Mrs Geeves, could you tell the Commission the duties that you perform on a day-to-day basis for your employer?

MRS GEEVES: It is my duty to see that all staff are in a position to give best service to customers, that we have fresh food supplied to the customers and that we give them best service. The chickens are put on, the show-case is up to standard, morning and afternoon teas are arranged, the buying of stock and the keeping of stock in cool rooms - I can't think of much else. That's just the general idea of it.

MR TARGETT: That gives us a pretty fair description, thanks, Mrs Geeves.

GM/CW - 04.06.86

PRESIDENT - EDWARDS - TARGETT -
GEEVES - XN

MR TARGETT: Mrs Geeves, you said that you buy stock for the delicatessen; how many companies do you buy from?

MRS GEEVES: Every day about 4 but on a weekly basis you would say about 6 - there are 2 that we buy from twice a week.

MR TARGETT: Right. Could you name some of those companies for the Commission please, Mrs Geeves?

MRS GEEVES: We have Glenila (or Golden Farms, it is called), Universal, R.M.I., Conti, No Frills ...

MR TARGETT: I think that gives a fair indication. Mrs Geeves, do you physically work within the section, or the delicatessen?

MRS GEEVES: Yes.

MR TARGETT: Do you serve customers?

MRS GEEVES: Yes.

MR TARGETT: How many other employees work within that section?

MRS GEEVES: I have 6 full time and there are 4 part time that come.

MR TARGETT: Are those people working every day?

MRS GEEVES: The part time come in Wednesday, Thursday and Saturday morning. The full time are working every day - the other 6 are working every day.

MR TARGETT: The 6 - does that include yourself, Mrs Geeves?

MRS GEEVES: Yes.

MR TARGETT: So on a daily basis there are, including yourself, 6 employees working within the section?

MRS GEEVES: Yes.

MR TARGETT: Thank you. Mrs Geeves, you mentioned that you supervise the other employees and instruct them in their

MR TARGETT: duties. How do you know that that is one of your responsibilities, or duties?

MRS GEEVES: When I was hired with Purity they hired me as a delicatessen manageress is what they told me, for one, so that is what I naturally thought came under that, plus we have a manual on the deli which tells us exactly what our duties are at all times.

MR TARGETT: You mention the manual in the department - could you tell the Commission when that manual was put into the department or when you received the manual and the purpose of the manual?

MRS GEEVES: Yes. We had a meeting at head office - I think it was either June or July last year - and we were given a manual then - all the delis were given the manuals then.

MR TARGETT: What is the purpose of the manual, Mrs Geeves?

MRS GEEVES: It tells you how Purity want their delis ran, hygiene, just the duties of different staff members; just anything that you really want to know about the running of a deli.

MR TARGETT: Does it also list your duties, Mrs Geeves?

MRS GEEVES: Yes.

MR TARGETT: They are the only questions I have for this witness, Mr President.

PRESIDENT: Thank you. Mrs Geeves, you realize you may be subjected to some cross-examination?

MRS GEEVES: I will answer as best I can.

PRESIDENT: I hope it won't be too torrid, but I have a couple of questions for you: Now, how much discretion do you have in purchasing goods for Purity?

MRS GEEVES: Well, it is all left up to me. I'm in the delicatessen department

GM/CW - 04.06.86

PRESIDENT - TARGETT - GEEVES - XN

MRS GEEVES: only. I determine every day what stock is needed for the next day; I order it through the suppliers ... to the suppliers - I ring through to them. When it comes in I check it and if it isn't any good I send it back or if it is good it is put into the cool room, it is date coded and it is up to me to look after it to see that it is all right.

PRESIDENT: Do you deal directly with representatives of the suppliers?

MRS GEEVES: Yes. They come to see me and I ring through the orders to them every day.

PRESIDENT: Do you negotiate price?

MRS GEEVES: No, not price. That comes through on ...

PRESIDENT: What would they come to see you about then?

MRS GEEVES: They usually come to make sure that the stock is all right - if I have any complaints about the stock.

On day-to-day ordering we have three main buyers we buy from. Unless it is a special, which comes from head office (they let us know what the specials are and the price we are going to sell them at) then we use our own discretion on which company we wish to order them from.

PRESIDENT: I see. And is there any limit placed upon the amount of stock you can order?

MRS GEEVES: Well, we use our own discretion there because if you over-order or under-order - it is a perishable food department so you have to be very careful with it. So you just order what you think you need.

If I under-order then I am answerable to the manager or to whoever wishes to pull me over the coals over it.

PRESIDENT: Right. And whatever you order the company pays for?

GM/CW - 04.06.86

PRESIDENT - GEEVES

MRS GEEVES: Yes.

PRESIDENT: I see. Now, to whom do the employees in your section (if that is what it is) report for duties?

MRS GEEVES: Me.

PRESIDENT: Without exception?

MRS GEEVES: Yes, to me.

PRESIDENT: Thank you. Mr Blackburn? Mr Edwards?

MR BLACKBURN: Thank you, Mr President. I have a few questions and a couple of them will possibly cut across some you have already answered.

Mrs Geeves, you have stated that you are responsible for keeping the stock levels and reordering.

MRS GEEVES: Yes.

MR BLACKBURN: That's fair enough. Can I then ask: Do you purchase or buy the stock? By that I mean do you go out and set the prices - negotiate the prices when buying stock?

MRS GEEVES: No. I ring through the orders to the manufacturers of what I want and they deliver.

MR BLACKBURN: Do you select the range of goods in the deli?

MRS GEEVES: Well, when you say do we select the range of goods, we have a book (I should make it clear how it works) that is given to us by head office. In this book there is everything that we can order. When I say 'can order' I mean we don't have to order it if we don't feel that it sells, but we do order it if we feel we want to. But it is at our own discretion whether we have it or whether we don't.

MR BLACKBURN: But could you go and change the brand of some item, say, it might be a cheese or a sausage. Have you the right to say, 'Okay, I don't want

GM/CW - 04.06.86 PRESIDENT - BLACKBURN - GEEVES - XXN

MR BLACKBURN: brand "A", I am going to go for brand "B" ^?

MRS GEEVES: Well, if I don't want Wignalls, sure, I can go and buy Universal providing it isn't on special. If it states that it is on special, head office does that so we have no say over that - they have already negotiated with that. We do have to buy from that supplier for that particular thing, but apart from that I can say, `Yes, okay, I don't like Universal. I will go for Wignalls or R.M.I.' That is up to me, yes.

MR BLACKBURN: So really though, the head office, or some party above you selects what you are going to do and what is going to be a special?

MRS GEEVES: They select the specials, sure, yes.

MR BLACKBURN: And the space allocated to it - store space.

MRS GEEVES: Well, we do our own spacing in the show cases, yes. We do our own show-casing.

MR BLACKBURN: And what about the manning levels in the deli? Do you have any control over the number of people who are going to be there at any given time?

MRS GEEVES: Yes.

MR BLACKBURN: You did state that you had 6 full time and 4 part time reporting to you. That's at Glenorchy where you have since transferred to.

MRS GEEVES: Yes.

MR BLACKBURN: Am I correct in saying when you were at Howrah when this first initiated it was 2 and 2?

MRS GEEVES: That was 2 and 2 but when it very first started to negotiate with it, it was more than that. We did have ... there were 3 full-timers counting myself plus there used to be 3 part-timers who used to come in on Wednesday, Thursday, Friday, all

GM/CW - 04.06.86

BLACKBURN - GEEVES - XXN

MRS GEEVES: days and nights, plus there were weekend girls as well on the Saturdays.

MR BLACKBURN: Could I ask you who determines when they come in? Is that your responsibility or the store manager's?

MRS GEEVES: Yes, it is my responsibility to see that the time is covered all day at all times. I don't hire the employees. I don't hire the girls and say, 'Right, you have got a job'. The manager does that (of the store) but it is my job to see that they are there at the time when I want them, when we are the busiest, to give customers better service - the best service we can give. That is my responsibility. If I am short staffed - I have sent 2 girls off for morning tea or afternoon tea at once and we are short staffed - well I have got to answer to that. That is my problem.

