

TASMANIAN INDUSTRIAL COMMISSION
Industrial Relations Act 1984

T No. 5316 of 1994

IN THE MATTER OF an application by the
Australasian Meat Industry Employees
Union, Tasmanian Branch for the making of
the Meat Industry Award

T Nos 5505 and 5506 of 1995

IN THE MATTER OF applications from the
Australasian Meat industry Employees
Union, Tasmanian Branch to repeal the
Abattoirs and Meat Trades Awards

T No. 5524 of 1995

IN THE MATTER OF an application by The
AWU-FIME Amalgamated Union,
Tasmanian Branch to vary the Poultry and
Game Products Processing Award

re rescission of award

COMMISSIONER WATLING

HOBART, 16 July 1996
continued from 9/6/95

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances, please.

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

COMMISSIONER WATLING: Thank you.

MR T. EDWARDS: If the commission pleases, EDWARDS T.J., and appearing with me is **MR A. CAMERON** for the TCCI.

COMMISSIONER WATLING: Good. Thank you.

MR M. FLYNN: If the commission pleases, FLYNN, Michael Dennis for the National Meat Association of Australia, Tasmanian Division.

COMMISSIONER WATLING: Good. Thank you.

Now, I thought the radio program of 'Blue Hills' had finished, but I think this has taken over. I suppose maybe we should get a report before we find out what's happening with all of this before we move on - which stage are we at?

MR SWALLOW: Mr Commissioner, the union's position is it is not very far from being concluded, but there are a couple of stumbling blocks there. One was the pay out for sick leave credits and the other one was the Anzac Day, and I wrote to the employers suggesting there ought to be a two year moratorium on that, get the new award in place, put a two year moratorium on those two matters, and that would leave either party if they wished to ask for those two matters to be arbitrated after two years' time. Whether or not they do, whether they decide to leave it, but that seems to be the stumbling block at this point.

There are a couple of other minor things like piece workers. If it is the intention of this commission that the trades rate be - all trades rates be the same - does it mean a reduction in the slaughtermen, and that hasn't been resolved.

It was left that it be a percentage differential when they go on annual leave, or the preferable position as far as the union goes it be the payment of average earnings, and that would make it very simple and clean that matter up once and for all.

They seem to be the major obstacles, but another major obstacle was - but I would say it has been resolved - was the percentage in the lower levels.

When we last met the employers were putting forward - from memory, they started off at 78 and then they went to 82 - now, it just seems to me that the percentages around the industry at this point in time - and when I say 'the industry' I say that what is being paid to industry by the major employers - it seems to be that that figure is dependant upon what - depending on what amount - you have at the top. If it is \$409.40, which is the current position, and what's currently being paid in the majors which is 365.50, that's the minimum rate. That's except the new employee up to three months' service. Of course there doesn't seem to be a problem with that one, but level 2 just seems to me that it is either 89.3% or if it is on 427.25 it is 85%.

So it just seems to me that that's about the figure we start on and then it's I'd say another half a day, or if we set down a full day I'd say the thing could be concluded in 1 more day, with your assistance.

COMMISSIONER WATLING: Right. Well, what has Mr Edwards got to say about this?

MR EDWARDS: I hope the commission will excuse me for being a little vague; there are those who argue that that's not unusual.

As the commission, as currently constituted, will be aware I didn't originally have any carriage in this matter. It was Mr Targett from our organisation that was dealing with the matter. I have done a detailed search of his file, but for a matter that you would describe, sir, as going as long as or taking over from 'Blue Hills' to receive a file which is an 8th of an inch thick is a littleconcerting. It seems to me that there is a lot of detail that is absent from the file.

I have had some brief discussions with Mr Flynn and your own file, sir, is certainly a lot -

COMMISSIONER WATLING: Mine is certainly not much thicker.

MR EDWARDS: No.

COMMISSIONER WATLING: But you have had a lot of drafts running around between you.

MR EDWARDS: I think that's the point - that there are no drafts in this file - which causes me some concern. So I will be a little general and vague as I make some preliminary comments this morning.

I must say I am somewhat heartened by the report from Mr Swallow that he believes the matter is becoming - getting closer to a stage where it could be resolved fairly quickly - I hope his optimism is not misplaced.

Mr Swallow, as he indicated on record, wrote certainly to ourselves on 22 February of this year and put a proposal for a moratorium in respect of the pay out of sick leave question and the substitution of the public holiday provision. We responded to that correspondence on 8th of March asking for additional information in respect to an attachment that was with that letter from Mr Swallow. From that date to this we have had no response to our correspondence, so I am not quite certain where the matter is going because at that stage Mr Swallow was seeking to rely on some alleged changes which had occurred in the Federal Meat Industry Award and he attached the first page of a draft order in a matter before Justice Boulton which was the application of the second arbitrated safety net adjustment to that award dated 2 August 1995.

And we asked for additional information about the make up and the definitions of the gradings that were contained in that award and we haven't had that information forwarded to us at this stage, so I am unable to have considered that matter any further, and I am aware that Mr Flynn responded to Mr Swallow in a very similar vein because we did in fact talk to each other before we responded, as I tried to come to grips in some way with where this award is at.

