

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. Nos 4258 and 4259 of 1993

IN THE MATTER OF applications by
the Australasian Meat Industry
Employees Union, Tasmanian Branch
to vary the Meat Trades Award and
the Abattoirs Award

re export and local boning and
slicing tallies

COMMISSIONER GOZZI

HOBART, 14 October 1993
continued from 5/8/93

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER GOZZI: Any changes in appearances in those matters?

MR T. EDWARDS: If it please the commission, I have appearing with me today, **MR O. JAK.**

COMMISSIONER GOZZI: Thank you, Mr Edwards.

These particular applications have been the subject of earlier hearing; is there anything further, Mr Swallow, that you would want to add? I'd just indicate to you that we did adjourn on the last occasion on the basis of there were a number of outstanding issues that you were going to consider and make some comment on at the next opportunity in respect to these particular claims.

MR SWALLOW: I think there was - I think that there was some mention of the word 'six' commissioner. I - I said I wouldn't take very long when we last met and - and really I think it's gone on long enough. I think - I think to summarise the union's position is - it's just simply this: I - I can just imagine the argument that the employers are going to put up against it on behalf of Blue Ribbon and Longford, and that argument will be that it's outside the guidelines of the wage fixing principles. I think that's in a nutshell. And I - I could go on here for hours, possibly days, and I could put on transcript things that I wanted to repeat in 12 months or 2 years time, but I'm not made of that sort of gear.

COMMISSIONER GOZZI: I know what you mean.

MR SWALLOW: I - I just sort of - I like to put the union case and I don't want any help from anyone because the masters of my destiny are the members of this union and if you've got bosses' stooges running around saying that, you know, we don't want tallies and we - we're and this gets relayed around the scene, all I have ever done is represent a view of a half plus one majority of the union's members, so that means if 49 are against what I put, it's stiff luck and I only just say that because a lot people tend to forget because I've been around a long, long, long time. A lot of people say it's too long. You see? And the reason why they say it's too long - because I don't have to depend on transcript what's said, last year, the year before, 20 years ago and all this sort of stuff to put my case because really I'm - I'm just an old amateur, I'm not a professional - I never want to be really. All I want to do is to put the union members' view and I do that at all times without fear or favour. To do otherwise I might as well not be here.

And I think that's why I've been around for such a long time. And in fact I'd just say - I'll just put a feather in my cap - there wouldn't be one person in Tasmania or perhaps Australia at this present time that knows as much about the meat

industry as what I do.

So I just - I just simply say this: there's no tally in the award; there should be a tally in the award; they system in its present stage is - is crippling young people and they've got to get out at a relatively early age because of the system.

Now all the union claim is this and it's well within the wage fixing principles - and it's this: there's a wage for a boner, there's a wage for a slicer - now all that's necessary for this commission to do is equate - equate. So you equate back into the weekly wage what the amount per carcass or quarter is, and you'll see that in one of my exhibits.

COMMISSIONER GOZZI: Yes, I'm just looking it up now - I remember - I remember that.

MR SWALLOW: Yes. Now - now that's well within the wage fixing principles, because all I'm asking really is for the commission to determine what that actually is - and that's it. In other words, if the weekly wage for a boner and slicer was more obviously you could look at another argument, but because it's so low by comparison to - to other states for example, and that's all the union is asking to do. And the question was asked, what about the overs? Now if anyone wants to argue the point about over tallies - I don't know whether it comes from yourself or it might have come from someone - but it's - it's - without reading the transcript I noted, and that was, what about when they do over the tally? But that's another argument, surely.

That's another argument that should not come into the tally question, and all the union is attempting to do is equate the reality to put in the award the reality of that weekly wage, and no-one, not one person, could say otherwise, that if you've got \$375 and you - you do your mathematical calculations and it comes to 380 sheep for the week, that is the tally. That is what is determined a reasonable day's work over a 5-day period - no question about it.

And that is well within the wage fixing principles. The argument comes about the over tallies and this is where the employer, especially Mr Jak, says, oh he says, he's been talking to his boners and they don't like this sort of thing the union is putting up because the answer to the question is, it doesn't cost the employer anything. If you got - if the reasonable wage is \$375 and it's to do 380 sheep, it does not cost the employer anything, not one cent in over tally if he doesn't want to. He just puts on another boner or he puts another slicer; he puts on another five boners, and that's where Mr Jak comes in 'Oh', he said, 'you're not representing' - in fact Mr Edwards has said - you know, he's been talking to my members and they don't you know

that's no good.

But the - I represent the membership, not Mr Edwards or Mr Jak. See? So as far as over tally goes, that's another argument, because it will not cost Blue Ribbon or Gilbertson's one solitary cent. So it's well within the wage fixing principle. And the current system is crippling our people and in fact at Blue Ribbon - I have to mention this again - the - the eight boners there - I've got some statistics - and people have got a - the average age for boners is around about 28 - he - at Killafaddy, I suppose, is the best argument - every one of them has broken down at one stage or the other. One particular boner worked there 4.1/2 years and has been 2 years on workers' compensation - 2 years on workers' compensation - and I suppose the average age - the average wage would be in the vicinity of nine - 850 - \$900.