MR BLACKBURN: But you can't go and say, 'Okay, we need another full-time person in the deli'?

MRS GEEVES: Yes. I can go to the manager, sure. If I say, 'I feel that we do need another one. How about doing something about it?' they do.

MR BLACKBURN: Yes, but the decision then is his.

MRS GEEVES: The final decision is his. Yes.

MR BLACKBURN: You recommend.

MRS GEEVES: Yes, the final decision is his.

MR BLACKBURN: One final one: The question was the manual of duties. I don't know whether you are going to table this afterwards but can I just ask this question: That is something which is put up on a wall for all deli staff or just for yourself?

MRS GEEVES: No, no, no. It isn't anything that goes on the wall. It is a manual. It is a very thick book. It is a manual.

GM/CW - 04.06.86

BLACKBURN - GEEVES - XXN

MRS GEEVES:

They gave it to us. It is a guideline to anybody that takes on a deli. It shows you what they want, how they want it and when they want it.

MRS GEEVES: It shows you hygiene, it shows you the running of the cool-rooms, the running of the staff, what the staff duties are; just anything that anybody would want to know about the running of a deli or a department.

MR BLACKBURN: So it is a company duty statement you have used?

MRS GEEVES: Yes.

MR BLACKBURN: Thank you, Mr President.

PRESIDENT: Thank you.

MR EDWARDS: Just a couple of questions, Mrs Geeves. When you indicate that you are buying produce for the store, are you not merely ordering or reordering a product that has been depleted? By that I mean, do you have the discretion to create a new range of product in the store, or are you merely reordering from an existing list of products which has been compiled by head office as a result of trips by the buyers employed by the company?

MRS GEEVES: No, I say that I am a buyer. I mean, if you determine what you need for the next day, if you say, 'Right, I need this, this is what we actually have to have.' and I ring through the order, I check it when it comes in, and if it isn't any good I am the one who sends it back. I say that I must be the buyer.

MR EDWARDS: But is your function one of merely reordering?

MRS GEEVES: I can order - I do have to order from a book, yes.

MR EDWARDS: So you have got no discretion to go beyond what is in that book?

MRS GEEVES: If there is a new product that comes out, usually a rep. will come and see me (the same as they do with any department) and he will show me and ask me. Well, if I think it is going to be any good I usually refer it

HG/JS - 04.06.86 BLACKBURN - GEEVES - XXN - EDWARDS - GEEVES - XXN

MRS GEEVES: either to the manager or it goes back to head office. It has got to go right through their channels before we can actually order it, yes.

MR EDWARDS: So you do not then have the discretion to introduce a new line to the store, without reference up the line?

MRS GEEVES: Without reference to someone higher up further, yes.

MR EDWARDS: Okay. I am at a bit of a loss in relation to the next question I have, Mr President, and I will ask it, but I do so on the assumption that in accordance with section 43 of the Act that Mr Targett is going to ask for some retrospective application of your interpretation.

I say that because in the meantime since this claim was first raised with the company, Mrs Geeves has in fact changed her place of employment. She is still employed within the same company but she has changed stores, and that has brought about a difference in the employee numbers.

PRESIDENT: Yes. So what would you be saying, Mr Edwards - that you think I should interpret this award retrospectively or prospectively?

MR EDWARDS: I will be making some very strong submissions at a later date on prospectivity, I can assure you, Mr President, which won't surprise you.

PRESIDENT: Nothing you do surprises me these days, Mr Edwards.

MR EDWARDS: I thank you for that.

Mrs Geeves, when you were employed at the Howrah store at Purity, could you go through each day of the week and indicate how many employees were engaged in the delicatessen section that you actually supervised?

MRS GEEVES: Each day of the week?

HG/JS - 04.06.86

PRESIDENT - EDWARDS - GEEVES - XXN

MR EDWARDS: Yes, please.

MRS GEEVES: There was myself and another senior and a junior. That was for 5 days a week - that was Monday, Tuesday, Wednesday.

MR EDWARDS: So that was 3 in total?

MRS GEEVES: Three there, yes. And I had 2 part-timers who used to come in on Thursday and Friday night and Saturday morning, and there was another lady who used to come in during the week.

MR EDWARDS: When you say you had 2 part-timers coming in Thursday and Friday night, they came in for the night only? They weren't in during the day?

MRS GEEVES: Only if we needed them. If we were extra busy then we could call them and they would come in, yes. Sometimes they would.

MR EDWARDS: But generally speaking they would not?

MRS GEEVES: Generally speaking, no.

MR EDWARDS: So they would come in at what time approximately?

MRS GEEVES: At 6.00 and work until 9.00 on Thursday, Friday night, and from 8.00 until 12.00 on Saturday.

MR EDWARDS: So they would come in at the conclusion of ordinary hours?

MRS GEEVES: Yes.

MR EDWARDS: Did you work after ordinary hours yourself on Thursday night, Friday night and Saturday mornings?

MRS GEEVES: Sometimes, not often, but sometimes. It was fairly rarely.

MR EDWARDS: But generally speaking, no.

MRS GEEVES: Generally speaking, no.

MR EDWARDS: So in fact most of the time that

HG/JS - 04.06.86

EDWARDS - GEEVES - XXN

MR EDWARDS: these 2 part-time people were on, you were in fact not in the store?

MRS GEEVES: No, but I always used to leave them orders; write them a list or something like that of what duties had to be performed and what I expected from them for the next day.

MR EDWARDS: But you were not directly supervising them?

MRS GEEVES: Not directly supervising.

MR EDWARDS: And you were not there to monitor their minute-by-minute progress?

MRS GEEVES: No.

MR EDWARDS: And I think you said earlier that your duties included ensuring that staff were in the best position to serve customers, ensuring that fresh food was available, et cetera. You were not there to monitor that when the part-timers were on?

MRS GEEVES: The fresh food doesn't come in of a night time, that comes in in the morning when I am there. So that covers that. But as far as their duties go on part time after I have finished, I mean I can't work 24 hours a day, but after I finish work I would leave them a list of duties to be done and if it wasn't done by the next day then they had to answer to me if it wasn't done, then I would take it to the manager.

MR EDWARDS: Okay, but you were not there to directly supervise them?

MRS GEEVES: No, I was not there, no, not for them after hours.

MR EDWARDS: Thank you. You also indicated in response to a question from Mr Targett a list of some 5 companies from whom you order on a fairly regular basis. You went through Glenila, which you said was Golden Farms, Universal, Richardson's Meat Industries, Conti Trading Company and No Frills. I think that is No Frills

HG/JS - 04.06.86

EDWARDS - GEEVES - XXN

MR EDWARDS: Food Wholesalers.

MRS GEEVES: Yes, that is right.

MR EDWARDS: What criteria do you have to select between those different companies if, say, for example you are ordering Cabana. I guess from those companies you would have a choice between Universal, R.M.I., Wignalls, Conti. What criteria would you use to select which company you would order from?

MRS GEEVES: The one that gives the best product. So if I thought whichever one... If I bought something and it just didn't come up to my standard or what I thought or what the company expected of it, then I would send it back.

MR EDWARDS: So it is not a price criteria, it is a quality criteria?

MRS GEEVES: Definitely. Everything is on a quality basis in a food service place like that.

MR EDWARDS: When you have direct contact with representatives of suppliers, presumably it is mainly those companies we have already discussed, but there may be others, what criteria is discussed by you with them? Would you merely discuss what product they have available, particularly any new lines, and following that discussion, I assume from what you have said before that you would not have the right to instantly place an order with them for a new line.

MRS GEEVES: No, that is right. Anything that they have is usually referred back on to head office and they ...

MR EDWARDS: Do you have any discussions with them in relation to the price of any product?

MRS GEEVES: Only if I feel if I can get a better deal just on anything; not actually on price-wise but if I feel I can get 5 kilos of sausages, or 10 kilos of

MRS GEEVES: sausages and get 1 kilo free, yes, sure.

MR EDWARDS: I guess we are all human.

MRS GEEVES: As far as selling them on to the deli, they often will put those things in. So if I can get it I will go for it.

