

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 2587 of 1991 and
T No. 2473 of 1990

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

re structural efficiency
principle

T No. 5092 of 1994

IN THE MATTER OF an application by
the Minister administering the
Tasmanian State Service Act for
the making of an award

re Prison Service Enterprise
Award

COMMISSIONER IMLACH

HOBART, 5 August 1994
continued from 7/7/94

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER IMLACH: Any change in appearances, please? It doesn't look like it. Who is kicking off?

MR NIELSEN: Mr Commissioner, at the conclusion of our last hearing before you it was our intention to submit my association's rebuttals to the minister's advocate's submissions made to you earlier in these proceedings. Further, Mr Commissioner, as you may well remember, after nearly 4 or 5 months adjournment for the parties to confer in 1993, our report to you at that time was to receive a response from you that there 'was not one whit of agreement'.

Now, Mr Commissioner, today I am able to report that the parties to the special case have had several meetings where surprisingly we now have an agreed document setting out the issues that the parties have made to you with earlier submissions. Also, Mr Commissioner, this document has been presented and I wish to emphasise a combined meeting of the employees' organisations, that is the TPOA and the SPSFT, where an overwhelming majority accepted this document. Also, the TPOA secretary, Craig Hughes, has held meetings at Launceston and the Hayes Farm where again a big majority gave support.

Before asking the minister's advocate to present this agreed document to you, sir, I would like to place on record our association's appreciation for your patience and attention to our special case. Also, Mr Commissioner, I hope that some time in the not too distant future that a delegation representing the Commission and the parties to the prison or correctional officers award will make themselves available to carry out a visit, or inspections of other correctional institutions in other states of Australia and with that objective in mind to set up and establish a career training course for custodial officers in Tasmania.

Finally, Mr Commissioner, we will be pursuing the loaded rate with management to be introduced to - hopefully into the correctional services system and also giving further consideration with management to the classifications. That is our submissions to you this morning, Mr Commissioner.

COMMISSIONER IMLACH: Well thanks, Mr Nielsen. Can I just say now that I am delighted the parties have reached this agreement, especially starting from that base that you keep referring to, of not one whit of agreement.

MR NIELSEN: Yes, it's a long way.

COMMISSIONER IMLACH: Yes. Thanks, Mr Nielsen. Mr Willingham? - I'm sorry, has anyone else - Mr Grey?

MR GREY: Thanks, sir. I will take this opportunity of reiterating Mr Nielsen's remarks and thanking you for your patience and forbearance in this matter and for the constructive guidance that you have offered the parties, from the Bench, that has undoubtedly facilitated progress being made in the last few months. I think it has been most helpful.

COMMISSIONER IMLACH: Thank you, Mr Grey. Mr Willingham, after all that?

MR WILLINGHAM: You would not have missed out, those kind words, Commissioner.

COMMISSIONER IMLACH: No.

MR WILLINGHAM: May I hand up an amended version of the minister's application, T.5062, Mr Commissioner, which is the award the parties seek you to endorse.

COMMISSIONER IMLACH: Yes. What do you suggest, Mr Willingham? That we replace that or -

MR WILLINGHAM: I would seek it to stand, with the Commission's approval, the amended version of our application. So, I suppose the formal request would be, we seek leave to amend our application in T.5062 in accordance with the document that is now before you. It's on that basis, Mr Commissioner. Perhaps the easiest way of dealing with it is to have it stand in the place of the original application.

COMMISSIONER IMLACH: Yes. Any objection to that?

MR NIELSEN: No, Mr Commissioner.

COMMISSIONER IMLACH: No. Alright, we'd do that, Mr Willingham.

MR WILLINGHAM: Excuse me, Commissioner. I'm being assailed on all sides this morning.

Commissioner, there are going to be two versions of this document, some people are going to be fortunate enough to have the right one, and some haven't. Can I just be sure that the Commission, with the Commission's indulgence, that on page 4 of the document now before you that under the classification of Custodial Officer First Class, in the second paragraph, the second line should, I hope on the Commission's copy, read during the first five years of service.