So in other words, the company has paid out double the salary for the amount of work that they got.

COMMISSIONER GOZZI: That's because of the -

MR SWALLOW: - The cut -

COMMISSIONER GOZZI: - over tally -

MR SWALLOW: - throat system -

COMMISSIONER GOZZI: Yes.

MR SWALLOW: - that - the over tally system.

COMMISSIONER GOZZI: Mm.

MR SWALLOW: The cut throat system. And what the union has attempted to do over the years is to - is to get to a reasonable - and I - I just emphasise - a reasonable amount. We've done it in the slaughtering section at Killafaddy and everyone is quite happy there now. We just attempt to get a reasonable system. There's been some changes in management there, because for a dozen or so reasons, but one of them was that they just could not accept that the reason why the major source of the problem - the major source of their workers' compensation insurance - was because of these - the company policy in relation to the amount that's required. Not only - not only that they do it, but on a Saturday, for example, they - they'd say if you don't come in, you know, when things get a bit slack you'll be on the hit list and all of this sort of stuff. And it's quite rightly so, you'll say it's hearsay, but it's not hearsay for me since - since 14 years of age going into the meat industry and I'm 58 now - not hearsay for me. It's reality.

And I think at least there should be a tally and I The

reason why there's no tally there, at least around about before my time - and that's 27 years - but before my time there was a tally there and the boners decided that there shouldn't be a tally - ironically - the history of it's that. Unbelievable, but it's right. So if anyone would like to go into it and dig a bit of history up, I thought I'd better tell you, rather than tell you a lamb's fry. Mr Jak would probably be one of them. At the time be - be a good union member Mr Jak. And to all intents and purposes he might have been one of the ones that voted that the tallies go. But - so that's the history of it. There used to be a tally. It was - it was quite good, then the boners obviously wanted to earn more money and so they said the only way you can earn more money is give away the tally, so they give away the tally.

The current position is, it's stood the test of time, it's failed, and all the union's attempting to do is to put in fact what is in the award into reality.

And I suppose at the end of the day I'd just love to see a - a boner or piece worker or a slaughterman or a slicer or whatever come into this industry and be able to work in it and retire when he's 65 years of age rather than have to get out at 38 and 42 and 45 and they've got all of that life that they really don't know what to do because to be a good boner or - sorry, to be a good piece worker you've got to get into the industry at a relatively young age and then to get thrown on the scrap heap I think it's a crying shame and it should be stopped.

And really that's - that's the union's case, commissioner. All I ask, that the commission is put into - put into the award what in fact is reality and if it comes an argument about over tallies well most certainly I can accommodate that.

COMMISSIONER GOZZI: Mm.

MR SWALLOW: Because there's lots of areas there - there's lots of areas there that can be accommodated in that sort of an argument that I can most certainly put forward my views on that. And in fact the two major companies have already - a fair bit - when I say a fair bit, I mean a long way from - from agreement, but I - I really believe that the - the two major - the two major players in the - in the argument are at long last starting to accept the reality that impact is in place should go because it's not much use looking forward to the next financial year at a million dollars workers' compensation premiums for one of the major players or the other because if one of the major players are in a position that they adopt these sorts of procedures what I'm saying, and the other one doesn't, it just means that - obviously simple mathematical terms, it just means that they're saying, 'Well, look, I'll just have to make up an

extra million over and above the other to pay for my workers' compensation premiums'.

COMMISSIONER GOZZI: Whereabouts - where else does it apply, boning and slicing, apart from Longford and Killafaddy? There would be a few other places around.

MR SWALLOW: Oh, it'd just - well I suppose the next biggest would be John Brown at Devonport.

COMMISSIONER GOZZI: Yes.

MR: King Island.

MR SWALLOW: Pardon?

MR: King Island.

MR SWALLOW: And King Island - but I take that as Gilbertsons.

COMMISSIONER GOZZI: Yes.

MR SWALLOW: Is it or not?

MR: Oh, yes.

MR SWALLOW: Right. Fine. When I say 'the two major players', I mean Gilbertsons. It's King Island.

COMMISSIONER GOZZI: And Gilbertsons and Blue Ribbon.

MR SWALLOW: Yes. And -

COMMISSIONER GOZZI: What about the slaughter works down the Huon and that? Do they do boning and slicing?

MR SWALLOW: Oh -

COMMISSIONER GOZZI: I don't think so, do they?

MR SWALLOW: - I'm - whatever they do, they probably do and slip a bit into Hobart in the smallgoods and all that.

COMMISSIONER GOZZI: Yes, but essentially we're talking about -

MR SWALLOW: But - yes, I'm just talking about really the exporters - probably that's the argument, the export argument, if you like -

COMMISSIONER GOZZI: Yes.

MR SWALLOW: - and there's a big difference with export and local I suppose. You argue that, but I believe I'd lose - the difference between export and local because special circumstances are required there from time to time.

COMMISSIONER GOZZI: For the export, yes.