MR EDWARDS: When the items are reordered and put in the show-case, do you have any discretion at what price they will be sold on a retail basis to the public?

MRS GEEVES: No. Most of those come through in our book; in our ordering book.

MR EDWARDS: So you are advised by someone in head office presumably that `x` product will be sold at `x` price, and you have no control over that whatsoever?

MRS GEEVES: Only if the price goes up and I am not notified, well then usually I ring back my supervisor and ask him about it, or any problems that I have in that way, well I will ring him and ask him.

MR EDWARDS: The question I guess I am really asking is, do you have the discretion to reduce or increase the price of products?

MRS GEEVES: The price of it? If there is too much stock in the store, say, on Saturday morning or something like that, well I can go to the manager. I have to let the manager know and he will then put it on special to reduce the...

MR EDWARDS: So you do not have the direct right, of your own volition, to change prices?

MRS GEEVES: To reduce it on my own - no; unless otherwise supervised by somebody or told by somebody that I can do it.

MR EDWARDS: You indicated in answer to a question from the President, that employees report to you. To what extent do they report to you? Do you have the

MR EDWARDS: right to fire them?

MRS GEEVES: Fire them? No.

MR EDWARDS: Do you have the right to chastise them and give them an official warning on behalf of the company?

MRS GEEVES: Yes.

MR EDWARDS: You do? You indicated earlier that you have control of manning levels within the delicatessen.

MRS GEEVES: Yes.

MR EDWARDS: I think you also said that that control was limited to deciding how many people you needed on busy days, and I think it related to the calling in of casuals or part-timers.

MRS GEEVES: Yes.

MR EDWARDS: Can you do that of your own volition? I mean, say, for example on a Tuesday when you don't normally have part-timers in and it turned out to be an exceptionally busy Tuesday, can you merely ring up someone and ask them to come in, or do you have to do that in consultation with the store management?

MRS GEEVES: With the store manager.

MR EDWARDS: So you don't have the overall ability to bring someone in?

MRS GEEVES: No. I mean, I have done it if I can't find him, but I am not supposed to. I usually ask for his advice on it first.

MR EDWARDS: I don't think I have any further questions at this stage, Mr President.

PRESIDENT: Thank you. Re-examination?

MR BLACKBURN: May I ask one further question which I neglected?

PRESIDENT: Yes.

HG/JS - 04.06.86 PRESIDENT - EDWARDS - GEEVES - XXN -
BLACKBURN - GEEVES - XXN

MR BLACKBURN: I would just like it clarified. Who do you report to?

MRS GEEVES: Who do I report to?

MR BLACKBURN: Report to, yes.

MRS GEEVES: The manager of course, and I have a supervisor who comes around on an average once or twice a week.

MR BLACKBURN: That's Glenorchy. And did the same apply at Howrah?

MRS GEEVES: At all stores, yes.

MR BLACKBURN: So that is the deli supervisor?

MRS GEEVES: Yes.

MR BLACKBURN: Is there an assistant store manager in there as well somewhere?

MRS GEEVES: In the store?

MR BLACKBURN: Yes.

MRS GEEVES: Yes, there is always an assistant manager in the store.

MR BLACKBURN: So really you have 3 people in line above you, more or less?

MRS GEEVES: Yes, yes.

MR BLACKBURN: Thank you.

PRESIDENT: I meant to ask you a question. Just what kind of supervision are you under, Mrs Geeves? Is there somebody looking over your shoulder, or how far away from you...?

MRS GEEVES: No, no, the manager really doesn't come anywhere near the deli unless it is something that he particularly wants done, or that he feels is not getting enough time or care or anything like that. If he feels that he has got something to say about it well he doesn't really come anywhere near the deli.

The same with the other departments. We are left to run it at our own

MRS GEEVES: discretion. And this is the problem.

PRESIDENT: Would a day go by that a supervisor or the manager wouldn't call on you?

MRS GEEVES: The manager always comes down and says, "Good morning, and is everything all right?". Every morning they do these sorts of things, yes. But there is times when we don't have any problems at all and everything just runs as well as it goes.

So he really doesn't come down. If there is a departmental meeting or a managers' meeting in the office then I am required to go to that as well.

PRESIDENT: You are?

MRS GEEVES: Yes.

PRESIDENT: No other members of staff on your deli?

MRS GEEVES: On the deli, no, just...

PRESIDENT: Only you?

MRS GEEVES: Yes. Department managers or whatever you like to call them; heads or whatever. Yes, I am required to go along with the fruit and vegie manager, the meat-room manager or the bakehouse manager.

PRESIDENT: Well what do they call you at the moment?

MRS GEEVES: I don't really know. I am trying to find out. That is what I would like to find out. No, they call me Serviced Delicatessen Stockkeeper.

PRESIDENT: What do they call you?

MRS GEEVES: Serviced Delicatessen Stockkeeper.

PRESIDENT: I see. Do you wish to cross-examine on any of that?

MR EDWARDS: Not specifically on that, sir, but seeing everyone else has had the opportunity of a second bite, I

HG/JS - 04.06.86

PRESIDENT - GEEVES - EDWARDS

MR EDWARDS: wouldn't mind one more question of my own.

PRESIDENT: Well you must remember that Mr Targett gets the final go, you see.

MR EDWARDS: Of course he does. That is why I wanted to get in before he jumped up.

Just one very brief question, Mrs Geeves, if I may. Do you have any responsibility for the bottom line profitability of the delicatessen in the store?

MRS GEEVES: Do I have to make sure that we make a certain profit, do you mean?

MR EDWARDS: Yes. Are you responsible for budget and bottom line responsibility?

MRS GEEVES: As much as I can, yes. I mean, my whole duties are to run the deli as most efficiently as I can and get the most from it. So naturally, yes - whether they tell you they are on a budget or not you still have got to run it as best as you can, as low as you can, so that you are making more money.

MR EDWARDS: Do I conclude from that that you are answerable directly to someone if the delicatessen does not make a profit?

MRS GEEVES: No.

MR EDWARDS: I mean, could your job be on the line if the delicatessen continually ran at a loss?

MRS GEEVES: Well I should imagine so, yes.

MR EDWARDS: Even though it may not be any concern of yours. It could be that the buyers of the company are paying too high a wholesale price for a particular product.

MRS GEEVES: I think that if anything like this came up it would go through a meeting that we have at the store with the manager; as I say, at one of these managers' meetings or head meetings. These sorts of things come up. He has his finger on the button all the

MRS GEEVES: time of what is being done with each department.

Through that way, through the books and the money that comes in each week and all that sort of thing. He knows exactly what is going on. If he feels that we are dropping somewhere, well naturally we are told before it goes that far. We are soon told about it, so we have to pull it up so that it comes up to it.

MR EDWARDS: Right, so you do not have direct accountability to the management structure of the company for profitability itself?

MRS GEEVES: If I am not making a profit, sure I have got to account to him, yes. I would have to tell him why we weren't.

MR EDWARDS: That could well be beyond your control though.

MRS GEEVES: Well I would soon have to find out, yes.

MR EDWARDS: Bearing in mind that you don't have to set prices.

MRS GEEVES: I don't set prices, that is right.

MR EDWARDS: Just one further question which has just occurred to me, if I might. If a customer has a complaint in relation to the delicatessen, do you handle that complaint or is that handled by the manager?

MRS GEEVES: I handle that complaint.

MR EDWARDS: You handle that directly?

MRS GEEVES: Yes.

MR EDWARDS: Okay, thank you. No further questions.

PRESIDENT: That is something that I learnt, Mr Edwards - you never ask a question unless you have got a rough idea what the answer is going to be.

HG/JS - 04.06.86

PRESIDENT - EDWARDS - GEEVES - XXN

MR EDWARDS: I knew what the answer was going to be, sir. I intend to contest it later.

PRESIDENT: I see. Mr Targett?

MR TARGETT: There is only one point I would like to raise again with Mrs Geeves, Mr President, and that is the matter of who you actually report to. The reason I raise that again is I think the answers that were given I am not really sure which way it ended up myself, to be quite frank.

Who do you directly report to on your job and on the department?

MRS GEEVES: To the manager.