COMMISSIONER IMLACH: Certainly, that appears on the second line of my copy, Mr Willingham.

MR WILLINGHAM: I have inadvertently picked up some of the unamended copies and distributed around. We will just do this piece by piece -

COMMISSIONER IMLACH: The limpid waters are being disturbed, Mr Willingham.

MR WILLINGHAM: On the third line, Mr Commissioner, the six that appears as the last word, should read five. If you could amend your copy accordingly. My instructions were to amend only one six.

Commissioner, the document in essence differs somewhat from the original that was submitted in the terms of our application and the major differences are that three clauses in the original document have been omitted and they are the loaded rate clause, the time off in lieu of overtime clause and the clause going to, what I will call double shift overtime provisions.

It is a matter of agreement between the parties that they will shortly discuss the double shift overtime provisions and the loaded rate and there is an expectation that those discussions will commence very shortly, as part of the prison services continuing restructuring and workplace reform discussions. My understanding is that those discussions are in train and are scheduled to commence as early as the middle of this month. So the expectation, Mr Commissioner, is that, with goodwill and a degree of good fortune, the parties may well be in a position to come before the Commission in the not too distant future with further agreed changes, which they would seek to have incorporated in the award which we hope the Commission will approve.

So, Commissioner, having allowed for the fact that those three clauses to which I earlier referred have been removed, the document now in front of you of course rearranges the remaining clauses to give them some sequence and I think I can say to the Commission, in fundamental terms, the only addition of significance is that in clause 8, commencing of page 5 and continuing through to page 6, salary rates have been included and I will go to those in a moment with the Commission. In the very last clause of the document, on page 10, there is a new clause entitled Wage Increases. Again, I will speak to the Commission on those in a moment if I may.

I think it is important to emphasise before I go any further, Mr Commissioner, the point that was already made so well to you by Mr Nielsen, that the document before you is agreed in its entirety. There are no outstanding areas of disagreement between the parties whatsoever, in any respect in relation to this proposed award.

The breakthrough, from what had been an impasse commented upon by the Commission as not one jot of agreement, was the ability of the parties to reach agreement in relation to a salaries package. The details of that package are, Mr Commissioner, that in total and over a period of time, which we will talk to in a moment, a 9% increase will be applied in the manner set out in the award. The first of those increases, subject to the Commission's endorsement, takes effect from the pay period commencing on 7 April of this year. It is in fact 4.1%.

On that note, Mr Commissioner, we will submit to you that given the total agreement of the parties to this package, given the provisions of section 37 of the Act, there are good and sufficient reasons for the Commission as constituted to endorse the retrospective element of that increase. The second part of the increase, Mr Commissioner, commences on the pay period beginning on 6 October of this year and that is similarly incorporated in the second column of rates, shown on pages 5 and 6 under Clause 8 Salaries.

If I could then take you to clause 17 on page 10, you will see that further salary increases are provided for to occur specified dates and in specified amounts and in total, with the 4.1%, the 1.5%, the 1%, the 1% and the 1.4% give you in the aggregate a total of 9%. So, the conditions under which these increases have been agreed, Mr Commissioner, apart from the variations in the timing and the quantum of increases, are essentially under the same conditions as apply under the State Service Wages Agreement. So I can be more detailed on that, that provides that for the life of the agreement which has been reached, no further increases will be pursued other than those which are provided for under the state service wages arrangements. That means, Mr Commissioner, essentially enterprise bargaining based negotiations which hopefully will lead to benefits to both the employer and the employee and in employee's case, may result if the productivity can be found, in further increases above those to which I have just referred.

Mr Commissioner, unless there are some questions in relation to the document before you, that you would wish me to address, I think I can conclude my comments on the question of the content of the award, at that point.

COMMISSIONER IMLACH: No. I think perhaps some points can be made after we hear about the contents in detail, Mr Willingham.