MR SWALLOW: But the answer to your question is John Brown. I was talking to him on - last Tuesday. It wasn't anything to do with this, but he tells me that he's going to get into it a bit more. He's looking for a few slaughtermen and asked to have a look about and see if anyone is about. In fact he want's to put on - he mentioned half a dozen trainees, so we're looking at that too and the other one, I suppose - the next biggest would be Bridgewater Abattoir.

COMMISSIONER GOZZI: Yes, forgot about Bridgewater.

MR SWALLOW: But very limited and all the other boning and slicing is done into smallgoods factories at day work rates plus over-award payments.

COMMISSIONER GOZZI: Yes.

MR SWALLOW: You know, for example - don't hold me to this figure, but we just say the boner's rate is \$375.00 a week and you're pork boning at - where most of it's done there at Killafaddy, I'd say it's \$420.00 they get paid, so what's that, \$35.00 over-award and the whole pork -

COMMISSIONER GOZZI: \$420.00.

MR SWALLOW: - the whole pork boning area is paid \$420.00 rather than

COMMISSIONER GOZZI: \$45.00.

MR SWALLOW: Yes, yes.

COMMISSIONER GOZZI: So, Mr Swallow, the effect of what you're proposing is in fact in using AMIEU.4 - Exhibit AMIEU.4 - would effectively reduce Division B tallies - that's on page 71 of the award - down to the figures you've got in Exhibit AMIEU.4 - \$381.72.5 for cattle and so on -

MR SWALLOW: Yes.

COMMISSIONER GOZZI: - whereas currently they have 400 for sheep; 80 for cattle -

MR SWALLOW: Yes, yes, yes.

COMMISSIONER GOZZI: - based on dividing the rate of 98.26 into \$374.30 and \$348.20. That gives you the number.

MR SWALLOW: Yes. And that discloses, commissioner, that discloses something that I've been saying here for years, that it's quite obvious that that boner's rate is nowhere near enough for what's required of him.

COMMISSIONER GOZZI: Now, those boning and slicing tallies in the award at the moment on page 71, you've worked out those figures - those tallies - revised tallies of 381.72.5 et cetera, by using the export rate -

MR SWALLOW: Yes.

COMMISSIONER GOZZI: - the boner's export rate. Where would the local - other boner's rate apply?

MR SWALLOW: Well my argument is that - that basically you could - you could argue - if John Brown was - and obviously if John Brown hasn't got an argument about what's - what the case is about, but I just mentioned the local on the basis that if the employers wanted to argue a case against local as against export, that's the only reason I mentioned that.

COMMISSIONER GOZZI: So you could have a local tally and an export tally -

MR SWALLOW: Yes, because -

COMMISSIONER GOZZI: - based on the same principle.

MR SWALLOW: Yes, yes. But - and obviously there's no argument.

COMMISSIONER GOZZI: So you're really arguing, aren't you, for - the effect is really to -

MR SWALLOW: To equate -

COMMISSIONER GOZZI: - the piecework -

MR SWALLOW: - the reality.

COMMISSIONER GOZZI: - to really limit the piecework to tallies based on the weekly wage pay to boners and slicers.

MR SWALLOW: Yes, yes.

COMMISSIONER GOZZI: Right.

MR SWALLOW: And you see the argument - the obvious - the argument's the obvious that - if you take slaughtering for example, they've got an 80 tally - what's that - five eights are forty four - four hundred a week, right?

COMMISSIONER GOZZI: Yes.

MR SWALLOW: Right.

COMMISSIONER GOZZI: Well cattle - are you talking about sheep?

MR SWALLOW: Sheep - just -

COMMISSIONER GOZZI: Yes, 400.

MR SWALLOW: - that's it's the same argument -

COMMISSIONER GOZZI: All right.

MR SWALLOW: - basically.

COMMISSIONER GOZZI: Yes.

MR SWALLOW: So you've got Now the employer, if he doesn't want to incur anymore costs, he does the 400 a week and a lot of them do - a lot of them do. When there's more to be done, it really - if - I don't want to tell Mr Jak how to run his work, but if there's anymore to be done, obviously there's another dividend to be paid.

COMMISSIONER GOZZI: Yes.

MR SWALLOW: And that could be picked up along the way rather than out of the employer's pocket. In other words, let's just say - if we just take - we'll say 6 months of the year, it's a - there's a tally situation and that's all our people are required to do, a tally situation.

COMMISSIONER GOZZI: Yes.

MR SWALLOW: In the summer time when lots of livestock are about, say, in droughts and all that sort of stuff, they might require them to do 50 over tally and that's where that other argument that I mentioned comes up and I can accommodate that sort of an argument - in fact I could run another case on that straight away - but that's not the argument, the over tally argument. That's not my argument today.

COMMISSIONER GOZZI: No, I understand that.