MR TARGETT: Do you report to the assistant manager?

MRS GEEVES: Only at such times if the manager is not there.

MR TARGETT: Do you report to a person who may be some sort of supervisor that travels around covering maybe more than one delicatessen, a delicatessen in a number of stores? Do you report to that person?

MRS GEEVES: He does come around. Yes, we do have a supervisor that does come around, and, yes, he does like to know if everything is going all right, and if anything is not, well okay, then we can tell him.

But on a day-to-day basis it is the manager that I have to report to.

MR TARGETT: Thanks. That was all, Mr President.

PRESIDENT: Yes, thank you. You are excused, Mrs Geeves. You may retire or remain as you see fit.

MR TARGETT: Mr President, I would now like to present exhibits, if I may.

Perhaps for convenience sake, Mr President, we can do this in 3 parts.

HG/JS - 04.06.86 PRESIDENT - EDWARDS - TARGETT - GEEVES - RXN

MR TARGETT: The first part which I have just handed up...

PRESIDENT: Which shall be identified as Exhibit T.2.

MR TARGETT: ...is a portion of the Serviced Delicatessen Manual which is the manual referred to by Mrs Geeves in her evidence.

The actual manual is quite a substantially thick document with a lot of information which isn't necessarily relevant, but what I have done is I have photocopied more than the parts to which I wish to refer so that it is not appearing to be taken out of context - just in case anyone wants to challenge me on that basis; not that I am suggesting that anyone would, but...

PRESIDENT: Don't you dare.

MR TARGETT: Mr President, as I mentioned, Exhibit T.2 is actually a portion of the Serviced Delicatessen Manual. There is a fair amount of information in the exhibit, and I would refer to specific parts which highlight the subject which I wish to discuss.

I would refer firstly to the 4th page of the exhibit, Mr President. It isn't numbered.

...Shopkeepers in the operation of the Serviced Delicatessen and its associated activities, purely to point out that this actually is the document relevant to the area that is the subject of this hearing.

On the 6th page, Mr President, is the beginning of the index to the manual, and the parts I would be specifically referring to is -

MR TARGETT:

Part 1 is `THE SERVICED DELICATESSEN STOCKKEEPER`, `JOB DESCRIPTION` on page 1, and `SERVICED DELICATESSEN STOCKKEEPER ROUTINE` on page 8.

Referring to firstly page 1, which is the third page over from the index:

"JOB DESCRIPTION

JOB TITLE:

Serviced Delicatessen
Stockkeeper

REPORTS TO: Branch Manager

LIAISES WITH:

Group Manager Meat
Other Section Managers
Branch Trainer

STAFF DIRECTLY SUPERVISED:

Serviced Delicatessen
Preparation Assistant
Serviced Delicatessen
Assistant."

It then goes on to show a chart of the position within the organizational structure. And in the middle of that chart, Mr President, you will notice `Serviced Delicatessen Stockkeeper` with a direct line to the Branch Manager, which reinforces who the position actually reports to.

I'd highlight again the fact that it does illustrate there the staff directly supervised by this particular position, and then lists the titles of the subordinates.

I then move on, Mr President, to page 3, which is the beginning of a three-part table included in the job description area; left-hand table being the nature of contribution that the particular classification makes to the company; the second column being those things that the person is accountable for.

MR TARGETT:

And in the third column, the decisions and choices that that particular classification can make.

Without going through every single item, I would once again highlight some of those items that I consider very relevant to this particular matter.

Also on page 3, part (b),

"Providing our customers with good quality merchandise at all times."

is the nature of the contribution.

The person is accountable for :

"Organising the manning and operations of the Serviced Deli to provide our customers with quality merchandise, by developing, in conjunction with the Branch Manager, Planning Charts and Routine Cards for all staff.

Correctly ordering stock from nominated sources of supply in accordance with percentage ordering basis in order to maintain correct filling levels."

On the following page, also under `ACCOUNTABLE FOR` :

"Having the cabinet well stocked and correctly ticketed at all times by :

*Correctly ordering stock from nominated sources of supply ..."

"DECISIONS AND CHOICES

Decide what stock to order

Decide lines to be prepared

Decide priorities to order

MR TARGETT:

Decide space to be allocated with the Branch Manager according to the Sales Plan ..."

On the following page (page 5),

"NATURE OF CONTRIBUTION

Reduce Shrinkage By: (a)
Correct ordering ..."

"ACCOUNTABLE FOR

Ordering classified stock from nominated suppliers in order to maintain correct filling levels and meet expected sales ..."

"DECISIONS AND CHOICES

Decide what stock needs ordering and when ..."

Further down on the same page, Mr President :

"NATURE OF CONTRIBUTION

(d) Selling merchandise at correct price ..."

"ACCOUNTABLE FOR

Having ticketed prices correct

Having scales correctly operated by :

*Training staff in correct use of scales ..."

On the top of page 6 :

"*Training staff in correct taring methods (if applicable in your State) ..."

Further down, also on page 6, in the:

"NATURE OF CONTRIBUTION

Control Expenses: ..."

MR TARGETT:

"ACCOUNTABLE FOR

Not exceeding planned manning levels without the approval of the Branch Manager."

"DECISIONS AND CHOICES

Decide when more/less staff is required ..."

In :

"ACCOUNTABLE FOR

Allocating work and directing staff so that they are productively employed at all times ..."

Further down towards the bottom of the same page :

"Having all staff trained in fire and safety rules at all times."

"DECISIONS AND CHOICES

Decide training needs ..."

Page 7 :

"NATURE OF CONTRIBUTION

Training and Development"

"ACCOUNTABLE FOR

Identify the needs for training and, if necessary, retraining."

"DECISIONS AND CHOICES

Decide in conjunction with Branch Trainer, staff training needs."

Also :

"ACCOUNTABLE FOR

Recommending to Branch Manager, any action required

MR TARGETT:

for consistent poor performers."

I'd now refer to page 8, Mr President, which was the second section of the index that I did illustrate :

"SERVICED DELICATESSEN
STOCKKEEPER ROUTINE

The routine of the Serviced Delicatessen Stockkeeper will vary according to the number of staff in the Department. The routine, is to be used as a guide to the duties to be performed in the Department daily. The jobs are not categorised into time slots."

And that is on the next page, Mr President. And I've ensured that is included, just to show the types of duties that are to be performed in the department on a routine basis.

On the following page (page 10), it once again shows the position of the Serviced Delicatessen Stockkeeper in relation to the company in a wider context than was shown on the previous page that I did show.

The main items I wish to refer to in that ...

PRESIDENT:

If I could interrupt you there. The fact that they all appear on the same plane - on the bottom line - does that mean they're all ranked equally?

MR TARGETT:

I wouldn't perhaps be so bold as to suggest that, Mr President.

The point I was trying to illustrate was the fact that that person reports directly to the Branch Manager.

PRESIDENT:

Right. Thank you.

MR TARGETT:

I would tender another exhibit, Mr President.

PRESIDENT:

Thank you. Exhibit T.3.

GM/CD - 04.06.86

PRESIDENT - TARGETT

MR TARGETT:

Mr President, this is a further section from the same manual 'THE SERVICED DELICATESSEN MANUAL'; another reasonably extensive section.

The reason I have submitted this, Mr President, is to allow the Commission to see the wider context of the Serviced Delicatessen Stockkeeper in the overall context of the company. And also specifically to refer to page 14 which is, once again, a three-column chart, with the three columns being the name of the position, the middle column being the area of responsibility that position attracts, and the third column being the staff supervised.

I would point out that within that column, just over half-way down, the 'Serviced Delicatessen Stockkeeper' is mentioned and the area of responsibility is the 'Serviced Delicatessen'. And it also, once again, lists the staff supervised by that position; being the Preparation Assistant and the Serviced Delicatessen Assistant.

The rest of the document does give details as to the supervision of the serviced delicatessen for the stockkeeper to follow. I didn't intend to refer to specific details, but supply it as information to the Commission to put the position into context in the overall duties.

It's fairly extensive. I mean, I am quite happy to go through it, but I think to supply it for information would perhaps be more relevant at this time, Mr President.