MR WILLINGHAM: Commissioner, one further point that I would raise is, that at clause 2 of the proposed award we have now inserted a date of effect, which is 7 April 1994 and that of course is consistent with the first column of scheduled wage rates appearing in clause 8. This has the effect, Commissioner, of giving retrospective effect to all of the

award. We have thought that through and we can see no difficulties arising from it.

The Commission has been kind enough to provide me with advanced notice that it believes there are some difficulties in the format of the proposed award, that is the arrangement of the clauses contained within the award. If it pleases the Commission, unless there are any other matters you wish to discuss, I would like to conclude my submissions by endeavouring to persuade the Commission to the point of view that has been adopted by the parties, but I didn't want to commence on that until perhaps we had exhausted any other matters you might wish to be addressed upon.

COMMISSIONER IMLACH: No, I did just want to kick off on the latter point that you have made, Mr Willingham, except one question which really is not related to what's before me today but I still think it has some relevance. What's your general expectation in this particular area, Mr Willingham, as to enterprise agreements?

MR WILLINGHAM: I'll be blunt, Mr Commissioner, because you take me to a point where I was just to come to. Can I start my response to your question by taking you to the front page of this document and you will see that the title proposed is Custodial Officers Award 1994, which significantly varies from the originally proposed Prison Service Enterprise Award 1994. The reason the title has been subsequently amended is that in all of the circumstances, in my view, and it was supported by my colleagues from the associations and the federation, as the award stands in its present form it could not be construed as an enterprise award in that, whilst I fully accept the prison service is an enterprise, the classifications and conditions contained in the award don't extend beyond one single occupational group within the enterprise. Therefore it was, in our view, premature to be referring to it and regarding it as an enterprise award.

However, what we have done, we believe, is provide the framework for the ultimate conversion of this award, if the parties choose to pursue it, into a genuine enterprise award under the provisions of the Act, as distinct from an enterprise agreement under Part IV(a) of the Act. It is the view of the parties that in the circumstances of the prison service an enterprise award is a more sensible and a more logical path to follow. It is on that basis, Mr Commissioner, that the award has been struck the way it has, which leads me to the remarks that I wish to make in relation to the format and the structure of the award.

COMMISSIONER IMLACH: Before you kick off on that, Mr Willingham, I just want to say that in relation to the format that I acknowledge I have already indicated to you, that I will need to be convinced that I ought to change from the

general format, shall we say, laid down by the Commission. Now, that's not to say that I don't think that the way it's put before me is not an efficient and good way of expressing an award, not at all. Generally speaking, as you and I presume everyone else is aware, the awards of the Commission do have rather strict parameters, particularly in the first 8 and then even down after that to the detail that the paragraphs thereafter are in alphabetical order.

These really are very small matters but the Commission has adopted this policy, shall we say, over the years and I think it comes down to the point that I don't think it is fitting for me to interfere with that arrangement. It is very much, as I see it, the tail wagging the dog. These arrangements were set up long before I appeared on the scene and there are good reasons for having the awards all the same in that regard. Consistency is one reason and there are others, which I must confess I don't know too much about, but that is my general attitude. So I am, I believe, able to be persuaded to some degree but not very much. For example, the terminology used within the clauses I think I am able to be persuaded much more than the numbers and headings themselves, which I know sounds a bit puerile or piddling, but I am just saying that I think it would be the tail wagging the dog if I start introducing an award that's completely different to all the others.

Now, that is the context in which you are putting submissions, Mr Willingham, but I am only too pleased to receive them.

MR WILLINGHAM: It's been a bad week for me, Mr Commissioner. I've been chasing boulders down hill all week and it looks like I'm doing it again and there's me out there defending the integrity of this Commission against invaders from across the big water and I can't even win one on my own turf, but let me endeavour to persuade you to our reasoning, Mr Commissioner.

COMMISSIONER IMLACH: Yes, right, Mr Willingham.

