

**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 Tasmanian Meat Industry Award

COMMISSIONER WATLING

HOBART, 2 March 1995  
continued from 7/2/95

**TRANSCRIPT OF PROCEEDINGS**

Unedited

COMMISSIONER WATLING: I'll take appearances please.

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

COMMISSIONER WATLING: Thank you.

5 **MR G. COOPER:** If the commission pleases, I appear on behalf of The AWU-FIME Amalgamated Union, Tasmania Branch, COOPER G.

COMMISSIONER WATLING: Thank you.

**MR M.D. FLYNN:** FLYNN, MICHAEL DENIS, for the Meat and Allied Trades Federation of Australia, Tasmanian Division, commissioner.

COMMISSIONER WATLING: Good.

10 **MR P.E. TARGETT:** Thank you, commissioner. TARGETT P.E. from the Tasmanian Chamber of Commerce and Industry.

COMMISSIONER WATLING: Good, thank you. Well this is an application for the making of a new award. Who shall I look to, to start the submissions?

MR SWALLOW: We've got a title and scope that we'd like agreement to.

15 COMMISSIONER WATLING: Mark this exhibit S.1. Is there any submission as to why we want the new award?

MR COOPER: Mr Commissioner, if I may.

COMMISSIONER WATLING: Okay, Mr Cooper?

20 MR COOPER: Commissioner, if I may, in respect to the exhibit S.1 that has been presented by Mr Swallow, as you are aware we were parties to the original proceedings in this matter and we've been subsequently involved at great length with the meat workers to discuss this.

25 The object is that there are currently - if this scope is acceptable to the parties, there are currently three awards that regulate the meat industry, in a generic term, in the State of Tasmania. And they are the Abattoirs Award, the Meat Trades Award and the Poultry Game Products Processing Awards. What this application seeks to do is it seeks to have those three awards covered under the banner of one award, the Meat Industry Award.

30 In respect to that, sir, you've had extensive discussions, both in conference, in hearings and between the parties to reach agreement on the extent of the scope.

COMMISSIONER WATLING: Yes, the only thing I would say though that - I've mentioned it before - that the Poultry and Game Award is not within my purview and I only hope that you've had discussions with other members of the commission about this.

35 MR COOPER: Sir, I take that on notice, sir. I -

COMMISSIONER WATLING: Well it's been raised before.

MR COOPER: I understand that, sir. I understand it has and I haven't had the opportunity to do that personally no.

COMMISSIONER WATLING: And what happens if I make the award in relation to that which you want and then the other award isn't rescinded as an award of the commission?

MR COOPER: So you're saying, sir, that I should seek agreement from that commissioner.

COMMISSIONER WATLING: Well I'm just saying common courtesy might prevail at least in informing the commissioner whose portfolio it is that you're looking at doing this. Because what should I do? Say, I go ahead and make the new award and then the other member of the commission says: Well look, I don't agree with the rescinding of that award.

MR COOPER: Well, sir, if we could just have a brief moment off record rather than debate that with you on record. I'm prepared to do that, but I think it might be better if I didn't.

COMMISSIONER WATLING: Right. We'll go off the record.

#### **OFF THE RECORD**

COMMISSIONER WATLING: Mr Cooper, I understand you want to make an amendment to exhibit S.1?

MR COOPER: Sir, if I may, with respect to that brief adjournment, thank you for that under conference. There are two issues that need to be addressed in respect to that, and that is that the correct name of the acts that are named in that scope does have to be provided to the commission. We undertake to do that before close of business today, and provide a fresh draft in respect to that with the proper names of those acts.

We also seek to add the words, at the bottom of that scope, that read: Provided that until the making of this award has been finalised in respect to the rates and pay and conditions of employment or until this proviso has been deleted, the following awards shall apply in all respects: the Meat Trades Award, the Abattoirs Award and the Poultry Game Products Processing Award. So if we could add those words to that exhibit, and again we'll provide a clean exhibit at the conclusion of these proceedings and before the end of business today that reflects those changes.

So having said that, sir, coming back to where I was in respect to the submissions, as I said, my union and Mr Swallow's union have conferred on this issue. We are in agreement that the making of a single industry award is a logical conclusion to reach after considering the regulation of that industry by three awards. We believe it is an efficient exercise. It will result in the industry being regulated by one award rather than a number of awards. There are some benefits in that too in terms of both our unions, and we have, as I said to you before, sir, reached agreement on that which obviously will be discussed at later proceedings in respect to the award, should we be successful in making a new award in title and scope.

Sir, all that being said, we would seek from the commission an operative date subject to us providing a satisfactory draft, being the date of your decision if you were in favour of agreeing to this application. And further to that, sir, we think that it is, having explained to you the reasons behind - the rationale behind the making of the award, both in the public interest and the desirous to do such a thing. If the commission pleases.