And the last item that I would submit to the Commission is also by way of information from the manual.

PRESIDENT:

Exhibit T.4.

MR TARGETT:

Exhibit T.4, Mr President, is the Training Schedule for the Serviced Delicatessen Stockkeeper and gives details as to the training to be

GM/CD - 04.06.86

PRESIDENT - TARGETT

MR TARGETT:

given to that person. And I've supplied that, once again, to give an overall view of the perception that the company has of that position and the training required to be given to that person to carry out their duties. And it is, once again, a very extensive list, but it goes into all facets of a person's position.

Looking at headings : `SAFETY AND HOUSEKEEPING`; `RECEIPT AND STORAGE` - of goods of course - `STOCK CONTROL`; `MERCHANDISING`; `SPACE ALLOCATION`; `MAINTAINING DISPLAY`; `CUSTOMER SERVICE` - and also it does mention within that section, `Handling Queries/Complaints` and so on - `SELLING`.

Stage 2 goes into `CUSTOMER SERVICE` again.

`PLANNING AND PRODUCTIVITY`, which covers the area of staff, staff routines, labour scheduling and such areas.

`DISPLAY OF STOCK`, `ADVERTISING`.

`GROSS PROFIT CONTROL` - which goes into the areas of shrinkage : The sources of shrinkage; causes; prevention; the checks required in the use and care of scales et cetera.

Further, `RECEIPT AND STORAGE OF STOCK`, `ORDERING`.

`ACCOUNTING PROCEDURES` - which goes into gross profit, weekly stocktakes, dissecting the register and the results, trading figures.

It goes on to `EQUIPMENT`, `REFRIGERATION`, `HYGIENE`, `SAFETY`.

On page 312 it goes on to `Motivation and Involvement (sic) of Staff to Prevent Accidents`.

`WRAPPING`.

Then `STAFF`, staff changes, the dress and appearance of staff, wages

MR TARGETT:

and other requirements, and further areas required of that supervision position.

It then goes into the training on the `ROLE OF SERVICED DELICATESSEN STOCKKEEPER` - the responsibilities, defining the job of staff, personal conduct, delegation of responsibilities, making decisions, solving problems, training staff, staff morale, relationship with the union and the company (which I am delighted to see).

`DEFINING THE JOB OF THE STAFF` - giving instructions to staff, how to correct failures, identification of skills required, disciplinary action and so on.

`HANDLING NEW STAFF` - how to induct, how to train.

`RELATIONSHIP WITH STAFF` - and goes into a number of areas there as well.

And also it continues in that same vein onto page 314.

Mr President, the exhibits that I have handed up, listing duties and areas of training and responsibility, and the evidence given by Mrs Geeves, we submit, are clearly the same duties as those described in clause 25 of Part II of the award, both in the first part of that definition, which relates to a person in charge, and the second part relating to the buying and ordering.

PRESIDENT:

You submit that after the words (on the second line) `... means an employee in charge of a section ...` the remaining words are a disjunctive and refer to an alternative?

MR TARGETT:

Yes, Mr President, I do.

PRESIDENT:

Yes.

MR TARGETT:

The first part being `... means an employee in charge of a section ...`

GM/CD - 04.06.86

PRESIDENT - TARGETT

PRESIDENT:

Full stop?

MR TARGETT:

Full stop.

And we submit that the Exhibits T.2, T.3 and T.4 quite clearly, as well as the evidence given by Mrs Geeves, quite clearly show that her duties would fit in quite clearly to that first section, "... means an employee in charge of a section ..."

We also submit that the duties of Mrs Geeves ... and it comes down to semantics I suppose, and that is one of the areas of interpretation I assume that you would be looking at, is buying and ordering. And we submit that the duties carried out by Mrs Geeves is buying and is in accordance with the second part of that definitions clause.

We submit that if a person determines how much stock is required, they decide themselves what brand they wish to buy and from which supplier they wish to buy it - that is actually buying.

And when the stock arrives they then check the stock and return any stock which is unsatisfactory. And if in the future, because of that unsatisfactory stock, they could decide not to buy from that supplier again. And we believe, or we submit that all of those decisions that the particular person can make, does mean that that position is a buying position.

I am suggesting as part of my submission, Mr President, that in fact the position held by Mrs Geeves, qualifies as Section Manager and/or Buyer/Orderer, or Section Manageress or Buyer/Orderer, in both parts. Although we believe that it must only satisfy one or the other, we submit that it actually qualifies under both parts.

And from that position you must then go to Part I of the Retail Trades

MR TARGETT:

Award, clause 2, Section A, sub-clause 3, to determine wage rates applicable to that position. And from there you must determine the number of employees in a section to allocate that position under either (i), (ii) or (iii).

Now we submit that in this particular instance, from the evidence given by Mrs Geeves, she currently is in charge of a section where 5 or more employees, including the Section Manager, Manageress and/or Buyer/Orderer are employed. So she would actually come under sub-clause 3 (i), in that position.

PRESIDENT:

How many alternative classifications do you believe are embraced by the definition in section 25? Can it be just a section manager? A section manager and buyer/orderer? A buyer/orderer? A section manageress? A buyer/orderer? Would they be the options? Although I think we have... A buyer/orderer seems to stand alone, yes.

MR TARGETT:

I think, looking at clause 25 in conjunction with sub-clause 3 (i) in the first part, I believe the wording used in the definition of clause 25 is actually an expansion of what is written in sub-clause 3 (i). And I see that as being a little more clear, in that it is... You can have either a section manager or section manageress (to cover both the masculine and feminine) or you can have a buyer/orderer, which is one position, or, you can have a person which is both a section manager/buyer/orderer or section manageress/buyer/orderer.

If we just did it in the masculine and assumed that the masculine reads the feminine, I would see it as being three different positions, three options: Section manager, buyer/orderer or section manager/buyer/orderer combined.

PRESIDENT:

You could have section... Oh, yes, section manageress or buyer/orderer. The definition states the two genders?

MR TARGETT:

Yes. What I am suggesting, Mr President, is that we use the masculine and then assume you can double it for the feminine. Three doubled, perhaps six.

PRESIDENT:

Yes, that's right. Yes and the second part would be a female buyer/orderer?

MR TARGETT:

Yes, Mr President. That's the way I see it, yes. Three alternatives for the males and three for the females.

HG/BC - 04.06.86

PRESIDENT - TARGETT

PRESIDENT: Yes, thank you.

MR TARGETT: So, we contend that in this particular instance, the position is actually one of section manageress/buyer/orderer, because both parts are covered by the duties although, as I did mention, I don't think that that is necessary because the duties are quite clear in that Mrs Geeves' position could be just section manageress. It could also be just buyer/orderer because of the extent of it. She covers both areas.

PRESIDENT: Or it could be section manageress/orderer.

MR TARGETT: The way the clause is worded, Mr President, I didn't adopt the view that buyer/orderer would actually be split. But I am quite happy for it to be split. I mean...

PRESIDENT: Well, is there any difference between a buyer and an orderer?

MR TARGETT: Yes, I believe there is.

PRESIDENT: It seems to me that it could be a section manageress who is also an orderer. It could be a section manageress who is also a buyer or section manageress who is also a buyer and orderer.

MR TARGETT: On that basis, Mr President, it could also be just an orderer. If you can split buyer/orderer, you could, just because of the and/or which is written in the words, you could have just orderer.

PRESIDENT: I don't know that I could agree with that, because it says section manager or manageress and something else. It doesn't say `or`, does it? It has to be one or the other then. It is section manager (if we could get on to neutral ground) and either a buyer or and either an orderer.

HG/BC - 04.06.86

PRESIDENT - TARGETT

MR TARGETT: Well, I would adopt the position, Mr President, that it is a section manager and buyer/orderer or a section manager or a buyer/orderer.

PRESIDENT: You argue that buyer/orderer stands alone?

MR TARGETT: Yes.

PRESIDENT: Could you point me to that part of the definition which you think assists you in that regard?

MR TARGETT: In clause 25, Mr President, it begins:

"`Section manager` and/or
`buyer/orderer` ..."