MR WILLINGHAM: And can I say, as a prelude to that, that if it pleases the Commission, the parties will provide a draft award - draft order - for the Commission which reflects the Commission's decision once that is known. We are happy to take that on and produce it at your early convenience, once your decision is known. I think that is sensible in any case for the parties just to confer on drafting, subject to your decision, particularly if your decision does not concur, for instance, with the arrangement on the formatting that we have.

COMMISSIONER IMLACH: Yes, alright. I think I have made it clear, Mr Willingham, it is not my desire to change the purport of the agreement, it is just really the format of the initial clauses and maybe I sound positively pusillanimous

mentioning the alphabetical order after clause 8 but nevertheless, that is what I feel I am lumbered with.

MR WILLINGHAM: Well, Commissioner, I know that you will forgive me if I speak freely as to the parties' views and I think I have agreement from my colleagues that the views that I express to you are as one, in terms of the parties' feelings on this matter. I understand, Commissioner, that the Commission has adopted a policy - whilst I don't understand it, I hear you say that the Commission has adopted a policy - in relation to the numbering and sequence of clauses, particularly the so-called standard clauses of 1 through to 8.

Mr Commissioner, I intend no criticism of yourself or indeed the Commission, but if the Commission adopts a policy in relation to standard formatting of its awards, then it should articulate that policy clearly to the users of the Commission so the users can be in no misunderstanding as to what the Commission's policy is. To the best of my belief, that has not been articulated to the users and I feel that I would be in a position to know, had that been done.

The second point I would make in relation to a policy that has been adopted by the Commission is, that in my judgement in matters of this kind it is not enough to have a policy and articulate it, I think the Commission - does not have an obligation but perhaps it has a moral obligation - to explain to the parties that it imposes this policy upon, why the policy is, if you like inviolate, why it is so important that the policy cannot be disturbed and to the best of my knowledge that has not been done either.

I say again, with great respect, that when parties come before the Commission in total agreement, and particularly in the circumstances of this case which has been prolonged and at times most contentious - that the parties can come before the Commission in total agreement with - one assumes from your comments, Mr Commissioner, the approval of the Commission, in my respectful submission, the Commission should not lightly disturb the agreement which has been reached, either to its content, its substance or its format.

The Commission, in my respectful submission, should have great regard and should place great weight on the wishes of the parties provided that the wishes of the parties reflected in the award before you do not violate the provisions of the Industrial Relations Act, and in my very strong submission they do not. If the content of the agreement does not violate the wage fixing principles, which is my strong submission it does not, and if the content of the agreement does not in any way offend the public interest, which it clearly does not. In fact if we take the reverse of those, if we say that the agreement before you is clearly within power under the terms of the Industrial Relations Act, it is within power under the

terms of the wage fixing principles and it is within power under the terms of the public interest, it is eminently to be recommended to the Commission that it would be in the best interests of the parties, which by extension is in the public interest, to adopt the format which is currently before the Commission.

Mr Commissioner, you referred in your remarks, and I again express my appreciation to you for giving me the thinking behind your comments as it enables me to respond more fully, you spoke about one of the reasons the Commission has its policy, is that of consistency. I understand that most, if not all, of the awards of the Commission have standard numbering. That's consistency in one form, but it must serve a purpose. Consistency for its own sake is not a virtue, in fact it can be the reverse. Consistency should attach to it good reason and logic and purpose. Furthermore, in my respectful submission, Mr Commissioner, if what is before you in terms of this award does not disturb purpose and logic and the operation of the award, or the administrative functionality of the Commission, then merely by virtue of consistency being disturbed, no harm is done.

We would submit, Mr Commissioner, that on the information available to us apart from disturbing consistency, no great moment will occur if the Commission, as constituted, was minded to adopt what we have before you. Nothing would happen. There would be no consequential effect. No-one would notice the difference, the parties would not be disadvantaged or inconvenienced. We submit very strongly that the Commission would not be disadvantaged or inconvenienced, nor would any other person who has a need, either regularly or irregularly be inconvenienced if the Commission was to adopt the format of this award. That is the real test as to whether consistency being disturbed is to be approved or be disapproved.