It seems to me from a reading of the transcript that Mr Swallow's concerns on the last day of the hearing, which resulted in an application by Mr Swallow for an adjournment sine die, the issues raised at that time appeared to me to revolve more around concerns about the pay rates proposed and the lack of real dollars in the MRA process for what were termed 'the lower paid workers'.

I assumed, from the transcript looking at, it is level 1 and 2 and, to some extent, even level 3. Some mention was made of the boners and slicers and how they ought to be promoted to level 4, and things of that nature.

Now I have only got what's in the transcript, unfortunately. I did try to ring Mr Targett and I am unable to track him down, but I will continue that process.

For the part of our organisation we are prepared to enter into renewed, or reinvigorated negotiations with Mr Swallow, with a view to seeing this matter resolved.

I don't make any remark at this stage whether the proposal in Mr Swallow's correspondence is or is not acceptable. I'd need to take some further instruction on that in the light of the totality of the package he is now talking about, because I think the way this matter was being viewed by the parties up until the sudden departure, if you like, that took place back in I think it was about June 1995 -

COMMISSIONER WATLING: We had a number of conferences as well.

MR EDWARDS: Yes, the file does reveal the number of conferences; what it doesn't reveal is the subject matter of them, and I will be relying fairly heavily on I guess Mr Flynn and also the contact I am able to make with Mr Targett. I also understand Mr Flood from our office was involved at least at the periphery if not at the sharp edge of that negotiations. So once I get that information I am quite happy to commit our organisation to recommence negotiations with the AMIEU with a view to resolving this matter as expeditiously as is possible.

If it please the commission. I apologise for being so vague. Unfortunately, it's beyond my control.

COMMISSIONER WATLING: Mr Flynn, have you had anything to add at this stage?

MR FLYNN: Yes, commissioner. Like Mr Edwards I received a letter from Mr Swallow regarding the required moratorium of two years on the sick leave and the Anzac Day matter. I also replied to Mr Swallow on 1 March and in my letter I requested some indication from Mr Swallow as to his future intentions with regard to the Federal Meat Industry Award movements and his intention with those, given his submission of a document, as Mr Edwards mentioned, that was before Commissioner Boulton - Justice Boulton - in the Federal Commission, and the provision of a set of wage rates and grades was provided.

My council has asked me to find out, commissioner, what Mr Swallow's future intentions are with any federal award matter. If we are going ahead with a meat industry award in Tasmania, as was our original intention and is still our intention, then what happens in the Federal Commission is really of little relevance to us, and I will be seeking Mr Swallow's assurance that he is of the same mind.

If that is not the case, then I guess we are really back to the drawing board, commissioner, because my council is going to go back and have a look at what they are doing before they move. If a federal award movement is going to come into it, then why should they be negotiating anything at this level in Tasmania.

If the commission pleases.

COMMISSIONER WATLING: Good. Well, we might just go off the record and talk about some procedures and how we are going to tackle this.

MR SWALLOW: Can I just respond?

COMMISSIONER WATLING: Yes, go for it.

MR SWALLOW: All that letter was, Mr Commissioner, is that there were 10 levels chosen in the federal arena and all that was to say - and the lowest paid I think was somewhere around about 365.

MR EDWARDS: 356.00.

MR SWALLOW: 356.00, and all that was to say there are 10 there. I think from memory we have been talking about 6, so it's irrelevant as far as the 10 or the 6, but

all I was pointing out was that ought to be the starting point and whether it be 4 levels, 10 levels, 6 levels -

COMMISSIONER WATLING: So you are talking about the range of money from 350 something up to -

MR SWALLOW: Yes, up to whatever that figure is. That was all that was.

COMMISSIONER WATLING: I suppose the real question is, how does one qualify for the 356 and how does one qualify for the 470, or whatever it might be.

MR SWALLOW: Exactly, exactly, yes. That was all it was. But the main thrust of that letter was the moratorium on the sick leave and the Anzac Day because -

COMMISSIONER WATLING: So is it still your intention to push forward with a state award?

MR SWALLOW: Yes, yes. I have no intention as far as the federal award goes. I have got no intentions at all. But it just seems to me that Mr Flynn when it suits him and Mr Edwards they produce evidence up here and it is all federal stuff, but when I just do something for an example he has got to go back to his council - he is like a little boy grabbing his school bag and going home.

COMMISSIONER WATLING: Well, he didn't come with his bag this morning, so it is all bets are off, so we can get in to look at the procedure.

OFF THE RECORD

Let the record show we've had some private discussion. The parties are going to talk again. There's been programmed a meeting for 8 August between the parties to try and progress some of the issues that are still outstanding and this matter will be reconvened on Friday 23 August, at which time we'll examine whether or not we can progress this new award to finalisation.

Is that the parties' understanding?

MR EDWARDS: Yes, sir.

COMMISSIONER WATLING: Right. This matter is now adjourned.

HEARING ADJOURNED