The and/or, I believe, gives the opportunity for the section manager to be combined with buyer/orderer, or the buyer/orderer to stand alone. And it also goes on to say:

"...or `section manageress`
or `buyer/orderer` ..."

PRESIDENT: Yes. There's no `and` after `section`.

Yes there is.

No there's not. It is section manager and buyer/orderer or section manager or buyer/orderer.

MR TARGETT: Yes. That is where I believe it splits because it does give the option, section manager and buyer/orderer and, because of the oblique after the word `and` you can have section manager or buyer/orderer; one or the other.

PRESIDENT: Yes. This is not going to be easy is it.

MR TARGETT: No, I would concur.

PRESIDENT: You understand, of course, that in interpreting an industrial award it

HG/BC - 04.06.86

PRESIDENT - TARGETT

PRESIDENT: is permissible to look at the whole of the award in context in order to gather whatever assistance is necessary to arrive at the intention of the award maker?

MR TARGETT: Yes, Mr President. I also understand that if... Well, I assume that if the words in themselves are - if the literal meanings of the words themselves can be read a particular way, that is the way they should be read.

PRESIDENT: Yes.

MR TARGETT: I don't think there is a lot more for me to say, Mr President, other than to request the interpretation given by the Commission endorse our contention that Mrs Geeves is the person performing the duties, as illustrated in this particular matter, is to be classified in accordance with clause 25 shown in our application and paid in accordance with sub-clause 3(i), also in our application in this particular instance. And that the interpretation by yourself be retrospective.

PRESIDENT: Yes. Now you maintain that section 3, sub-placitum (i) is appropriate to Mrs Geeves' present employment or was always appropriate?

You see, if I interpret the award retrospectively in your favour, it means that the award will always have meant that.

MR TARGETT: Present employment, Mr President and I would assume that if the interpretation was decided that way, on that basis, it would be a matter of sitting down with the employer and assessing the position prior to her move to Glenorchy, and looking at the number of employees actually controlled by Mrs Geeves at the time.

PRESIDENT: Well that seems to me to be the bottom line. My task is to, in light

PRESIDENT: of the given facts, determine whether or not those duties, as described in evidence and by submission, are, in fact, one or more of those duties defined in section 25 for which rates of pay are to be found in clause 2 of Part 1.

MR TARGETT: Yes. That is correct.

PRESIDENT: Right. Thank you.

MR TARGETT: That will be all, Mr President.

MR BLACKBURN: Mr President...

PRESIDENT: Yes, Mr Blackburn.

MR BLACKBURN: In view of the fact that we have got these extracts from a great volume, I was just wondering if a short adjournment would be in order for us to study those before we call our witness?

PRESIDENT: You intend to call some rebuttal evidence, do you?

MR BLACKBURN: We intend to call a witness, yes.

PRESIDENT: Yes, well... You understand the purpose of evidence in these proceedings?

MR BLACKBURN: Yes.

PRESIDENT: It is not going to the merit, it is whether or not that evidence goes to this narrow question of interpretation, and that will be determined by me as we go along.

Now, how long...

MR TARGETT: Mr President, I would wonder at the position where the submission and exhibit that we have put up (which is, in actual fact, a copy of a document which belongs to the company - that the company have had for quite some time) whether that warrants them having to have the opportunity to study that document - they've had it longer than we have.

MR EDWARDS:

Mr President, I haven't had any opportunity to study the document. I am not representing this company. I am here as a party to the Retail Trades Award. I have had no opportunity to study this document, so I might join my voice to that of Mr Blackburn and ask for the adjournment of a short duration.

PRESIDENT:

Well, what do you call a short duration?

MR BLACKBURN:

Can I also say this, Mr President, I've not seen this before and this is a Woolworths Training Manual as I read it in the short term and, whilst I realize that Purity are controlled by Woolworths, they run as a separate identity. And I've not seen this before and I just wonder the connection. I'd like to just study it briefly. I suggest about ten minutes, Mr President.

PRESIDENT:

About ten minutes? Well we rise at 12.45. How many witnesses do you wish to call?

MR BLACKBURN:

One, Mr President. I wish to make a short statement on the operation of Purity and then call our retail manager to give evidence which shouldn't take that long.

PRESIDENT:

Yes, very well, we'll adjourn until ten minutes past twelve.

...

PRESIDENT:

Mr Blackburn.

MR BLACKBURN:

Thank you, Mr President.

I think at the outset, we've got to say we are looking at a specific case of interpretation within the Purity deli operations. We had noted that the words the D.L.I. handed down on 3 April, in their decision that within the present definitions they were unable to agree that Mrs Geeves should be correctly classified as a section manager or buyer/orderer.

But before we get into it Mr President, I think some explanation

HG/BC - 04.06.86

PRESIDENT - EDWARDS - BLACKBURN

MR BLACKBURN:

of the Purity operation might be worthwhile to yourself and to the hearing.

Purity is a self-controlled profit centre running within the Woolworth group. It was taken over by Woolworths a few years ago, but they have continued to maintain their own organization, run as they were previously and control their own profits.

Purity is a food market - food supermarket, I am sorry, not a department store. There are two main objectives used to reach their profit levels which have been preset down.

The first is the purchase of items at the best possible price, by means of bulk buying. The second thing which contributes to their profit is good presentation and marking at the point of sale at a price which is competitive.

In order to reach these objectives, buying or purchasing (as I prefer to call it) is a top-level management responsibility. In many of the major food chains that responsibility is even at director level.

Bulk buying is the name of the game as far as supermarkets are concerned. It is the major difference between their operation and the price structure with that, say, of a corner store, although it should be noted that even the corner stores these days bulk group buy in order to get better buying prices.

In the Purity operation, the buyer or purchaser selects a range and agrees to the purchase price. He is the one who negotiates. In Purity's case they even lock in (particularly on grocery items) with national-wide bulk buying, because they buy under the Woolworths banner. Buying, certainly at that level, is not the responsibility of a senior sales

MR BLACKBURN:

assistant or, as for the definition today, a service deli stockkeeper.

I think we can easily confuse the definitions as in clause 25 when we relate them to what can happen in a department store where a buyer goes off to the mainland, selects a range - say it's jeans, they select, they negotiate the price and they come back and are responsible for setting the sales margins in the store. That to my mind is the operation of a true buyer/orderer. That is not the case at Purity.

We agree that in the Purity operation, it is common practice for senior sales staff, or even junior sales staff to check stock levels and to initiate a reorder procedure. I instance even the junior sales staff on the cigarette counters in the Woolworths stores does, in fact, initiate reorder procedures. That is an expected and normal duty of sales staff.

Mrs Geeves, as has been stated, was employed at Purity, Howrah, when this whole episode started. She is now at Glenorchy and is employed and paid as a senior sales assistant under the title of Serviced Delicatessen Stockkeeper. I think the hours have well been covered but it should be stated that Mrs Geeves does receive a merit allowance of \$20 above the award at the present moment and that she is under the direct control of (a) a Deli Supervisor and (b) Assistant Store Manager, both of whom report to the Store Manager who is the person responsible for the bottom line figure of the deli. And I emphasise that bottom line figure. He is the one who controls the staff levels, the allocation of duties and the discipline.

The deli senior sales person works to a standard routine work card on a daily and weekly basis. The work allocation of this is detailed by the

HG/BC - 04.06.86

BLACKBURN

MR BLACKBURN:

store manager.

If I might instance another section within Purity, and that is the fruit and vegetable section which is under the control of a section manager. This is due to the fact that that person has the power to change prices as may occur on a Saturday morning at 11.00 or 11.30. He has a whole bin full of lettuce which have to be cleared because they won't last until Monday. He has the right to change prices without reference to anybody else. We might have a hot, humid day and he's got a load of bananas, he has a right to reduce those to a price which he can clear them at.

HG/BC - 04.06.86

BLACKBURN

MR BLACKBURN:

That in Purity's eyes is an important function and requires skills above that of a senior sales assistant.

These powers to change prices to clear stock do not apply in the deli operation without consultation with the manager and I think that has come out.

At this stage, Mr President, I would like to table as an exhibit ...