MR SWALLOW: Right. So you get to a position where we all know - it's probably world wide - that when there's a lot of stock about in the market place the prices go down, so in other words, if we just say, for example, that they pay the employers over the first 6 months pay \$10.00 a head for their sheep. When the livestock come on because of seasonal conditions they just pay \$9.50 for it and of course what that

does - it doesn't cost the employer one red cent and it gives the people that I represent a break because they all know immediately that you've got to work when the cattle is about, but when you've got a system that puts you out of business when you're 40 years of age or younger, well there's something drastically wrong. All it really is is a bit of management by the meat works operators. Really, that's what it all comes down to. You know, you can't - we're only human beings. You know, we've got so much jelly between our elbows and shoulders and if you wear that out by the time you're 40 or you could keep it going till you're 65 - you keep it going till 65 and you save - it's be astronomical what you'd save per employee over that 25 years -

COMMISSIONER GOZZI: Yes.

MR SWALLOW: - that you wouldn't have to pay on workers' compensation, and that's the argument.

COMMISSIONER GOZZI: I've just got one other question and that is that the piecework rate for each carcass is .9826 - and we'll talk about mutton -

MR SWALLOW: Yes.

COMMISSIONER GOZZI: - per carcass, would that be the rate if it wasn't an incentive for piecework? I mean, you're getting the same rate for the first one - first carcass as you're getting for the four hundredth carcass, would that still be the case if it wasn't piecework? I mean, what would the rate really be -

MR SWALLOW: Well I'd say -

COMMISSIONER GOZZI: - I mean, what incentive is in that rate?

MR SWALLOW: It's a good question.

COMMISSIONER GOZZI: Yes.

MR SWALLOW: The reason why there's tallies, I'd say - this is my - just - you know, Mr Jak and Mr Edwards might have another point of view, but the reasoning I'd say is behind that - and given that there's tallies in every state in Australia - there may be some areas where they - where there's agreements that they do more and that sort of stuff, but there's tallies all over Australia. There's tallies - goodness - I'd say all over the world basically, and the reason why there's tallies is simply this that the meat industry would probably be the only industry where management knows exactly what the day's work is going to be. I mean, if you - you could go right through - you could go anywhere - the zinc works - what you're mixed up in a bit - and you go

right through every industry and I venture to say - and you can't do it - the closest one I'd say is shearing, but you can't because there's all different types and they use the cut throat system -

COMMISSIONER GOZZI: Yes.

MR SWALLOW: - but there would not be one other industry in the world I'd say that knows exactly what they can expect from their work first - day - I mean, per day other than the meat industry and the reason for that is just simply there's a tally system. If someone could show me otherwise, I'd be delighted because you go - on that Meat Industry Inquiry for example, our people - that's the meat workers - the AMIEU people - tell me that it was very interesting. You had this view from a number of employers in the United States and in Europe and Scandinavia and Norway and these sorts of places that the people that didn't have tallies didn't get as much - or in fact less as far as productivity from their work force.

You could probably get an argument against that, but that's the information I've got and I suppose - I suppose the reality is simply this that if you haven't got a starting point - you've got a group of people, they're not individuals - you've got a group of, say, 20 people and you say, 'All right, I'm going to get 80 from them for a start', and you might want a hundred, well you gear your plant, so - to cut the overtime out, don't you - you know, you - if you've got, say, 7 hours to do 80, you just gear your set up to do your hundred otherwise you're throwing money down the drain because of your overtime situation for the follow on

COMMISSIONER GOZZI: Yes.

MR SWALLOW: And I suppose the best example of this would be Dubbo in New South Wales. You might have heard me say at different times I went up there a couple of times and they've got a system there and of course Mr Jak would say, 'Well it's no good; they're not boning', but I had a visit there and one of my main questions was as to just satisfy in my mind the difference between the systems, the old and the new, and the boners up there they've got a tally of 80 and they do somewhere around - they do somewhere around 140, 150 a day and -

COMMISSIONER GOZZI: This is cattle?

MR SWALLOW: Sheep. I just - they don't do sheep. Sorry, they don't do cattle at all.

COMMISSIONER GOZZI: Right.

MR SWALLOW: They just do the sheep.

COMMISSIONER GOZZI: Oh, you're talking about a day, of course.

MR SWALLOW: Yes.

COMMISSIONER GOZZI: Yes. Sorry.

MR SWALLOW: And they do about 140 a day.

COMMISSIONER GOZZI: Yes.

MR SWALLOW: And the difference between what we've got - the old system and what they've got is the meat falls off the bone. It's all bone hot. Every piece of meat that goes through that plant is hot -

COMMISSIONER GOZZI: Yes.

MR SWALLOW: - and all you need is a sharp knife and it just falls off, and here we've got to hack it, see.

COMMISSIONER GOZZI: Yes, because it comes out of the chillers.

MR SWALLOW: Yes. So, I asked about the compensation - and the work two shifts up there. There's 500 employees and they're compensation rate at the time I was up there was 1 to 1.5 persons per week. Right? One or one and a half at top odds workers' compensation problems per week, 52 weeks a year. I came back and I was talking to Joe Cromie from Blue Ribbon there one day and he was telling about all his workers' compensation problems and I said, Well, look, Joe, you are mad. You are cranky.' I said, 'I have just come back from Dubbo there and their'. I said, 'What was yours last week?' He said there was 18 off at Killafaddy with a workforce of about 200 - 18 as against 1.5.

