

**TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

T Nos 2587 and 2473 of 1990

**IN THE MATTER OF** an application by  
the Tasmanian Prison Officers  
Association and the Tasmanian  
Public Service Association to vary  
the Prison Officers Award

re structural efficiency principle

COMMISSIONER IMLACH

HOBART, 24 June 1993  
Continued from 7/5/93

**TRANSCRIPT OF PROCEEDINGS**

Unedited

COMMISSIONER IMLACH: Any changes in appearances?

MR SHIRLEY: No changes for the TPOA, thank you, sir.

**MRS W. BURGESS:** WENDY BURGESS, appearing for the Minister administering the State Service Act, together with **MR BEN MARRIS** in place of Mr Willingham.

COMMISSIONER IMLACH: Thanks, Mrs Burgess. Now, Mr Shirley.

MR SHIRLEY: Thank you, sir.

Today's presentation is intended to draw together all those important aspects of the special case insofar as the work value portion of that case is concerned.

Mr Commissioner, you've heard in various venues around the state from 13 Tasmanian prison officer association witnesses who are prison officers and have worked in the prison system and have done so for quite some time.

You've heard this evidence on seven commission sitting days, and on three days involving inspections to various prison sites throughout Tasmania.

You have also received 67 exhibits, and to date 324 pages of transcript.

Their evidence is that there has been a number of significant changes in their work practices that have occurred since 1984.

I would like to commence my formal submission to you, Mr Commissioner, by outlining the order in which I would like to present submission to you today.

I'll address the principles that apply in this case; I'll identify the date from which it is agreed the commencement point for change - is the commencement point for change and from which assessment can be made; I'll then address the evidence of the witnesses concerned and the changes that have occurred in this time.

As part of this step I will draw your attention to certain exhibits and important pieces of information that are worth reiterating.

I'll turn to the principles first, Mr Commissioner.

The criteria for assessing work-value change are set out in state wage principles. In particular I refer you, Mr Commissioner, to section 6 - Work Value Changes.

The document that I have, sir, and that I will be reading from are 'Reasons for Decision' on 13 August 1991, the State Wage

Case, and in particular annexe the principles 'Attachment A' and subsection (6) Work Value Changes - page No. 5 in my copy of Attachment A.

In that subsection (a):

Changes in work value may arise from changes in the nature of the work, skill and responsibility required or the conditions under which work is performed. Changes in work by themselves may not lead to a change in wage rates. The strict test for an alteration in wage rates is that the change in the nature of work should constitute such a significant net addition to work requirements as to warrant the creation of a new classification.

Also in that part of 6 under the principles is subsection (c):

The time from which work value changes in an award shall be measured is, unless extraordinary circumstances can be demonstrated in special case proceedings, the date of operation of the second structural efficiency adjustment allowable under the 30 October 1989 State Wage Case decision.

I intend to make a specific reference to the date, and I just draw your attention to that part at this time. Thank you, Mr Commissioner.

The reference there to 30 October 1989 State Wage Case decision is indicated in Decision No. T.2146 of 1989; the Attachment A to the principles, work value changes, subsection (a); and in Part C of the work value changes:

The time from which work value changes should be measured is the last work value adjustment in the award under consideration but in no case earlier than 1 January 1978. Care should be exercised to ensure that changes which were taken into account in any previous work value adjustments or in a structural efficiency exercise are not included in any work evaluation under this principle.

And I have some specific comments to make in relation to that at a later stage, thank you, Mr Commissioner.

In essence, these principles instruct us that changes in work value may arise from changes in the nature of the work, the skill and the responsibility required, and the conditions under which the work is performed.

It is the submission of the Tasmanian Prison Officers' Association that this has been demonstrated abundantly to you

over the past seven sitting days, involving 13 prison officers.

I will elaborate on these changes later in my submission.

Insofar as the date is concerned, Mr Commissioner, the submission of the TPOA is that there are two dates that the commission could adopt as datum points for this work value case.

For ease and consistency of presentation the TPOA has tended to present information to the commission on the basis of identifying work changes since 1984.

This was the last date that some prison officer classifications were assessed for work value. In particular, I refer, Mr Commissioner, to the decision of Commissioner King on 11 February 1985, Decision No. T.16 of 1985.

I'd like to refer you to a particular part of that in particular.

There was a discussion between yourself and Mr Nielsen as to this very topic. It is shown in the transcript commencing at page 3. I would just like to refer to that for a moment.

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

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 covered by the award must, by the adducing of evidence, show a change in the nature of the work constituting a significant net addition to the work requirements.

That is a direct lift from Mr Commissioner's comments at that time.

He then went on to indicate the areas that he received information from and exhibits from.

If I can refer you then to page 5 of the transcript.

Our submission is, Mr Commissioner, based on the finding of Commissioner King that he was only able to consider four classifications. Those classifications were Risdon Male Prison, Chief Prison Officers, Senior Prison Officers, Prison Officers, Training Instructors including Bake House Instructor.

Therefore, Mr Commissioner, we suggest that you are able to accept evidence and submissions on these classifications from 20 December 1984 through until today, at the time it was presented to you, 14 October 1992.

Then on page 6 you ask by way of clarification of Mr Nielsen the two dates that we refer to.

There's some comments you addressed to Mr Nielsen; he makes some in response; and you then indicate about a third of the way down on that page:

COMMISSIONER IMLACH: Are you saying as well as those who have not received increases at the time are able to have their work-value assessment going back to 25 September 1981?

MR NIELSEN: Correct, Mr Commissioner.