Mr Commissioner, you indicated yourself that there may be other reasons for the Commission's policy of which you aren't aware and I appreciate your candour and in a similar vein, I say, if I am not aware of the other reasons then obviously I can't comment upon them but you do make the point that you might be concerned that if you were to adopt the submissions of the parties, it would be akin to the tail wagging the dog. Well I say this, Commissioner, and I say it with absolute genuineness, this whole case is about tails wagging dogs. This whole case has been about that. No other case that is before this Commission in the 10 years of its existence has produced a result such as this, in circumstances such as this and in a format such as this. No other case in the public sector. So, it is already ground-breaking. It is already at the forefront of innovation.

Furthermore, Mr Commissioner, this is the first authentic attempt at rewriting and restructuring an award in accordance with modern industrial relations practice and in accordance with the wage fixing principles. It is undeniable that this is the first occasion where a major rewriting and restructuring of the award has taken place to this degree. That is not a reflection on any other party or indeed, it is not a reflection on the Commission, it is just a fact. So, there is a further element where something new has happened, something different is happening where reform has occurred in a tangible form. So what is it that we do - what is it that we do in the structure of the award. We say, Mr Commissioner, that if you have a look at the way the award is laid out, its format and its sequence and its logic, everything fits together.

The clauses are where they should be in obvious and proper logical sequence. There is no irrationality here. You start off with an index of contents, the most logical possible place for the index to be. The first clause is scope and it couldn't logically be any other first clause. The date of effect, supersession and savings, parties and persons bound and may I draw to your attention again, Mr Commissioner, for the first time in this Commission it is suggested to you that the persons and parties bound clause should contain interest. No other award of the Commission does that, let alone a public sector award. We go to clause 5 Definitions, the sequence is there, the logic is there. Clause 6 Qualifications, Clause 7 Ordinary Hours of Work, because ordinary hours of work is tied to the positions that are held and the rates of pay which are to be paid, and then rates of pay. We have structured the award so that at least the substantial clause, that is Clause 8 Salaries is consistent with all other awards of the Commission. Clause 9 Payment of Wages, where logically would payment of wages follow if not directly after the wages clause. Then you go to the other conditions that are attached to it.

Mr Commissioner, I hope that when you study the sequence and the order, if you were to start with a clean sheet of paper with no pre-installed policies about numbering and sequence of awards, you would find it very difficult to come up with an arrangement that had a more logical sequence than that which is before you.

Mr Commissioner, I've said all I need to. If I go further I will be repeating myself. I appreciate the opportunity, Mr Commissioner, to put those points to you but I strongly urge you to enter into the challenge as well as the spirit of reform which is so evident in the result of these applications before you.

Mr Commissioner, there is one final matter that I would like to speak with you about. Before the Commission, as otherwise

constituted, there was until recently - or there still is for that matter - an application by the Prison Officers Association which sought the safety net adjustment. Now, it is a condition of this agreement that that matter will not now be pursued, but one of the issues which arose from that matter was the question of paid rate awards and how they would be dealt with under the provisions of the arbitrated safety net wage fixing principle. It became clear in submissions before the Full Bench dealing with that matter that the structure of this award makes it very difficult to comply with the current requirements and guidelines of both this and the Australian Commission, in relation to paid rates awards.

It will be our intention, Mr Commissioner, over the next few months and in the discussions to which I referred right at the commencement of my submission to come up with an appropriate bench mark classification reference as provided for under the guidelines of both commissions, so that when this document comes back before you in its revised form to reflect the third of the increases provided for, we should be in a position to bring you back a paid rates award, which is in absolute conformity with the provisions of the Australian and Tasmanian Industrial Commissions guidelines.