So, this is probably why you can hear the vibes. If you haven't, I can most certainly tell you, but I don't want to waste your time at this point, but I can most certainly tell you that the rest of my discussions with Mr and followed up with Mr Carne.

But that discloses there is something drastically wrong with our system. That is beyond question.

So, really all I am saying is, all the union case is so that I can be well within the wage fixing principles. All the union's case is that we equate the reality.

COMMISSIONER GOZZI: I understand what you are saying. I just wonder - I mean, the capacity is there at the moment for Gilbertons, Blue Ribbon and whoever else to employ boners and slicers under Division B, under a weekly wage rate.

MR SWALLOW: Yes. Yes. But they don't want to do that. They don't want to do that, you see, because the incentive is there, and that's why the incentive is there - it is peculiar to the meat industry, it has been there since the year dot.

You see, what they have done, what Mr Jak has done, rather than train, if we get into the training area there, rather than train people as they should be trained they will just sell it. They will just settle for the status quo. And that's not to say they don't, they are not involved in training boners and slicers, but they only do it to a limited degree. They are not involved, and never have been involved in structured training, I suppose you would call it. You know?

And I just said to - who was it - I said to Tony Munze and George Carne out at Blue Ribbon, I said, you know, 'What would be wrong in having a boning room that everyone could bone and slice? You put a structured training process in place. What would be wrong with it?' You know, people get the flu' in the winter, and all this sort of stuff, and you have got to do this and you put people in jobs that can't do the job, and all that sort of stuff.

They cut themselves because they don't know how to do it. They haven't been trained properly, and all that sort of thing.

I have just got a view that that's the way to go, and it will never ever go that way as long as we have this system that we have got in place. Never ever will it, because people don't like change, and that goes for me, you, the employees, the employers. You have just got to get a baseball bat sometimes and just give someone a bang on the head and say, 'Look, you are going the wrong way'.

COMMISSIONER GOZZI: I could say something about that.

MR SWALLOW: But basically that's all we - I suppose, when it is all boiled down, I suppose you could say the union's case is it is time for change. It's no good paying insurance premiums. I suppose the meat insurance premiums in Tasmania would be somewhere around about at a guess 2.1/2 million a year, and I really believe that if another 30 or 40 boners and slicers, and it goes for slaughtering, too, have got to be employed as trainees, or whatever, that is the way to go rather than expect, you know.

For rhyme or reason, I can never understand. You train a person in the piecework system. He has got the incentive to get in and earn a quid and then he has got to get out at 42 years of age after the cost to train the person. That's obviously all down the drain.

And surely it is better that you can train a person up and you know darn well he is going to stop with you until he is 65 years of age. Surely that's the system.

And then the insurance premiums stopping the companies coffers, like they do at Dubbo. It is simple as that. And all these -

COMMISSIONER GOZZI: Yes, that is not a bad effort, just over 15 weeks' comp. for that size workforce in a year. That's about what it amounted to on your figures.

MR SWALLOW: Yes. And there are 500 - 500 employees in a 1 to 1.5 workers' comp cases per week. It's unbelievable. And if you go and have a look at your statistics, I was over there a fair while ago now, it might be able 8 to 10 years' ago I was over there, and this has been one of my probably better versions you can say, but I always ask these sorts of questions, and I was looking around the mutton chains and the boning rooms over there and you could see people - you could see them at 60, 62 years of age and still working.

The first thing you would do, you would say, now how are they there and our blokes are not, and then the next thing you'd say, well it has got to be the system, it has got to be the system.

And, undoubtedly the system we have got promotes what we have got, and that is basically darned cripples at an early age, to be quite frank about it.

That's about all I have got.

COMMISSIONER GOZZI: Alright. Thank you, Mr Swallow.

Mr Edwards, are you ready to roll on, or would you prefer a break?

MR EDWARDS: Mr Jak has indicated he would like a short break, if we could before we resume? I would probably only want about half an hour, if that's convenient.

COMMISSIONER GOZZI: Alright, we'll resume at 1.30, thank you.

MR EDWARDS: That's fine.

SHORT ADJOURNMENT

COMMISSIONER GOZZI: Right, Mr Edwards, would you like to go on.

MR EDWARDS: Yes, thank you, commissioner.

Commissioner, at the last day of hearing of this particular matter was the 5 August 1993 at which time Mr Swallow put reasonably comprehensive submissions in support of his claim for the tallies which are shown in Exhibit AMIEU.4.

In support of that claim Mr Swallow advanced a number of grounds. They involved the cost of workers' compensation premiums, they involved the situation at Dubbo and particularly a direct comparison that Dubbo versus Killafaddy Abattoir.

There was a fairly extensive discussion about the employee profile in the industry and how employees were being crippled at an early age and forced from the industry.

There were some peripheral discussions about the wage fixing principles.

There was a brief discussion about the claim and how it impacted on the question of follow-on labour.

And there was a brief discussion between yourself, commissioner, and Mr Swallow about section 36 of the Industrial Relations Act.

As I understood the situation, sir, the case was adjourned on the 5th of August so that Mr Swallow could comply with the undertakings he gave to you on transcript in respect of each and every one of those issues. To provide detail, not broad assertions from the bar table, as was effectively your description on the day in question, commissioner, it is not mine.