If I can just draw your attention to the exhibit that we presented to the commission at that time. It is TPOA.1 which is the decision of Commissioner King. In particular page 4.

Towards the bottom of page 4, the second paragraph:

Following consideration of the period during which work value changes can be measured, it was reluctantly agreed by the P.O.A. that the commencing date for the period is 25 September 1981, i.e. the date from which the last increase in salaries for other than economic considerations occurred.

So in that decision the commissioner, Commissioner King, indicated that in effect there were two dates. He could go back to 25 September 1981 - I think was the date - and our submission is that some classifications as presented to you on transcript on that day of 14 October were considered, and they were the only ones that were able to be considered by the commissioner for the evidence that was put to him.

So their cutoff point as far as these proceedings are concerned is December 1984.

Other classifications can go back therefore to 25 September 1981.

COMMISSIONER IMLACH: Just to interrupt there, Mr Shirley, are you putting to me that these starting dates ought to apply because the work value principle allows, and I quote:

The time from which work value changes should be measured is, unless extraordinary circumstances can be demonstrated in special case proceedings,

- and then it has got the certain date - which we can follow up later as well.

But, is that what you are saying? I mean, you're working from principles dated 1991, is that correct?

MR SHIRLEY: 13 August 1991 was -

COMMISSIONER IMLACH: I have got the principles here dated February 1992.

MR SHIRLEY: And the date -

COMMISSIONER IMLACH: State Wage Case February '92, Appendix 'A', and it has got the work value changes principle which seems to me to be the same words as you had there, but- going on now:

The time from which work value changes in an award should be measured is -

- then leave out the 'extraordinary circumstances' -

... the date of operation of the second structural efficiency adjustment allowable under the 30 October 1989 State Wage Case decision.

MR SHIRLEY: I am sorry, that date again was the ...?

COMMISSIONER IMLACH: 3 October 1989.

MR SHIRLEY: And that's the one I referred you to, that decision, and the date there is indicated as 1 January 1978. That the special circumstances in this case, as Mr King determined, in that Exhibit TPOA.1, on page 4, the special circumstances that applied at that time was 25 September 1981, and that was the date he found that he could only go back to.

COMMISSIONER IMLACH: Yes, well we are worrying about now, aren't we?

MR SHIRLEY: That's correct. But under the -

COMMISSIONER IMLACH: And are you not submitting to me that we ought to be able to go back to - well, two dates you are relying upon, are you not? You had better tell me what they are because I haven't written them down.

MR SHIRLEY: 25 September 1981, and I will just confirm that it is -

COMMISSIONER IMLACH: 1984 was another one.

MR NIELSEN: December '84.

MR SHIRLEY: I am just trying to find the date. The one that was put to you is the 20.12.1984, or 20 December 1984.

COMMISSIONER IMLACH: Yes, now I don't like interrupting, Mr Shirley, but I hope my question is relevant to what you have been saying and what you are saying now - you're saying that I ought to consider these matters before me now from those two separate dates, different classifications I presume, whereas my copy of the guidelines which is dated February 1992 says:

... unless there are extraordinary circumstances the date shall be 30 October 1989.

Now it comes back to my original question: are you submitting to me that there are extraordinary circumstances which give

you a basis to argue that the operative dates, the commencement dates, ought to be 1981 and 1984?

MR SHIRLEY: That part (c) of the 'Work Value Changes' - and perhaps I can take instructions on this - part (c):

The time from which work value changes in an award shall be measured is -

- and then the intervening part -

- the date of operation of the second structural efficiency adjustment allowable under the 30 October State Wage Case decision -

So the date of operation -

COMMISSIONER IMLACH: 1989.

MR SHIRLEY: 1989 - and if I refer back to that State Wage Case decision the date of operation for work value changes is 1 January 1978.

COMMISSIONER IMLACH: Where does it say that? What page?

MR SHIRLEY: In that decision, (vii) -

COMMISSIONER IMLACH: I'm not saying you are wrong, Mr Shirley, all I am trying to do is to get it clear in my mind, and yours, so we are both on an equal footing.

MR SHIRLEY: No, no, I understand. I've referred to a previous state wage case, but it appears for all intents and purposes the clauses are similar if not the same.

COMMISSIONER IMLACH: Yes, except the date is different.

MR SHIRLEY: The date is different insofar as it says under (c) of the decision I've referred to, which is somewhat older than the current:

The time from which work value changes in an award shall be measured is the date of operation of the second structural efficiency adjustment allowable under 30 October 1989 State Wage Case decision.

COMMISSIONER IMLACH: Yes. Oh, I see, and I haven't got the 1989 decision here.

MR SHIRLEY: Well I am not sure whether you have or not.

COMMISSIONER IMLACH: I see what you mean, yes, yes. And, that's alright. What date are you submitting that is then?



MR SHIRLEY: This is probably a little bit of a red herring, but I will provide the information. That date is indicated as 1 January 1978.

However, the 'unusual circumstances' as provided by the principles and have been determined by Commissioner King on page 4 of his decision, which is TPOA.1, Exhibit TPOA.1, and he determined on page 4 that the commencement date could not be earlier than 25 September 1981.

COMMISSIONER IMLACH: Right. And what are you saying about that?

MR SHIRLEY: Insofar as our case, we have presented information to you, generally speaking, as change from 1984. However, there may be cases that predate that.

Our submission, the TPOA submission, is that if there are some of those and they are not covered by Commissioner King's decision you can have reference back to 25 September 1981 because Commissioner King only considered certain classifications. And they're the ones outlined in his decision.

Now I can -

COMMISSIONER IMLACH: No, I think that's fair enough.