If the Commission pleases, those are my submissions.

COMMISSIONER IMLACH: Yes. I thought for a minute there you were going to launch into some submission about why it should be made a paid rates now, Mr Willingham -

MR WILLINGHAM: It's unquestionably a paid rates award, Mr Commissioner, and I don't want to particularly pursue that point now because it is not of immediate relevance, but it might be in the future, and again in the spirit of reform, in the spirit of confronting the challenges which confront parties about making their awards relevant to today's circumstances, that question has to be addressed and it will be addressed and it will be brought back before the Commission in due course.

COMMISSIONER IMLACH: Yes, thank you Mr Willingham. Before you sit down - off the record please, Coral.

OFF THE RECORD

COMMISSIONER IMLACH: Just one or two points, Mr Willingham. Would you not agree that it is really a matter of almost opinion as to whether we have the index first, or the title first?

MR WILLINGHAM: Well, in our submission, Commissioner, the title is first and is self-evident from the cover page of the document.

COMMISSIONER IMLACH: Well, what do you say to the point that there has to be, shall we say, an official declaration at the start that this is the Prison Officers Award?

MR WILLINGHAM: Again, Commissioner, I refer you to the cover page, the title page if you wish, from which in my opinion, there can be no ambiguity, no doubt and no difficulty in understanding what the award is and even if that is not the case, the heading on page 2 clearly identifies what the award is. More importantly, the clause that we suggest as the first clause, Clause 1 Scope, identifies yet again the title of the award. So, we say you have a cover page, you have a title page which indicates to you not only what the name of the award is but its, that is the application numbers, its date, the imprimatur, the Tasmanian Industrial Commission. If you then turn the page and go to the index of contents, the first words are the Custodial Officers Award 1994. I don't see that as being pedantic, I just see it as being logical.

Can I say, Commissioner, I ask you to bear in mind the submissions I have put to you on those particular matters are common submissions of all of the parties. These are not just the submissions of the minister. I am hoping that that would carry even greater weight with you, Commissioner.

COMMISSIONER IMLACH: Yes. Well, you're leading, Mr Willingham.

MR WILLINGHAM: That's my designated task, Mr Commissioner.

COMMISSIONER IMLACH: Oh. Now, also, what is the difference between the term, date of effect, and date of operation?

MR WILLINGHAM: The reason I had - it was remiss of me, I had intended to explain that on a previous occasion and must have omitted to. The reason date of effect is used is because that is what is used in the Act. If you have a look at Section 37 of the Act, it is that section which determines and identifies whether an award comes into effect and the words used are, an award shall have effect from the date that it is signed by the Commission. So, we have merely taken the words of the existing Act so there can be no misunderstanding that they are the same thing. It is not any more complicated than that. We have simply used the words of the Act.

COMMISSIONER IMLACH: Thank you for that, Mr Willingham. Now, just to keep my own end up, shall we say, in the phalanx that is before me of agreement -

MR WILLINGHAM: What a wonderful expression, Mr Commissioner, if you don't mind me saying so.

COMMISSIONER IMLACH: You might be thinking of something else, Mr Willingham.

MR WILLINGHAM: I was very close to it at one stage there. I let it pass quickly.

COMMISSIONER IMLACH: It helps to have a pure mind.

MR WILLINGHAM: Yes. Well, it's no help to me because I don't, Commissioner.

COMMISSIONER IMLACH: Remember what Sir Galahad said. Anyway, I just want to make the point, as I say, to keep my end up in this context, that - yes, I see what you mean - I did say that I was inclined to stick to the numbers and the headings but I felt there was more scope in the area of the terminology under those headings to agree with what the parties have put before me and I just acknowledge that, or point that out as to the parties and persons bound. Without prejudice to the end result, I couldn't agree more with what you say about that, but still without prejudice to the result.

MR WILLINGHAM: Thank you, Commissioner.

COMMISSIONER IMLACH: Now, I think I have covered it enough.