That the allegations that were being made were unsubstantiated and weren't being backed by any factual information. They were just assertions from the bar table.

For the sake of anyone who wishes to research whether or not I am right in those assertions, sir, the workers' compensation premiums issue was discussed at transcript on page 59; the Dubbo versus Killafaddy question and the undertaking to provide information, real information on that with factual background, is at page 60; the undertaking to supply the commission with an employee profile of the industry was made at pages 60, 61 and 62 of transcript; the undertaking to address in a meaningful way the wage fixing principles was made at page 79; the undertaking to even supply information to both the commission and the employers about what the follow-on labour claim was was made at page 79, along with an undertaking to provide advanced details to both Mr Flynn and myself of details of what the claim was for follow-on labour;

and the undertaking to address section 36 of the Act was made at page 80 of transcript.

It's clearly evident to me, commissioner, that none of those issues have been addressed today in a way in which support material has been presented that makes it any more than bland assertions from the bar table, which is exactly what occurred on the 5th of August in which you, sir, sought further information on.

It is our submission that this claim should not be capable of succeeding, simply because the applicant has failed to substantiate the very real onus that falls on an applicant in proceedings before the commission to substantiate not only the claim but the grounds that are advanced in support of that claim.

It would be our submission that Mr Swallow on behalf of the AMIEU has not substantiated any single one of the grounds that he puts forward in support of this particular claim.

Commissioner, this application, in our view substantially amounts to a rerun of several other cases which have previously been prosecuted by the AMIEU since the advent of this commission by way of the Industrial Relations Act in 1985.

Primarily these applications amount to little more than a re-examination of the endeavours by the AMIEU in 1985 to vary the Abattoirs Award to incorporate, amongst other things, a tally for boners and slicers of 80 sheep and 15 cattle per man per day. That case was T. No. 35 of 1985.

It is our submission that it is a matter of factual public record that the AMIEU applications couldn't proceed to finality in 1985 because the commission pointed out that the strict test of the wage fixing principles could not be met by the claim, and frankly, commissioner, I believe the same response should be accorded the current claim.

And, for your information, commissioner, that observation made by yourself to the AMIEU, and indeed all of the parties, is found in your decision in T. No. 35 on the 26th April 1985 at page 1.

On that occasion, commissioner, you made a clear and unequivocal finding, and I note - and I ask you to note, sir - that I use the term 'finding' and not 'decision': 'That the union would be required to demonstrate significantly changed circumstances in accordance with the then Principle No. 4 - Work Value for the claims to succeed'.

And that, sir, is in your decision of T.35 of page 2 of the third paragraph.

As a result of that finding by the commission the claim on that occasion was withdrawn by the applicant. This followed a somewhat lengthy series of observations by the commission in transcript, which you may recall, commissioner, and which ran from pages 138 to 143 inclusive; wherein in quite strong comments you made it quite clear that such a claim could not succeed under the work value change principle.

Frankly, commissioner, nothing has altered in any material respect which would in any way act or alter that fundamental truism that the work value principle remains the only way in which this claim can be comprehended within the wage fixing principles.

In transcript In T.35 of '85 you observed precisely that, and as we have observed, nothing has changed.

In our strongest submission those same circumstances still prevail. The claim still has enormous problems in meeting the wage fixing principles, and must fail.

In passing at this point, commissioner, I wish to briefly note that it has been suggested that the claim could perhaps be viewed as not being an increase in wages per se, and this is particularly so of Mr Swallow's submissions today, and we say, sir, that the claim clearly doesn't stand scrutiny demonstrate what does - not stand scrutiny.

Mr Swallow's claim is that a boner engaged on precision or specified boning of cattle should receive a tally of 67.32 head per week. Now he then goes on to make the observation that his claim is not about over tallies, it's not about the processing of stock beyond that point. One could only assume therefore that the claim by the AMIEU is provide a maximum throughput per man per week through the advent - through the agency of this commission which clearly is beyond jurisdiction.

We believe that the claim is not about that at all; the claim, as you hinted, sir, in transcript during the last day of hearing of this matter, is really about the point at which over tally payments will become a reality. And I'd like to tender an exhibit, if I might, which shows the costing as we see it will work in this industry.

COMMISSIONER GOZZI: Is that the first exhibit, Mr Edwards?

MR EDWARDS: I believe it is, commissioner, in this matter.

COMMISSIONER GOZZI: We'll mark it TCCI.1.

MR EDWARDS: What I've done in this exhibit -

MR SWALLOW: Where's that from?

Could I just ask the question, Mr Commissioner.

MR EDWARDS: I thought the arrangement was there'd be no interruptions any more.

COMMISSIONER GOZZI: Mr Edwards will explain it.

MR SWALLOW: Thank you. We've done - what -

COMMISSIONER GOZZI: Mr Edwards, what do you want to say?

MR EDWARDS: Commissioner, TCCI.1 is a document that I have computed based on the throughputs of Longford Abattoir and I've used the tally for the boner that was agreed as part of T.35 of 1985, which I submit is a reasonable rationale to use.