MR SHIRLEY: I think the reference to those, specifically, was given to you by Mr Nielsen. I believe that may start on page 16 of TPOA.1. On page 16 of that exhibit Mr King noted:

Of the above, only four (4) positions (see asterisk) have been the subject of evidence going to changes in the work of the officers concerned. While evidence was adduced from officers within only four classifications, they are the significant ones in terms of numbers employed. The officers occupying those positions were all employed in the men's prison at Risdon.

It is therefore not possible in accordance with the Wage Indexation Principles to consider salary adjustments in this case for the following -

and they are outlined - Risdon, and the officers concerned there; women's prison, and the officers concerned there; Kilderry Farm, which is now Hayes Farm, and those officers, and then he goes on to make some other comments in his decision.

So in the main, we have presented documentation, evidence and witness statements to you, in general terms, since 1984. However you have two reference points, and that's the

submission of the TPOA, that you have two reference points, if you so determine.

COMMISSIONER IMLACH: You have agreement with the minister on that, Mr Shirley?

MR SHIRLEY: At this stage we have no disagreement.

COMMISSIONER IMLACH: Had no discussion either.

MR SHIRLEY: I don't think there has been any discussion on that, no. But it has been raised as has been indicated to you on the first day, it was the 14 October, I believe. I believe Mr Nielsen might wish to -

MR NIELSEN: If I may comment, Mr Commissioner. No, it's not correct. We haven't had any formal discussions with the minister, any understanding of any starting points.

COMMISSIONER IMLACH: But, I mean, I remember you making those original submissions, Mr Nielsen.

MR NIELSEN: Yes.

COMMISSIONER IMLACH: It's just all these technicalities. If they had have been agreements it might have been easier for all of us.

MR NIELSEN: Well I think it certainly is very important to our case.

COMMISSIONER IMLACH: It is, I agree.

MR NIELSEN: And there is no doubt later on in the proceedings we will be addressing your either on record or off record that we hope that the parties, the two employee organisations and the minister will be having some discussions and with your point, we'll certainly put that one on notice.

COMMISSIONER IMLACH: Thank you, Mr Nielsen.

MR SHIRLEY: Thank you, sir.

COMMISSIONER IMLACH: It shows you what happens with interruptions, doesn't it, Mr Shirley?

MR SHIRLEY: It's quite all right.

Mr Commissioner, I would now like to turn to the evidence of our witnesses. I don't intend to take you through all the matters raised by our witnesses but rather attempt to give a quick overview of some of the more important aspects of their evidence. That's not to say that the parts I choose not to specifically mention are any less important. All the comments

I will make are drawn from the witness statements which have been marked as exhibits during this case, or from the commission's transcript.

The first of our witnesses was Prison Officer Willy Kraemers. This was at the Hayes Prison Farm. The exhibits marked insofar as this witness was concerned are TPOA.6 and TPOA.7. And the transcript pages that refer to this witness commence at page 34 and proceed to page 53. At the end of evidence-in-chief there were no questions of Prison Officer Kraemers.

In essence, Prison Officer Kraemers indicated to you, in 1987 there was an introduction of two-way radios, in '89 prisoner phone calls were introduced. In essence, inmates were allowed to make two outgoing phone calls per week. In 1988, medication, prison officers were required or are required to administer non-prescription medication to inmates as requested. Further, in 1988, prisoner files. These files were kept in the superintendent's office until recently, when they were transferred to the duty office. The officer-in-charge has the keys to these files and any officer may access information as it is required.

Prisoner privileges. Prison officers are constantly required to assess the attitude and demeanour of the prisoners to make determinations about their behaviour. This assessment affects inmate privileges. These privileges include the suspension of TV watching rights, curtailment or the suspension of telephone calls and early lock-ups.

In '87 muster books were introduced. Further in '87 half-hour checks over and above the muster book check and account of inmates is required every half hour. Prison officers are required to check and record the whereabouts of all the inmates in the division. Further, in 1988 daily worksheets were also introduced for the tracking and recording of inmates.

Officer-in-charge afternoon and nights. On afternoon and night shifts prison officers are assigned to the role of officer-in-charge. This is required because no senior prison officer or check prison officer is appointed. The prison officer assumes all the duties of a senior prison officer or a chief prison officer.

In 1991, money handling. Prison officers are required on a regular basis to transport a government change cheque to New Norfolk or Hobart. The value of this cheque is around \$1,000 which then needs to be cashed and canteen provisions purchased. 1988, accidents. Once the position of storeman/medical officer was abolished there has been a greater requirement to attend to accidents and administer first-aid for cuts, slashings et cetera to stop the flow of bleeding.

You will further recall that we recalled Prison Officer Greg Chaplain also for use and evidence at Hayes Prison Farm. There were no exhibits and the transcript of this commences at page 56 and concludes at page 59, and the specific purpose of Officer Chaplain was to concentrate on the increased welfare role of prison officers, and there were no questions asked of Prison Officer Chaplain.

We then moved to Launceston and our first witness was Prison Officer Garry Virieux. The exhibits are from TPOA.8 to TPOA.22. It commences on transcript at page 63 and proceeds through to 92. There were a number of questions asked of Prison Officer Virieux in relation to his standing orders and the evidence he gave.

You heard from Prison Officer Virieux that the Launceston prison commenced on 23 December 1991 and that all officers in this institution have been sworn as special constables under the provisions of the Tasmanian Police Act. In the main, Officer Virieux's evidence revolved around the presentation or discussion of standing orders, and I don't propose to take the commission through each of those.