COMMISSIONER WATLING: Is this part of the structural efficiency program for these three awards?



MR COOPER: If I can touch on that, sir. In respect to the structural efficiency program, that hasn't had a great deal of attention paid to it in respect to these awards and this process would, in fact, bring to conclusion - or start that process and bring it to conclusion with the time frame, as it will be agreed between the parties.

- 5 The structural efficiency exercise, as it relates to all three award, and that would include also standardising the hours and including the facilitative provisions that are required and the minimum rates adjustment and any increases that are available under the wage cases also, sir, in respect to that.

10 COMMISSIONER WATLING: Good. And it's your intention to look at minimum rates adjustments for these new awards?

MR COOPER: It is, sir, yes.

COMMISSIONER WATLING: Right. Any further submissions? Mr Targett?

- 15 MR TARGETT: Thank you, commissioner. Before I make any submissions, I would like to address a couple of points in exhibit S.1, commencing with the words - the line, or dot point, commencing with the words 'processing of meat'. I believe it should read 'meat products', not 'meat produce'. It's not my exhibit so I guess I can't request that the exhibit be altered, but I merely raise that which perhaps needs to be addressed by the union or by Mr Swallow at some stage during the proceedings.

- 20 The second point I would seek to make, commissioner, is in the last dot point of this particular exhibit. The last discussions that took place between the parties over this particular proposed scope was at the last conference before you, and as I recall and my notes advise me, we did in fact change that last dot point to some degree.

COMMISSIONER WATLING: I agree with that. And that's exactly what my notes tell me too.

- 25 MR TARGETT: And it hasn't been reflected in exhibit S.1. As I understand the alteration, commissioner, the words 'including the retailing of meat' were to be deleted and a repositioning of the words so that it would read from the beginning 'Retailing of meat, meat products, game meats, poultry and pet food (where it is prepared and packed for sale on the premises).'

- 30 As my notes tell me anyway, commissioner, that was the -

COMMISSIONER WATLING: Well I'd have to say my notes tell me exactly the same. I've got it here in front of me in my own handwriting.

- 35 MR TARGETT: Having raised - and as I say, it isn't my exhibit so I raise it for the unions to address in their - perhaps in their comments in reply. I would merely raise those for the attention of the commission.

- 40 Commissioner, in relation to the proposal of the AMIEU and The AWU-FIME Amalgamated Union, the position of the TCCI is that whilst we do have some concerns in relation to the incorporation into the Meat Industry Award of the poultry and game aspects of the supposed industry, that is being encapsulated by this proposed award. And also we have some concerns, which have already been expressed by the commission, in relation to what happens to the award that is currently in existence and how, if it is successful, any transition occurs. We do not oppose the making of the award in the terms that have been sought by the unions.

- 45 Subject to the two issues that I have raised in relation to exhibit S.1, and that is in the alteration of 'processing of meats' dot point and the alterations to the final dot point,



and we also have no objections to the incorporation of the proviso that has been read into transcript by Mr Cooper, referring the employers who would be subject to this award back to the Meat Trades, Abattoirs and Poultry and Game Products Processing Awards until such time as the Meat Industry Award is brought to finality.

5 So on that basis, commissioner, we do not oppose the making of the award in the terms sought subject to the comments I've made in relation to their proposal. If the unions are not prepared to make the alterations that I've raised, I believe we would then have some difficulties not with what is contained, but the words that are being used.

10 Having said that, commissioner, the final point I would make is that the lack of opposition by the TCCI to the making of this award in these terms, is on the basis that - putting aside the poultry and game aspects, that it is a combination of two existing awards and we do not seek to use this forum to debate issues of whether certain segments of an industry or whether certain segments of business belong within this  
15 industry at this time. Obviously if that issue is to be debated it would be debated in isolation subject to a specific application, which would, if it is pursued, be taken at another time.

But we do not oppose the making, subject to the comments I've made.

20 COMMISSIONER WATLING: Good. What would happen if the Poultry and Game Award wasn't repealed at a later stage?

MR TARGETT: I believe in fact, commissioner, that we would have a ludicrous situation of two awards applying to the same employer because neither award has an exclusion to say which award would apply in any specific circumstances. In the normal course of events and in - what I believe to be proper processes in this sort of  
25 restructuring of awards, I would have believed that the correct process was for the union or unions to have made an application in respect to the Poultry and Game Products Processing Award for it to be rescinded at a similar time as this award would apply to those employers through its completion. And the matters to be sought to be joined with the agreement of the commission. But unless that is done I believe we do  
30 end up with a ludicrous situation of both awards potentially applying to the same employer.

COMMISSIONER WATLING: So do you think that I should, after hearing submissions today, wait to see the outcome of an application in relation to that matter?