COMMISSIONER GOZZI: I'm sorry, I've just missed that.

MR EDWARDS: Yes, I've used as the throughput -

COMMISSIONER GOZZI: Right - for Longford -

MR EDWARDS: - for this exhibit, to compute the cost of the claim -

COMMISSIONER GOZZI: Right.

MR EDWARDS: - the tally for a boner that was agreed as part of T.No. 35 of 1985 in respect of the Longford Abattoir.

COMMISSIONER GOZZI: Right.

MR EDWARDS: I think you may recall the wash up of those proceedings, commissioner, were that there were three separate agreements reached in satisfaction -

COMMISSIONER GOZZI: Right.

MR EDWARDS: - of the claim. They related to the then three export works -

COMMISSIONER GOZZI: Right.

MR EDWARDS: - and Longford was certainly one of those.

COMMISSIONER GOZZI: Right. Okay.

MR EDWARDS: Which would show that 360 quarters of - of beef - or 90 bodies were processed, which gives the boners a payment of \$465.19. Taking then Mr Swallow's exhibit AMIEU.4 and transferring that into TCCI.1, it shows that 72.5 bodies for the week, or 290 quarters, would be processed at the

ordinary rate, and the balance would be processed at rate and a half.

Now I understand what Mr Swallow has said today, that this isn't a claim for over tallies, but the reality is I'd love to be there when the boners got their first payment of \$374 a week, because we all know that is not going to happen. The throughputs would remain roughly constant, in our submission, which shows an increase in wages for a boner, just on that assumption, with no over tally payments at all of 9.7%. And in respect of mutton 10.38% - and the rationale is - is exactly the same.

That is the true cost of the claim. To argue that there would be no over tallies is simply not so, in our submission.

The same could be said for slicers. And then Mr Swallow in transcript on page No.7 gave us an insight of what he believed the existing throughputs were for the industry. If I could tender another exhibit?

COMMISSIONER GOZZI: This will be TCCI.2.

MR EDWARDS: This is based on comments made by Mr Swallow in this case at transcript at page No.7, wherein he indicated that the current beef boning throughputs - and I think it was in response to a question from yourself, commissioner, were about 120 a week, and for mutton was 600. They're the true throughputs per man. On the basis of that using exactly the same rationale as I explained in TCCI.1, the increased wages - or the increased payments amount to nearly 22% for specified cuts for beef boning to nearly 20% for the USA market and 18.1/4% for mutton.

To argue that the claim does not equate to a pay increase is simply to ignore the very real reality that a), the boners and the slicers in the industry are not going to accept a pay rate of \$374 a week. Now Mr Swallow may well ask me not to speak for his members and I'm not, but it is a fact, they will not, when they are currently earning anything upwards of \$800 a week.

The increases in these exhibits, commissioner, are premised on fairly simplistic premise that nothing changes except the grant in full of the AMIEU claim. Now at Longford we already have in place an agreement that says, after the 18 head of cattle per day per man, rate and a half is paid by way of over tallies. One assumes that that agreement would remain on foot, notwithstanding what happen through this application, and therefore the premise on which those exhibits are computed, I submit, are valid - very valid, and that the reality is that any work beyond those tallies would be done at some over tally rate, and we suspect that it would be rate and a half.

The current throughputs that I have used in the exhibit are, as I've already indicated, those that are applicable to the Longford Abattoir and came out as part of the wash up of T.35 and I indicate there, commissioner, they are part of an agreement arising out of T.35 which is sought to be overturned by this application.

In respect to slicers, there's no existing tally arrangements that I'm aware of in this state upon which to found such an exercise. However, if one were to use the very simplistic method of saying that the tally for a boner at Longford is 12.1/2% in advance of the minimum throughput requirement recorded in the award, and translate that requirement to a slicer, the - the increases that are brought about as a result of that sort of application are about 9.1/4% for beef slicing and about 16.1/2% for mutton slicing. But because it's such a simplistic exercise and is not capable of being founded on anything real, I don't put it forward as an exhibit, but it's consistent with the percentage increases that have been computed for the boning exhibits in any event and I think gives a reasonable indication of the cost of the claim.

Commissioner, in our submission, for anyone to put forward an argument that this claim does not constitute a claim for an increase in remuneration, is clearly incapable of substantiation when viewed in the light of the real world as this is a very thinly veiled attempt by the AMIEU to secure wage increases by a circuitous method.

We contend that Mr Swallow in his submission on 5th August was correct on page 70 where he alluded that the union's claim had to satisfy the work value principle of the commission, as clearly that is precisely what is required by the applicant in this matter and that's borne out by your comments in T.35, commissioner, in an identical matter.

In our strongest possible submission, we put that given that inescapable conclusion this matter should be rejected here and now for want of any form of substantiation. Clearly the AMIEU have presented no evidence whatsoever that would go to the substantiation of the work value principle, particularly in the circumstances where the awards have already received the structural efficiency increases and indeed the 2.5% structural efficiency adjustment.

I've already given a brief analysis of the grounds that have been advanced by Mr Swallow in support of his claim, all of which were required to have further substantiation put to them by way of submissions today from Mr Swallow following a 2-month adjournment. None of that substantiation has been forthcoming.