Then you heard from Prison Officer Elizabeth Barrett, also from Launceston. You received exhibits TPOA.23 through to TPOA.29, the transcript commences at page 93 and proceeds through to page 110. And there were a few questions asked at the end of Officer Barrett's evidence. You will recall that through standing orders and her evidence that was given to you, you received information and evidence regarding attempted or potential suicides, night shift officer responsibilities, escort responsibilities, travel warrants and the officer concerned with the filling out of those, incident reports that occur in the general working environment in Launceston, medication responsibilities, final lock-up certificates that need to be completed by prison officers at Launceston. Their role insofar as court dates are concerned and their needs and responsibilities under first-aid and slashing requirements. You also received evidence in relation to the key register and tobacco register.

Once again, Mr Commissioner, I don't propose to dwell on any of the exhibits, specifically, but encourage the commissioner to pursue these at a later time.

Our next witness was back in Hobart and it was Prison Officer George Tims at Risdon Prison, and it related to reception at Risdon Prison. There were quite a number of questions asked of Officer Tims at the end of his evidence and the questions that were asked of Officer Tims are recorded in transcript between pages 126 to 141. I should have indicated earlier that exhibits TPOA.30 to TPOA.43 were presented at this time

and the transcript commences on page 126 through to 147 for Officer Tims.

His evidence in essence is that in 1986 handwritten ledgers were introduced - I'm sorry, handwritten ledgers were supplemented with computers. Prior to this time all ledgers were handwritten and in 1986 computers were introduced. Now all details of incoming prisoners, their sentences, their property and family details are recorded in the appropriate books and in the computer. Also you heard that in 1986 a filing system was introduced to record the details of prisoners, next of kin, his or her property, sentence length et cetera.

During this you also heard that in March 1983 personal radios were introduced for prisoner use. In July 1991 electrical shavers were introduced for their personal and in July 1992 computer games were introduced for their personal use. In November 1984, photographs. Administration introduced a process where an inmate should have two photographs taken of them on arrival. These photos were taken for recording purposes and one placed on the personal file, the other on the inmates file.

In 1998 inmate reception into custody.

COMMISSIONER IMLACH: 19 -

MR SHIRLEY: Sorry, 1988. I apologise.

In 1988 a questionnaire was introduced by administration to assess where an incoming inmate would be located in the prison. No training was ever provided by administration but the role of the officer in reception is integral in the initial placement of the prisoner. In 1983, release of prisoners. There was a change in there. This was the responsibility of the duty officer on the 6.00 a.m. to 2.00 p.m. shift. This is now the sole responsibility of the reception officers.

We further heard the evidence of Officer Tims regarding the weekend and public holiday work:

Warrants are checked and verified by prison officers. Prisoners presented during the weekend and on public holidays are processed by reception officers and they assume the responsibility of the chief prison officer.

These officers - being the prison officers - must process new inmates and update the muster board.

Also it is the responsibility of the reception officer to release inmates at weekends.

Court lists are on computer and they must be accessed and checked.

These activities are the responsibility of the chief prison officer on week day work, and at weekend and at public holidays this work is performed by the prison officer.

There is no welfare officer at weekends or on public holidays, therefore an inmate who is received at reception the reception officer must ring the family or the solicitor on behalf of the inmate.

The reception officer must also organise and receive inmate clothes from relatives.

In 1989 the issue of CES cheques on discharged was introduced. In April 1990 travel expense float was introduced. This was introduced by Mr Marris and a float system for prisoners upon their release who had no money to travel to their nearest major population centre.

The float of \$40 is maintained in a cash tin and is the responsibility of the reception officer to ensure that it is balanced and reconciled at all times.

The next witness was Prison Officer Graham Brassington-Bell at Risdon, in the hospital at Risdon.

The exhibits tendered at this time were TPOA.44 to 48. The transcript pages are from 148 to 180. And a few questions were asked at the end of Prison Officer Brassington-Bell's evidence.

In essence, he indicated to you by way of evidence that the hospital is a full contact post with no relief from the day-to-day contact with inmates.

Officers in this area of the prison has developed some psychiatric skills and is asked from time to time for his observations by the hospital psychiatrist.

The officers are also asked for their assessment of inmates and what they have observed.

In 1989 the security hospital had become an open access institution, which means that inmates have greater unrestricted access to their cells and other areas of the hospital than was previously the case.

In 1986 the special institution. Over this time the number of special institutions has decreased, causing an increase in the number of inmates with mental disorders being sentenced and serving their time in hospital.

In 1986 you heard evidence about counselling and the role of counselling by prison officers.

The skills of prison officers in the hospital has increased, with particular reference to the number of mentally disturbed inmates being housed in the prison.

In 1986 inmate classification: prison officers are aware of the classifications of inmates and the level of their diseases or disorders.

Prison officers have not been given any specific training to counsel or deal with these types of inmates.

Just on those two points insofar as special institution and inmate classification, in support of this contention the manager custodial corrections recently wrote in a letter dated 5 May 1993:

The Chief Prison Officer (Prison Hospital) has furnished me with some details regarding the inmate's location in the prison hospital on 29 April 1993 that 26 inmates were placed in the hospital for the following reasons:

Inmates under the Mental Health Act: 3  
Suicidal tendencies: 4  
Psychiatric disorders: 6  
Psychological (personality disorders): 5  
Medical reasons: 6  
Intellectually handicapped: 1  
Contagious disease: 1

The above breakdown is cause of concern.

It would appear that the number of inmates coming into the prison system with a psychiatric/psychological disorder has been increasing.

This is a possibility -

- it says - I think it should say 'possibly' -

- a result of the de-institutionalisation of residential health care facilities.