35 MR TARGETT: If we looked at the technicalities of the process, commissioner, in fact - and I don't seek to hold up the process that is being sought by Mr Swallow, which is why I'm not opposing his application, but if we looked at the technicalities of the process I believe in fact the commission would be technically unable to make the award in its final form until such time as a rescission application is made and heard,  
40 preferably jointly with this particular application. But I don't seek to hold up the process that has been commenced by Mr Swallow.

COMMISSIONER WATLING: No, I understand that. I'm just trying to think out loud too because it's a unique situation where we've got -

45 MR TARGETT: Commissioner, I would make the comment that if I were in the position of either the AWU - probably the AWU-FIME is the appropriate union because Mr Swallow, I don't think, is a party to the Poultry Award, but if I was in the shoes of the AWU-FIME in fact I'd be lodging an application with the commission this afternoon to rescind the Poultry and Game Products Processing Award and at the same time requesting the president refer it to you so that it may be joined with this application.

Luckily I don't have the difficulty of contending with the internal politics of the commission, of course.

COMMISSIONER WATLING: There's no politics in the commission whatsoever.

MR TARGETT: Right.

5 COMMISSIONER WATLING: Just that the president every so many years gives members the commission certain panels. It's not a political thing.

MR TARGETT: Well I'll rephrase the comment, commissioner. I don't intend to be involved in the way the panels are allocated between commissioners and who is -

10 COMMISSIONER WATLING: Neither do I because the act quite clearly says the president has that job.

MR TARGETT: - but I would suggest that if I was doing it, I would attach to the application a letter requesting that the president refer it to you to be joined to this application to expedite the processes that are being sought by the commission.

COMMISSIONER WATLING: Right. Mr Flynn?

15 MR FLYNN: Commissioner, the Meat and Allied Trades Federation has no opposition to Mr Swallow's application, given the amendments that have been made to the document - the suggested amendments by Mr Targett. Given those go forward I believe that we would support the application.

COMMISSIONER WATLING: Right. Further submissions?

20 MR COOPER: Sir, if I may, with respect to exhibit S.1, in terms of those comments that were made by Mr Targett, he's quite right. That those words should have been deleted on the first line and the words on the second line and third line should have been included at the end, exactly as he has spelled out to you. So it would read  
25 `retailing of meat, meat products, game meats, poultry and pet food where it is prepared and packed for sale on the premises'. That is exactly correct.

In the third - fourth dot point that is - it should be `meat products' and not `meat produce'. We accept that change and we will reflect that change in the tidied up exhibit that will be presented at the conclusion of proceedings.

30 If I may, sir, in respect to the comments made about an application to rescind Poultry Game Products Processing Award, in respect to an application I accept the comments that were made, that that would at least give one commission member the whole of the dice, if you like, in terms of the process. In respect to the Meat Trades and Abattoirs Awards, I'm sure whether application has been made to rescind those at this point in time. And I don't know whether the process should be one where an application is  
35 made to rescind the Poultry Game Products Processing Award and then have that matter sit until the awards are tidied up, but I do accept there does need to be immediate steps taken by my union, in any respect, to have that Poultry Game Products Processing Award rescission part of this application dealt with so that at least we know where we are going with that. Because it would be our intention to  
40 simultaneously, on the completion of this award, have all those other awards rescinded. It would be ludicrous to have four awards dealing with the same industry, and that would lead to confusion. And in fact it would be - I think I'd have to agree with Mr Targett, very difficult for the commission to proceed on that basis.



In previous applications where we've made new awards as part of restructuring process, what has happened is, as the award has been made we have concluded that proceeding and commenced another one pretty well straightaway that tidies it up.

5 COMMISSIONER WATLING: I suppose in other areas too we've had the benefit of having one member of the commission dealing with all the awards that were either being rescinded or talking about being rescinded.

10 MR COOPER: That's correct, sir. The way the hand is dealt to commissioners in respect to the panels, fortunately that was the case when we restructured a large number of other awards as part of a process where those awards were rescinded and made and modified, it was under one commissioner. That's correct, so I undertake to follow that process through because we also don't want to impede Mr Swallow's application to make an industry award, a true industry award and we would advise the commission of that on record and take steps immediately at the conclusion of these proceedings to ensure that that process is an orderly one and is brought about.

15 Now having said that though, sir, I think your comments, both on the record and in conference, are prudent that you would have to know the outcome of that process before you could make an award, because it would be foolish for you to make an award with a scope that covered one award that another member would not agree to rescind. I think we need to get that answer fairly quickly. And again I don't want to impede or  
20 delay Mr Swallow's application, but it's something that I hadn't dealt with prior to these proceedings, and I think it's something that should be dealt with rather quickly.

If the commission pleases.

COMMISSIONER WATLING: Good, thank you. We might just go off the record for a moment.

25 **OFF THE RECORD**

COMMISSIONER WATLING: Right, no further submissions. Well I reserve my decision on this matter and I'll hand down a written decision in due course. Thank you.

**HEARING CONCLUDED**