PRESIDENT:

Before you do, can you tell me then how is it you believe Mrs Geeves' duties fit the definition of senior sales assistant and I'll read it to you. It means ...

"... the adult sales assistant who is second in charge of a department controlled by a department manager/owner and such an employee shall be classed as second in charge only if so appointed by the employer or his representative."

Do you believe that that is in line with the evidence?

MR BLACKBURN:

Yes, this is the point I was just coming to, Mr President.

We have here an organization chart which I would like to table and call a witness to speak to which would ...

PRESIDENT:

You can do that by all means, but you must remember I'm not a scrap concerned with the merit. I'm only concerned with what the words say.

MR BLACKBURN:

Yes. Well, we ascertain ...

PRESIDENT:

So long as you understand that.

MR BLACKBURN:

Yes I do, Mr President.

PRESIDENT:

I've found your explanation of the Purity operation interesting, but it doesn't bear on this interpretation.

HG/WL - 04.06.86

PRESIDENT - BLACKBURN

PRESIDENT: The only matters that I will take into consideration will be my apprehension or understanding of the duties of the lady concerned, read in context with the award itself; no more and no less.

MR BLACKBURN: I understand that, sir.

PRESIDENT: Yes, thank you. Now, you wish to tender a document?

MR BLACKBURN: I tender a document to which we wish to call a witness to answer questions upon it.

I might say, this is the organization chart as it applies in the Purity stores in Tasmania.

PRESIDENT: Thank you. This will be identified as Exhibit B.1.

MR BLACKBURN: Could I call in a witness, sir?

PRESIDENT: Yes.

MR BLACKBURN: Mr Skinner.

George Chalmers McGregor SKINNER sworn.

PRESIDENT: Be seated, Mr Skinner.

MR BLACKBURN: Mr President, may I pass one of these to Mr Skinner?

Mr Skinner, would you give your full name and address, please?

MR SKINNER: George Chalmers McGregor Skinner, Goodwins Road, Clarendon Vale.

MR BLACKBURN: Thank you. Could you tell the Bench what your experience is in the retail industry, and in particular, to the Purity operation?

MR SKINNER: I've had 32 years' experience in retailing with Woolworths and Coles and Purity, approximately 20 years in management and approximately 10 years in supervision and divisional management.

MR BLACKBURN: Mr Skinner, where do you relate on this organization chart? What is your position there?

MR SKINNER: My job title is `Divisional Manager - Supermarkets`, commonly called `Retail Manager`. I'm directly responsible for the supermarket running to the general manager.

MR BLACKBURN: May I ask, Mr Skinner, who reports to your position?

MR SKINNER: I have primarily a company supervisor. I then have the stores managers responsible to me and I have the specialist department supervisors responsible to me.

PRESIDENT: Such as the deli supervisor?

MR SKINNER: Yes.

MR BLACKBURN: Mr Skinner, could you please explain to the Bench the buying function and how it operates within the Purity set-up?

MR SKINNER: The chain store system of operation is basically one of centralized management. We control the administration from head office, the buying from head office, the budgeting from head office.

Each of those divisions has my counterpart, again responsible to the general manager for the running of his department, but we do have to liaise to get the right formulation for the company result.

MR BLACKBURN: Mr Skinner, would you say your buying function - is price or quality the prime objectives?

MR SKINNER: Always quality.

MR BLACKBURN: Could you explain with reference to the chart, who is in charge of the deli? What is the reporting functions there?

MR SKINNER: We have a Perishable Manager based in head office who establishes the

HG/JS - 04.06.86

PRESIDENT - BLACKBURN - SKINNER - XN

MR SKINNER:

range, the selling prices, negotiates the costs and negotiates the promotional lines, the advertising of those lines.

He then liaisons in the main with the Delicatessen Supervisor who will downline the information to the Store Manager and the Company Supervisor, and sometimes to myself.

So he is liaison between the store and the buyer in that department.

MR BLACKBURN:

Could you explain what the role of a deli supervisor is please?

MR SKINNER:

In our case we got the services of a man who had worked in a delicatessen for a long time and had a good knowledge of it. He is a young man but he has been in that game for a while.

We saw in him that he had specialist knowledge that we required for the running of our business. His liaison part with the buyers is a flow of information of change, plans, future direction, and at the store level it is to assist the store management in the running of his delicatessen.

He will help with the training of the staff; he will help with the display; he will help with the ordering set-up; the bookwork. If we have troubles he will go in for trouble-shooting, even a relief if there was someone on holidays and we couldn't cover it.

MR BLACKBURN:

And how much contact would he have with the deli senior sales person?

MR SKINNER:

Well he has only got 8 stores with delicatessens within them, so he would probably in a bigger store have perhaps up to 7 or 8 hours a week contact in the deli; maybe 6, because he would be speaking to the manager or the assistant manager sometimes, but that kind of input.

MR BLACKBURN:

What in Purity's eyes is the position

HG/JS - 04.06.86

BLACKBURN - SKINNER - XN

MR BLACKBURN: held at present by Mrs Geeves?

MR SKINNER: We have the title which is a Woolworths title of delicatessen stockkeeper. It is not a terminology that our staff are terribly familiar with. Stockkeeping is a term that is more from the mainland, but from my level I try to use that title a lot. It is her correct title.

MR BLACKBURN: And does Mrs Geeves have the responsibility or the right to purchase stock, or select a range of stock?

MR SKINNER: She reorders stock. She doesn't select from a range. There is a given range.

MR BLACKBURN: Yes, well purchase stock, I am clear that she reorders, but has she the right to purchase, select the range, and negotiate the price?

MR SKINNER: No.

MR BLACKBURN: We have established that Mrs Geeves does reorder stock. And what direct customer contact would Mrs Geeves have?

MR SKINNER: It is an over-the-counter situation.

MR BLACKBURN: And what would happen in the case of a customer complaint?

MR SKINNER: The company policy, and there are signs at the front of the store saying that customers should speak to the service supervisor at the front of the store before entering the store if they have any complaint on quality or product or price.

It is mainly handled there. From there it should be directed down to the delicatessen if it is a complaint from delicatessen. And the normal channel would be then that the stockkeeper calls the floor man, the assistant manager or the manager.

MR BLACKBURN: So a complaint would end up at

MR BLACKBURN: assistant manager or managerial or store manager level?

MR SKINNER: Yes.

MR BLACKBURN: Are there any financial controls, targets, or bottom line profit figures set for the deli operation?

MR SKINNER: No.

MR BLACKBURN: Who then would be responsible for the profits in the deli operation?

MR SKINNER: In the mix of the whole store's business - the store manager.

MR BLACKBURN: And does Mrs Geeves have any power to set or reduce retail sale prices?

MR SKINNER: No one has that right, other than - well even the manager doesn't have the right to alter selling prices unless it is for a clearance reason.

MR BLACKBURN: Now, Mr Skinner, we had an exhibit presented earlier on in the hearing. It's called a Woolworths Serviced Delicatessen Manual, put out by Woolworths Supermarkets Education and Training Department, and I just wonder is that document used in the operation of the Purity deli's?

MR SKINNER: I didn't know it was around. I have actually got a request for a copy of the same book from Sydney now, for us to take from it any hints or any help that we could get from it.

MR BLACKBURN: How would you describe the manual? Is it the routine thing that you work by or...?

MR SKINNER: It's the Woolworths routine. Although we are a division of Woolworths we are very autonomous. Basically the company is looking for a return in investment from us. We put up budgets, and we are doing our own show down here.

But they are helpful towards providing this kind of thing for us to select from it what we want.

MR SKINNER: There is nothing arbitrary in any of this textbook. In fact this is superseded now by videos. We are into videos, and we do show those to the staff.

MR BLACKBURN: So you are saying that that manual is not used in the daily control or operation of the deli at Purity?

MR SKINNER: We haven't set up the structure for that to be the case. There are things there that I will implement and would be very pleased to implement - when I can get my hands on my copy.

But to answer your question, if we were supervised by Woolworths they would never look for all those things being done within our stores.

MR BLACKBURN: You partly touched on it a moment ago, and which I stated earlier, that I believe that Purity run as a self-controlled centre under the Woolworths banner. I think you just touched on it there too, but I would like to stress that point.