The above is provided for your information. The implications to staff of the type of patient being admitted will need to be discussed in more detail.

I have copies of that letter if it is of any use to the commission.

COMMISSIONER IMLACH: Only too pleased to receive it, Mr Shirley.

MR SHIRLEY: Thank you, Mr Commissioner.

COMMISSIONER IMLACH: Are you able to tell me what number that would be?

MR SHIRLEY: I believe it is TPOA.68, sir.

COMMISSIONER IMLACH: I think that should be right. Or, to put it another way, I agree with that.

MR SHIRLEY: TPOA.68. Thank you, sir.

MRS BURGESS: Commissioner, just before Mr Shirley resumes we'll just reserve our right to address this new exhibit.

MR SHIRLEY: Thank you, sir.

Mr Commissioner, you will recall that during the course of Mr Brassington-Bell's evidence he provided a letter from Dr Lopez, Forensic Psychiatrist.

Dr Lopez was asked by Mr Brassington-Bell to provide some comments and this he did. I would like to highlight some of these comments. That appears as an exhibit - if you'll just excuse me, sir, I'll see if I can get the reference to that. TPOA.48(A) is the typed presentation by myself, TPOA.48(B) is the handwritten document presented - written and presented by - it was presented by Mr Brassington-Bell, Prison Officer Brassington-Bell. It was written by Dr Lopez. It was converted to typewritten by myself.

That exhibits indicates the role of the prison officer in the special institution:

Until about 2 years ago prison officers were detailed to work in the hospital on a rostered basis hence they did not get to know any of the patients properly and it is not in their duty statement anyway.

Since the Hospital had the Unit Management many changes have taken place.



(i) There is a lot more input into the 'treatment' of the patients. The Officers observe the patients' behaviour and report it to the nurses and often to the forensic staff directly - there is continuity now.

(ii) The Officers are sometimes involved in the case management discussion.

(iii) As a result of the Officers working closely with Medical Staff they have now acquired a lot of communication skills which allows them to do some 'counselling' thus they have acted as a front line of staff in critical situations of stress, aggressive outbursts etc.

(iv) We have many more pts (patients) in hospital now than before (see stats).

(v) We have had only a couple of inservice training sessions with the Hospital staff and when this resumes we should be able to give more formal 'education'.

(vi) The prison officers have shown interest in taking active part in the management of Hospital inpatients. This is of their own volition and have often contacted and discussed with the forensic staff how to interpret and deal with difficult behaviour of the patients particularly those with mental disorders.

And the final comments is:

Personally I feel that the new group of officers there are totally dedicated to their work and as it is beyond their stated duties they need to be supported and their contribution formally acknowledged.

It was signed by Dr W. Lopez, 2 July 1992, Forensic Psychiatrist. Dr Lopez has dated this letter 2 July 1992 and makes the reference to a point in time when the changes have occurred. These changes have occurred during the work-value period. You will see the reference in the first paragraph until about 2 years ago and then the date of the letter.

The next witness was Prison Officer Bob Gourlay at Risdon and he gave evidence regarding main gates. The exhibits are from TPOA.49 through to TPOA.56. The transcript commences at page 181 through to 206. Officer Gourlay was asked a number of questions at the end of his evidence-in-chief. Officer Gourlay's presentation was in three parts concerning main gate 1, main gate 2 and main gate 3. Of main gate 1 he indicated:

The changes in responsibility have occurred since 1984 and are as follows:

The distribution and security of all gaol keys.

The Armoury is located in this area and the Senior Prison Officer receives and distributes all weapons to Prison Officers.

The Officer in this area is responsible for all security in the Main Gate area.

The Officer in this area possess the ability to override the electronic locking mechanism if required. This can be done from the locked office under his control.

The Officer in this area controls all access and egress to and from the Hospital through security cameras in the perimeter walls and monitored in this office.

Of main gate 2, he indicated:

Officers alternate with other officers posted to the perimeter towers and division front.

They must be courteous to all visitors who present themselves at the prison.

All vehicles leaving the prison are searched thoroughly to ensure that they are not used as a means of escape; and

Ensure that all prisoners working between the sliding doors and the inner grill gates are properly supervised and covered by a gate pass.

Of main gate 3, Officer Gourlay indicated:

This Officer is required to relieve the Main Gate 1 Senior Prison Officer during meal breaks, when he is required to attend meetings and other day to day occurrences.

Prior to October 1991 the Main Gate area was controlled by a Senior Prison Officer.

In effect the Main Gate 3 was the Main Gate 1 and the Main Gate 1 was a newly created position. Therefore the Main Gate 3 position was controlled by a Senior Prison Officer and is now controlled by a Prison Officer.

The next witness was Prison Officer Jan Shaw from the female prison. The exhibits are TPOA.57 to TPOA.59. The transcript pages 207 to 221. And at the end of the evidence-in-chief there were only a few questions asked of her. In essence, Officer Shaw's evidence was:

Before the time of this Work Value case the role of a Prison Officer was purely to turn keys. There was no interaction between Officer and inmate. The environment was one of close restrictive supervision all the time and highly regimented in all the activities of the inmates.

.... environment had changed. In May 1991, daily reporting was introduced. Officers are required to observe the inmates' daily behaviours and report on any unusual characteristics. 1995 - sorry, November 1985, special institution. Staff must care for the following categories of inmates: criminally insane, psychotics, manic depressives, schizophrenics, and inmates suffering from severe personality and behaviour disorders.

