

PRESIDENT: No changes in appearances.

5 Well, who's going to report to me then on the conferencing and discussions which the parties were to engage in, following our last day of hearing? Mr Miller?

MR MILLER: Thank you, sir. I will, on behalf of the parties and just remind the commission that today was the day in 1924 when Adolf Hitler was jailed for five years by the German authorities for the 1923 attempted putsch in Germany. Had those five years been extended, we may not have been embroiled in yet a second World War.

15 Following on from the matter that was before us previously, sir, there has been some developments and discussions between the parties but prior to that, I should hand up to the bench and to the parties a replacement of the application that was lodged before you. You will recall that there was some confusion or differing points of view regarding the definitions of controlling authority, employer/employee and I indicated on transcript that I had withdrawn that and would replace it by an appropriate wording that should, hopefully, ensure that all parties were in agreement with the wording, if not the outcome, and I so hand up, sir.

PRESIDENT: Yes. Thank you. This replaces the document which was -

25 MR MILLER: No, it doesn't replace the document. It replaces that part of the original application in clause 7 - the definitions.

PRESIDENT: Now, let me get this straight. This goes to the actual application - the attachment to the application?

30 MR MILLER: Yes, sir.

PRESIDENT: Okay. And it replaces those two pages?

35 MR MILLER: It replaces part thereof.

PRESIDENT: Which part?

40 MR MILLER: It changes - it removes that which was previously -

PRESIDENT: Is it an addition to it or - an addition to the two pages which were attached to the application?

45 MR MILLER: I take your guidance on that, sir. My proposition was, that the original application stated in clause 7 - Definitions, the definition plucked from the parent award -

PRESIDENT: Yes. So, it replaces the clause 7 - Definition?

50 MR MILLER: Yes, sir. Other issues remain the same.

PRESIDENT: And the definition of employee and employer, from the original?

MR MILLER: The original application, sir, was to delete the existing definitions from controlling authority and employee and replace them with employer and employee definitions. That, I'm suggesting, sir, be deleted - that part of that application and replaced with this document.

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PRESIDENT: Right. Okay. So, we'll strike out all the words after - to clause 7 - Definitions which is contained in the two pages of your application and to replace those with this document.

10 MR MILLER: Indeed, sir.

PRESIDENT: Which I'll simply mark, **EXHIBIT 1**. Okay.

MR MILLER: Thank you, sir.

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PRESIDENT: Thank you?

MR MILLER: The situation is, there has been some discussion between the parties since we last met and there has been attempts to put forward some compromise positions regarding this application and other outcomes which may be to the benefit of - and with the agreement of all parties.

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There has been an exchange of documents as late as this morning which may be acceptable or not, to the outcome of this discussion. Mr Fletcher and Mr Fitzgerald have copies of that document and are reviewing it as quickly as they possibly can.

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PRESIDENT: So when you say there's been an exchange of documents, you've provided the other side with your correspondence?

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MR MILLER: We've provided both parties, Mr Fletcher and Mr Fitzgerald, with that correspondence as late as this morning.

PRESIDENT: Yes. Good. Thank you.

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MR MILLER: I'm aware that Mr Fitzgerald has other issues in this place which I believe are pressing and because of that and of the late exchange of documents, the request is that this matter be adjourned to a later date but not that late, to enable the parties to, a) consider the documentation, have any further discussions that they need and then come back to this place, hopefully, with a consent or agreed position.

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My preference of course, sir, would be that this matter be placed before the commission again at the earliest possible time in order that it may be completed.

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PRESIDENT: Yes, all right. Well, I'll hear from the other side before we go much further then, Mr Miller. Yes, Mr Fitzgerald?

MR FITZGERALD: Thanks, Mr President. The account which Mr Miller has given is one which I agree with totally. It is as late as this morning and that's not Mr Miller's fault that that has occurred. I would agree with the request for an adjournment. I think, indeed, that's a sensible course and it may be beneficial to hopefully producing an outcome. So, in terms of a date I would prefer if we could adjourn it *sine die* and the parties confer with the

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commission to set down a date which suits both parties because I think it'll depend on when we can get together to have these discussions, so rather than setting a particular date -

5 PRESIDENT: Well, okay. Can I help that process along a little bit by inviting you to tell me when you would be in a position to meet with each other to explore these possibilities?

10 MR FITZGERALD: From my point of view, it would have to be the week following Easter, where I could meet. Unfortunately, up until Easter I've got other engagements, so it'd have to be the week after Easter or the week after that.

PRESIDENT: Okay.

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MR MILLER: I'm very much, sir, in the same situation as Mr Fitzgerald. I think, from recollection, all of next week is a training week for me and then Easter falls in and I shall be away for the whole of that Easter period up until and including the end of the Easter week, the 17th, I think it is.

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PRESIDENT: Yes. So you're not likely to meet then until the week of the 20th April, in which case we'll - what I should do then, if there's some consent, then we can get the matter on quickly. If there's no consent, then we obviously will need some time to argue - to hear the arguments. We will require you to - Mr Miller, to inform us as soon as you've made arrangements for the meeting and when you've had the meeting, to inform us of the result, at which time we'll programme a date which will be, to the best of our abilities, mutually acceptable to both parties.

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30 So, two things: if you could let us know when you're going to meet and when you have met, what the result was and whether there's going to be a need for an extensive period of time to hear argument and then we'll take control of it from there.

35 All right. Is that satisfactory?

MR MILLER: Yes, sir.

40 PRESIDENT: I think it's the best we can do in the circumstances. So, I'll adjourn the matter *sine die*. Thank you.

ADJOURNED SINE DIE