MR SKINNER: Yes, very much so. The autonomy we have been given isn't what you would normally get when you have been bought out.

MR BLACKBURN: I have finished my questions, Mr President.

PRESIDENT: Yes, thank you. Mr Skinner, you may be subjected to further questioning from Mr Edwards or cross-examination by Mr Targett. Before that occurs I have a couple of questions for you.

Your establishment chart makes no reference to orderer. Is there such a person, or could you define such a person for me, calling on your own years of experience in the trade?

MR SKINNER: Yes. Ordering is such a routine function, it shouldn't be given the import that it requires specialist knowledge. It's done almost on a daily basis, especially in the

MR SKINNER: delicatessen. The amount of stock you order is established very quickly by the take off the day previous.

If you have a lot of sausages you make a big display, if you haven't got many you make it a bit smaller and you direct the amount of off-take the next day. You place an order, you make corrective action until you build up a history of perhaps a week's selling, and then you would enter in the book that has the lists of the lines, the approximate requirement to maintain sales for each line.

At the end of that book you would then put that figure in and work out the average. So the ordering function is a replenishment of stock.

PRESIDENT: Yes, well we have been told that Mrs Geeves has authority, and indeed some discretion, to order some perishables from a pre-determined range of suppliers. Is that ordering?

MR SKINNER: Yes, it is ordering and it is done by Mrs Geeves, and we bring in the proviso because it is the manager delegating some of his authority around the store; he monitors that.

PRESIDENT: Yes, well now is Mrs Geeves, in your judgement, and I realize that you have in-house titles, but unfortunately they don't appear to coincide with the award. Is she a section manageress?

MR SKINNER: No, we reserve that for a title for a person that is responsible for a bottom line, a gross profit, a sales target, an expense control, and probably a reward for achieving those targets - or the opposite for not achieving them.

PRESIDENT: Yes, well that might be a management decision, but let me read to you the award definition of section manageress or buyer or section manageress or orderer.

HG/JS - 04.06.86

PRESIDENT - SKINNER

PRESIDENT:

"... means an employee in charge of a section or an employee who buys or supervises the buying or selection of stock, and who is responsible for the keeping of stock of the section and who is actually employed in that section and in direct contact with the customers, notwithstanding that he or she may be under the orders of a supervisor who does not devote the whole of his or her time to the management of the section."

Now that is a very long definition, and I am going to ask you to keep that in mind, if you will - if you are able to.

MR EDWARDS:

Mr President, I wonder if it would be appropriate if I handed a copy to Mr Skinner?

PRESIDENT:

Well that might be even better.

PRESIDENT: I read to you the relevant parts of that definition (you will see that it applies to the male or female), then I would like you, if you would, to apply your mind to the definition of senior sales assistant immediately above it and, if you are able, since you have personal knowledge of Mrs Geeves, would you tell me which of those definitions more nearly approximates the work she does.

MR SKINNER: I do believe the senior sales assistant.

PRESIDENT: Yes, and why do you say that?

MR SKINNER: Because the store is made up of a series of departments and why do we have a manager there except perhaps giving him the dignity of saying he unifies all those departments. He has a very narrow area of responsibility in the management of his store in the fact that the buying is taken away, the administering of the company - so much of the 'think tank' things are taken away from him. He is the person who gets around monitoring, managing each department and has nominees for him down the line.

The second part where it refers to 'may be under the orders of a supervisor' - that manager is not a supervisor, he is actually the person in charge.

PRESIDENT: Well then, would it not mean that she was reporting directly to the person in charge?

MR SKINNER: Yes and consequently is the senior sales ...

PRESIDENT: She could also be reporting to someone above ... directly reporting to someone above the status of supervisor. It depends on the in-house terminology I suppose and the size of the operation.

But if we could come back to senior sales assistant - is Mrs Geeves a

PRESIDENT: second in charge of the deli?

MR SKINNER: Yes.

PRESIDENT: She is second in charge?

MR SKINNER: Yes.

PRESIDENT: She believes herself to be in charge.

MR SKINNER: I can understand that. Yes.

PRESIDENT: Then could you tell me why she is not in charge?

MR SKINNER: Because the manager is in charge.

PRESIDENT: He is in charge of the shop though, isn't he?

MR SKINNER: Which is only a composition of departments.

PRESIDENT: I see. Then would you believe, that is insofar as your operation is concerned, those two definitions that we are considering are inappropriate to the in-house titles used or perhaps to the whole operation?

MR SKINNER: They are somewhat inappropriate. I think the fact that there is a category above third year experience before you come to departmental manager is a lucky thing because you need a person with above-average abilities that you can put in these areas and we have chosen that senior sales title as being the one applicable for that job.

It is a title that Woolworths (and I did work for Woolworths in this State) had conflict with before and had come to terms with the trade union movement for the acceptance of that senior sales category.

PRESIDENT: But Mrs Geeves is responsible for keeping the stock of the section?

MR SKINNER: Yes.

PRESIDENT: And you have agreed with me that she is responsible for ordering the stock

HG/CW - 04.06.86

PRESIDENT - SKINNER

PRESIDENT: from nominated suppliers and you say she is second in charge, not in charge.

MR SKINNER: Because she is the nominee for the manager to do those functions for him, which he does monitor.

PRESIDENT: Is she the next senior person so far as the subordinate staff are concerned in the section?

MR SKINNER: Yes.

PRESIDENT: They report to her in the first instance.

MR SKINNER: They would do but there again the 'think tank' of the operation of the department is the manager's responsibility in that he draws up routine cards to cover the functions, the timings and the staffings and it is just a reference to it.

PRESIDENT: Yes, but the actual directions to staff would come ... routine directions, if you like, would come from Mrs Geeves.

MR SKINNER: True.

PRESIDENT: And she would be responsible to the manager for the efficient operation of her section.

MR SKINNER: Yes, but not accountable in that her job would be in jeopardy or any of those type of consequences. It depends on the strength of the person.

PRESIDENT: I thought this manual set out the areas and accountability. Without going through it all again ... are you familiar with this manual?

MR SKINNER: Well, yes, but I am going back 5 to 7 years from when I used this as a book.

PRESIDENT: Well, on page 3 - do you have a document marked 'Exhibit T.2'? It is this one.

MR SKINNER: Yes, I have this one. I have got page 3.

PRESIDENT: `ACCOUNTABLE FOR` - all of those things.

MR SKINNER: Yes. This is as a stockkeeper. No, these things don't necessarily apply to us because, there again, we have got the `customer complaints`, the `mode of service` ...

PRESIDENT: We have already had some sworn evidence to the effect that Mrs Geeves handles customer complaints, at least in the first instance.

MR SKINNER: Yes, I can see that a customer with sausages wouldn't necessarily declare it although we have a sign at the store saying complaints et cetera to the service desk. I could see them going down there, yes. But when the person is there, how it is handled would be by a third party being involved. For security alone that would be a necessary action.

PRESIDENT: Now, on page 6, under `Control Expenses` still middle column, `ACCOUNTABLE FOR`

"Allocating work and directing staff so that they are productively employed at all times."

MR SKINNER: Yes, there would be the hour-by-hour monitoring of those people in the department by the more senior person there.

PRESIDENT: "Having all staff trained in fire and safety rules at all times."

MR SKINNER: No.

PRESIDENT: I see. On page 7, the last item under `ACCOUNTABLE FOR`:

"Recommending to Branch Manager any action required for consistent poor

PRESIDENT: performers."

MR SKINNER: Yes, I would solicit that advice and knowledge from a senior person.

PRESIDENT: Yes. Thank you, Mr Skinner. Mr Edwards, it's 12.45, can you complete your examination, or is it cross-examination, of Mr Skinner within 5 minutes?

MR EDWARDS: No, sir, to put it quite bluntly. It is examination, I believe, not cross-examination.

PRESIDENT: Well, I was wondering in what capacity you rise.

I think we will adjourn - I am sorry if it inconveniences you, Mr Skinner, but we will adjourn until 2.15 when you will be on your former oath and Mr Edwards I am sure will ask you some questions.

...