MR WILLINGHAM: Again, I really do appreciate the opportunity you have given us to endeavour to persuade you to our points of view, Commissioner. Thank you.

COMMISSIONER IMLACH: Now, is someone else going to tell me why they think this initial stage is a good thing, as put forward by Mr Willingham, or do you all agree with what he has said? I am talking about clauses 1 to 8 and what I have indicated that I am inclined to do.

MR HUGHES: Mr Commissioner, in support with what the minister's advocate has said, the award that is before you to replace the current Prison Officers Award is one that all members of my association have read and agreed on and the overwhelming majority of them have reported back that this would have to be the easiest award it ever had to read, in terms of language and of lay out, and if the Commission felt bound to adjust the award so that it fitted in with everybody else we would be extremely disappointed by that, although we acknowledge it is the right of the Commission to do so. Given the document is an agreed document from all parties we would take it that you would bear in mind how it got to you, whilst you are deliberating over whether you are going to change it or not.

The overwhelming majority of members have voted for it in its current format, not only for the content but for the format, and I think that should perhaps, with respect, weigh heavily on your mind when it comes to thinking about whether it should be changed or not. Thank you.

COMMISSIONER IMLACH: Thank you, Mr Wright. Mr Grey?

MR GREY: I can't match the eloquence of the previous applicants but I would really like to take up just one point that Mr Willingham made and that is regarding this being a ground breaking resolution to a longstanding problem and that this is more likely to occur in the future and we're entering this brave new world - whether it will be brave is yet to be seen but the whole purpose of enterprise agreements and coming to more flexible arrangements is to allow the parties to develop conditions of employment and salaries more conducive to the operations of a particular work place and the workplace will be defined by the parties themselves.

I have no doubt that the arrangements that are formally endorsed and put into place following that, will also be more varied and more flexible and if that is what suits the parties concerned and that is, I believe, the thrust of these new industrial relations procedures, I believe that is what is appropriate. So, I'm reinforcing Mr Willingham's previous comments and certainly those of Mr Hughes. Our members have also made similar comments, that this is easy, it is in readily understandable language and it belongs to them.

COMMISSIONER IMLACH: Thanks, Mr Grey. Anything else?

MR WILLINGHAM: Yes, Commissioner, if I might - my final comments on this long running matter. It's been a very, very long, difficult and frustrating exercise, Commissioner, and from my perspective can I extend my appreciation to the tolerance and the patience that you have exercised, not only to me personally but to my colleagues and the way we have manoeuvred ourselves in and out of trouble and in and out of compromising and sometimes promising and sometimes devastating positions, but we finally got here today in the form that we have.

It would be very remiss of me if I didn't express my appreciation to you, sir. Finally, I express my appreciation to my colleagues, particularly Mr Nielsen, particularly Mr Hughes, particularly Mr Grey and they have done a fine job, they have done a professional job, a very professional job. They've never ever forgotten for one moment what they are there for and I appreciate that. If the Commission pleases.

COMMISSIONER IMLACH: Yes. Thanks, Mr Willingham. I think I referred to you as 'Mr Wright', did I Mr Hughes?

MR HUGHES: I think you were wrong, sir.

COMMISSIONER IMLACH: Shall we say no more about it then. I'm sorry about that. I appreciate the remarks of the parties and I am very pleased to be able to say now that apart from this minor matter, in some degree, but I understand the submissions that have been put to me, they have been put very well and they do weigh heavily upon me, I'll say that. Apart from that technical problem, I am pleased to say that I will be endorsing the agreement and the award in every respect, including retrospectivity of course. I congratulate the parties on reaching the agreement that they have and without taking away anything from the government, the minister - after all the government is a provider in these matters - without taking away from that and I don't want to say any more about it, except that I think the prison officers in reaching this agreement with the government have acted wisely and shrewdly.

Is there anything else?

Thank you, gentlemen. I declare the hearing closed.

HEARING CONCLUDED