May 1991 work and conduct assessments. Five times a day prison officers must assess and allocate points to all prisoners. This is done three times in the morning and two times in the afternoon. The prisoner's assessment entitles - the prisoner assessment entitles inmates to points and the corresponding number allows visiting privileges. This assessment in time ranges from half an hour to two and a half hours, depending on the demeanour.

In October 1991, movement book was introduced. Records of unusual activities or behaviour at meal times was introduced in August 1991. In November 1990, phone calls were monitored, supervised and recorded by officers in the women's prison. In 1988, shift reports were introduced for handover between officers at the change of their shifts. In 1990, integrated activities were introduced. This was an increased emphasis on the development of integration and social skills for inmates.

The next witness was Prison Officer Geoff Cox who gave evidence regarding infectious diseases. There was only one exhibit, TPOA.60. The transcript commences at page 222 through to page 229 and at the end of his evidence-in-chief, the government advocate at the time indicated that it was very a unfortunate experience that he came across in his working environment and he should be highly commended.

You will recall that Officer Cox gave some information about background in the hospital in general, about classifications, and then went on to indicate two incidences that had occurred to him, one in 1988 regarding a hanging and a following one in

1991, a hanging. I just want to refresh your memory as to the sorts of evidence that you heard at that time:

I was on the 2.00 to 10.00 shift with another officer and nurse on duty, an inmate hanged himself. He had no classification. I was on duty and discovered him. I contacted the nurse on duty and called another prison officer. I offered to perform mouth to mouth. The other prison officer performed compressions. The inmate had no signs of life and appeared quite black. In this process I used the issued resuscitation tube. I blew into the tube. The inmate immediately vomited back mucus, congestion and blood. It covered my face, nose, eyes and was down my throat. Five days later I was called to Dr Lopez who informed me that the inmate concerned had Hepatitis B and that I should make an appointment to see Dr Kennedy at the Red Cross. I also contacted my family doctor who administered two injections. Dr Kennedy talked with specialists in Sydney and Melbourne as to the appropriate treatment. He informed me at my age and the delay of injections and being washed out I had an 80 per cent risk of positive contraction of Hepatitis B. I developed a fear of dying. I was off work and had to isolate myself socially as I did not know if I had contracted the disease. I was living on my own and I suffered from nightmares. I still visualise the inmate hanging in the cell. I suffered severe family disruption. My daughter left home and my wife and I separated. I had 5 years of not knowing whether or not I would contract the disease. I still suffer from skin rashes. I was also advised the inmate had AIDS. I required Post Trauma Stress Disorder counselling by Dr Burgess-Watson. I was unable to work for 6 months. I lost all my confidence and eventually returned to work but was only able to work on and off. I'm mentally depressed, distressed and contemplated suicide. I still suffer short-term memory loss. I can't handle stress as I was able to.

Then in 1991 there was another incident. It was a hanging and Officer Cox was also on duty:

I was on duty again when another inmate attempted to hang himself. All the experience of the 1988 incident was reignited. Post Trauma Stress Disorder was commenced again -

- counselling was just - commenced again -

I returned to the counselling with Dr Burgess-Watson which continues today. I am having trouble sleeping. I mentally relive the experience of the two hangings. I was off work on workers' compensation. I take medication daily and as a result of these incidents I work on restricted. I am currently classified as Post Trauma Stress Disorder for workers' compensation purposes. I have developed ruptured ulcers and constantly live with the fear of having to resuscitate inmates in my work due to the initial incident. This is an every day working environment for prison officers and this set of circumstances could happen to any prison officer on any day.

That was the evidence of Prison Officer Cox. Mr Commissioner, is the clearest possible indication to you of the environment the prison officers are required to work in. An officer who responds does not know whether an inmate has an infectious disease or not. Indeed, Mr Marris has written to the Secretary of the Tasmanian Prison Officers Association instructing that all prison officers have an obligation to respond in circumstances as Officer Cox was confronted in 1988 and 1991. I have a copy of that letter that I'd like to hand up as an exhibit.

COMMISSIONER IMLACH: TPOA.69.

MR SHIRLEY: In that letter, Mr Commissioner, dated the 26th of September 1991, addressed to Mr Craig Hughes, Secretary, Tasmanian Prison Officers Association, PO Box 138, Lindisfarne, Tasmania, 7015:

Dear Mr Hughes

Subject: Responsibilities of Prison Officers to preserve the Life of Prisoners

Thank you for raising this matter at the recent Prison Service Consultative Committee.

I attach a copy of Chapter XIV of the Criminal Code which sets out the duties of all citizens relating to the preservation of human life. I suggest that Sections 144, 148, 149 and 152 are particularly relevant.

This legislation supports the moral obligation, which has been well demonstrated by many Prison Officers, to provide all reasonable assistance to people who are ill, injured, or in serious distress.

Yours sincerely

Ben Marris  
General Manager Corrective Services.

That's a clear indication to prison officers that they have a duty above the moral duty and they are required under the Criminal Code to provide assistance and care for all people in their control - that is the working environment in which officers work in the prison system in Tasmania.

The next witness was Prison Officer Les Norris who works in the kitchen at Risdon. There was one exhibit, TPOA.61. Transcript commences at page 231 and concludes at page 255. There were a few questions asked of Prison Officer Norris at the end of his evidence.

You heard that in 1988 cooking duties were - the nature of cooking duties that were conducted by Officer Norris. In 1990 that he had the function of rostering duties placed upon him, that he was required to prepare and serve 165 inmates three meals a day. In 1990 had the additional responsibility of teaching responsibility and in that he indicated to you:

I'm responsible for the assigning of duties on all shifts for inmates and prison officers. This requires that I ensure that both officers and inmates are trained to a sufficient level to be able to discharge the cooking and other duties required in the kitchen.

He indicated that in 1992 he was responsible for budget preparation. He indicated to you:

I have taken over the preparation and administration of the budget for the kitchen area. The food costs alone for this area total \$250,000 per year. Further to this I've had additional requests to trim the budget and ensure additional savings.

In 1991 he was required to present and prepare forward estimates:

I am required to purchase and provide forward estimates for the purchase of all food items from the Supply and Tender Department.

The next witness was Senior Prison Officer Kevin Salter. This related specifically to standing orders. There were a number of standing orders and they were all given the one exhibit number of TPOA.62 and then ranging from (a) to (m) I think it was. Transcript commences at page 256 and concludes at 317

and there were quite a number of questions asked of Prison Salter at the end of his evidence-in-chief.

All Officer Salter's evidence revolved around standing orders and I don't propose to dwell or highlight any in particular. I urge you, Mr Commissioner, to consider those in your deliberations.

The next witness was Tony Jones - Prison Officer Tony Jones who concentrated on Maximum Security, gallery, kitchen and bakery in the A to F Divisions. There was one exhibit, TPOA.63. Transcript commenced at page 218 and concluded at 337 and there were a number of questions asked of Officer Jones at the end of his evidence-in-chief. You will recall his evidence, insofar as the A to F Division, indicated that after 1984 green passes were introduced. Now there is a process of completion of a movement pass by the officer on duty. Visits were introduced after 1984 for these divisions, that the welfare role was introduced after 1984, that inmates expect more of the prison officer in counselling in the handling of complaints and queries. This is now expected by inmates and there is a cause of frustration and source of agitation on their part if their query is not resolved as soon as they thought it should be resolved.

You will recall the evidence insofar as the introduction of gas lighters into the area. Inmates are now allowed to receive gas lighters as part of their canteen issue. Prison officers now have the responsibility of policing this because of the increased possibility of risk if accumulated.

Insofar as the gallery, kitchen and bakery are concerned, Officer Jones indicated to you that in 1987 television ledger was introduced. This was introduced by administration for the issue of televisions in that area. Sorry, this was - administration administered the monitoring of this area by television.

Electronic doors were introduced. Any pedestrian traffic from the bakery is achieved through newly installed electronic doors which are activated by the prison officer on duty in the gallery overlooking the kitchen and bakery.

Monitors: The prison officer on duty has a responsibility controlling and observing the activities of both the kitchen and bakery areas by use of TV monitors.

The next witness was Officer Tony van Kastel. He's a senior prison officer and he concentrated on maximum security H and N Divisions. There was one exhibit, TPI.64, transcript commenced at page 339 and concluded at 345. There were no questions asked of officer van Kastel.

His evidence was that in January 1991, telephone calls and the monitoring of telephone calls was introduced. Officers in this area - sorry - this is in H Division, or the remand centre - officers in this area of the prison must now make monitor and observe telephone calls for all inmates. The officer makes the calls - calls to establish that the person receiving the call wishes to accept the call.

In 1990 televisions: From this date the administration approved the introduction of personal televisions for their own cells - being inmate cells. The televisions must be checked as they come into the prison to ensure that they are not used for a means to transport contraband items. TVs are checked daily to ensure that they're not damaged and if they are they are reported - a report is completed regarding any defects.

Other officer duties in this area: The prison officers commenced as a turnkey and now they are required to participate in all sorts of behaviour outside the formal duties outlined in the position description. From 5.00 pm to 9.00 am the prison officer is responsible for the inmates as there is no senior prison officer in charge or professional staff in this area.

Officers are required to talk to inmates who are depressed to provide necessary mediation before greater problems occur. In a sense, the prison environment has changed from one of retention to that of greater welfare orientation.

From 5.00 pm no prison - no professional staff, no educational staff or psychological staff are on duty to assist in the counselling of inmates. This is the responsibility of officers left on duty every day.

Hangings: When this occurs in the prison it is usually the officer who responds first because the hospital staff are too far away or not on duty. It is usually the officer who removes the towel from around the neck and tries to revive the inmate. The officer is the front line person in these circumstances.

Mr Commissioner, this is further evidence of the environment that the prison officers are required to perform their duties within.

In 1987 there was greater welfare orientation, given that prison officers - given that a prison officer is the first contact point for inmates, and they are the ones that inmates rely on for guidance and support. There is more personal contact between prison officers and inmates and officers are expected to cope with the difficulties that arise day to day.



The officer is required to be professionally skilled with no training.

Insofar as his evidence for N Division, which is the isolation and protection unit, he indicated that in 1986 N Division was reintroduced as an isolation and protection division. The inmates in this division must be showered on arrival, they are fed three times per day, the trolley and contents must be searched for drugs or anything that may be hidden for inmates in this division. The cells are also searched daily for the safety of inmates and the security of the prison.

Inmates are not allowed to smoke in this division and the cells are searched for this also.

A letter is filled out of incoming and outgoing movements, the name of the inmate, their prison number, and the reason and the length of their stay is also recorded.

A daily ledger is also completed to record their daily movements. A personal card is completed and the details of each day's activities is recorded.

The next witness was Senior Prison Officer Kevin Salter. He gave evidence regarding changes in duties of senior prison officers.

COMMISSIONER IMLACH: We had him before, Mr Shirley.

MR SHIRLEY: For standing orders.

COMMISSIONER IMLACH: Oh, I see, right.

MR SHIRLEY: We used him twice.

There was one exhibit, TPOA.65, transcript commences at page 346 and concludes at 352 and there were only a few questions asked of Senior Prison Officer Salter at the end of his evidence.

Senior Prison Officer Salter indicated that all changes that he referred to had occurred after 1984 and these in essence are: a senior prison officer, as a direct result of the change has the delegated responsibility of all the work muster that occurs in the prison, the lunch musters are also his delegated responsibility as well as directing the inmates to the work gangs and work places. The senior prison officer also under delegation allocates the duties to other prison officers in the prison and amends their duties according to the staff levels that operate on a daily basis in the prison.

All these activities are solely the responsibility of the chief prison officer before this change but now are under delegation shared by the senior prison officers.

The senior prison officer on night duty and the nurse, in the event of a suicide attempt, may then reclassify the inmate to a suicide category, either A, B or C. These were referred to earlier by witnesses. This is done between these officers with reference to the duty officer on call. Also, at the main gate after 10.00 pm the senior prison officer completes a suicide form for inmates brought in by police after lockup.

The senior prison officer in maximum and the hospital in conjunction with the chief prison officer between 5.00 and 10.00 pm perform the final check of the prison to ensure that the prison is secure and all inmates are locked away.

During the medical parade at 7.00 pm the senior prison officer escorts the nurse around the prison with the medicine - with the medicine and ensures that the inmates take their medicine.

At 6.00 am the senior prison officer ensures that the kitchen and bakery gallery is staffed - bakery gallery - is staffed by an armed prison officer.

In the H Division the senior prison officer posted is used to monitor telephone calls made by detainees.

The senior prison officer at the main gate is responsible for all access and departures to and from Risdon Prison.

Other activities are performed by this senior prison officer are: prison hospital, access gates, also the duties required to be performed by the fire warden, the security and safekeeping of radio controls after 5.00 pm, the issuing of all personal alarms and the delegated responsibility for deactivating alarms.

The next witness was Prison Officer Roger Sly. He gave evidence as to medium security, and there was one exhibit, TPOA.67 - the transcript commences at page 370 and concludes at 384, and there were a few questions asked at the end of evidence in chief of Officer Sly.

In essence, he indicated that muster sheets were introduced after 1984 and that on weekends and public holidays every half hour prison officers are required to complete a check of the location of all prisoners in this division from 9.00 am till 8.30 pm.

In 1991 case management plans were introduced. A prison officer is assigned four or five inmates to develop a profile so that the prison officer may get to know and understand the inmate and assist them in their case management.

In 1991 there was also the introduction of a prisoner review report. On a regular basis the prison officer is required to conduct a further follow-up assessment of the demeanour of each inmate.

Also in 1991, work and conduct reports were introduced. Every day three prison officers are required to complete this information for each inmate. Depending on the assessment of the prison officers, inmates may have visits from 1 hour in duration to 2.1/2 hours per week depending on the assessment made of the prison officer - of the prison officer on the inmate.

Personal property and money: Prison officers are also required to record and account for the prison, prisoner personal belongings. They are also required to handle varying amounts of money, cash and cheques, for inmates who make personal requests.

A float is maintained for the hiring of videos; the float can reach amounts of \$150 and the prison officers must receipt and account for all this money.

Medication: Prison officers are required to dispense non-prescription drugs for the treatment of minor ailments as and when prisoners request them.

Family visits: These occasions are contact visits and the prison officer must account for each inmate on half-hourly intervals over the weekend.

By way of final summation, I wish to make the following comments: you have seen, Mr Commissioner, there have been a number of significant changes to the activities, roles and responsibilities of prison officers for the period under consideration in the work-value case. In essence these relate to, 1), the changed role of the prison officer and his/her interaction with the inmate. Prison officers have taken on the role of a welfare officer. You will remember the evidence of a number of - remember the evidence of a number of officers who have told you that there was more interaction between them and inmates. Indeed, prison officers are 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.

Prison officers also arrange and supervise inmate visits. They are required to classify inmates who are presented after

hours when the 5.00 pm prison officer has finished his duty, the remaining senior prison officer or prison officer is responsible for this activity.

During this same time and over the work-value period, other significant changes in work - work practices that prison officers have performed without training include the issue, recording and administering 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 systems and inmate ledgers to record property, photographs for security purposes, provisions ledgers, release of prisoners, the issue of CES cheques on inmate discharge, management - the management and reconciliation of the travel expense float, budget preparation and 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 officer in charge from 5.00 pm till 7.00 am 7 days per week. During these two shifts, the prison officer has all the responsibilities of officers of higher classification without recognition for appropriate remuneration.

At Launceston: prison officers in this prison operate as a microcosm of 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 inmates and record, store and administer inmate property. They are responsible for inmate admissions. Prison officers are required to handle superintendents requests. They conduct escorts to other prisons. 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 the appropriate remuneration.

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

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, 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 Prison throughout the state.

Any changes that occur - have occurred - affect all prison officers and because they can be asked or directed to work in 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 is, 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, that's the completion of the formal submission to you. I believe there is one other matter that Mr Nielsen would like to address you in relation to the TPSA submission. Thank you.

COMMISSIONER IMLACH: Thanks, Mr Shirley.

MR NIELSEN: Mr Commissioner, I wonder if it's appropriate that we went off the record, because basically some of the matters I have to report are by way of an informal nature, and then if you so desire we'll come back on record, Mr Commissioner.

COMMISSIONER IMLACH: We'll see how we go.

OFF THE RECORD

Mr Nielsen or whoever?

MR NIELSEN: 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 per cent 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.

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.

HEARING ADJOURNED