I still stand before you today, commissioner, unable to address the claim for follow-on labour because Mr Swallow has not yet appraised the commission or the employers what his claim is for.

Never have - at any stage has the AMIEU presented evidence of any sort to demonstrate what did exist prior to any datum point in the past, and what has changed to create a situation whereby there is a significant net addition to work requirement such as to justify a pay increase under the work value changes principle.

Mr Swallow has already acknowledged in his own submission that his claim will have substantial difficulty in meeting the wage fixation principles - and that's found at transcript at page 17. And I submit, commissioner, that that is exactly the case - Mr Swallow's submission does enormous problems meeting that hurdle and we submit should be rejected here and now for want of any substantiation whatsoever and we make no further submission.

COMMISSIONER GOZZI: Mr Edwards, Mr Swallow indicated, I think, that there was an increasing recognition by employers - and I assume by that, by Longford - or Gilbertson's and Blue Ribbon - about the workers comp situation and - and it appeared there was a willingness there to discuss these matters with Mr Swallow - is that - is that correct?

MR EDWARDS: That is precisely so, commissioner, and I believe both of those companies have signified to the AMIEU, their willingness as part of work place change negotiations, to discuss these issues with Mr Swallow and come to arrangements which are satisfactory to all parties in the context of in-house type arrangements which would ultimately be brought forward by way of - we use the term 'enterprise agreements', but I think you know what I'm saying.

COMMISSIONER GOZZI: Yes.

MR EDWARDS: And it's very clearly the -

COMMISSIONER GOZZI: Yes - industrial - industrial -

MR EDWARDS: - position of - industrial agreements - that is very clearly and strongly the position of both of the companies I'm representing today, sir.

COMMISSIONER GOZZI: Well what sort of - what have you got in mind about that, Mr Edwards, what - what sort of approaches are being made? I mean if the matter is going to be discussed with Mr Swallow in respect of, say, Longford and then Blue Ribbon, I mean really that's what we're talking about with these claims aren't we - essentially?

MR EDWARDS: what we're talking about in respect of these claims but they're being brought forward at an industry level. As I understand it each of the companies have a different way they wish to address these particular matters. I think it's a matter almost of public record, and if not I'll make it one. But there has been, as I understand it, an agreement reached at Gilbertson's in respect of the Japanese cattle claim.

COMMISSIONER GOZZI: Yes.

MR EDWARDS: Now Mr Jak has also signified to me today that he has in mind a mechanism for dealing with the question - and it's a longstanding question - it's one none of us should run away from - but the question of the slicers in this industry really does need to be looked at, and it needs to be looked at meaningfully and properly by all parties, and Mr Jak does have a mechanism in mind that he wishes to take up with the union privately - and I won't put it on the record because I don't think that's proper - that it could go towards addressing the position of the slicers which is the real crux of these sorts of claims - it has been for 10 years.

COMMISSIONER GOZZI: Yes, alright, thanks. I recognise the thrust and intent of what Mr Swallow is endeavouring to do and I thought his submissions today were from the heart, based on his understanding and his substantial knowledge of what happens in the industry.

But you are right - I can't ignore the reality of the submissions that are being put. But I must say I don't want to run away from the problem either and I'm just wondering whether perhaps - and I'm think out aloud - I'm just wondering whether perhaps the way forward is for me to adjourn these applications totally and then leave it to you to either append to the award - as we've done in other places - there are a whole lot of appendices to the award - Devonport, Bridgewater, Cooee Meat Works arrangement - Cooee no longer there - I think we had an appendix for Cooee - I thought we had - anyway, there are quite a number of appendices there - whether or not the matter could be brought forward at a later time either by industrial agreement or an appendix.

MR EDWARDS: I know you're only thinking out aloud, commissioner, but from - from our perspective we'd have no objection to this matter being adjourned sine die and the parties being directed to confer. That - that would cause us no heartache at all. In fact that's going to occur in any event so whilst it would be somewhat meaningless it would keep a vehicle open.

COMMISSIONER GOZZI: What do you think, Mr Swallow, about that course of action?

MR SWALLOW: I - I - from the union's point of view, we'd - we'd - we've put a position up that it's well within the wage fixing principles that you determine the reality - a very, very simple exercise. Very simple exercise. And after that we could start talking about all of the other mechanisms that would be required. It just seems to me that from the Longford point of view the - the way the company talked to me - and that's with Mr Slinger - is a lot different to what Mr Edwards' proposition is. A lot different. And it just seems to me that the first mechanism ought to be is to put in the award what in fact is the reality.

I've never argued, and I won't, that the rate and a half business - there's a lot of scope between what the tally is and what the rate and a half is - I've never ever argued that and I won't, but I've - I can certainly accommodate Mr Edwards' argument in that regard, but I'm not here today to do that. All I'm after is to just put in the award what in fact is the reality and I most certainly - in fact darned near despise - that he represents members of my union and the quicker he refrains from that sort of activity the better, because he doesn't represent one - he might think he does and get around with his cronies and pimps and whatever, but I represent a half plus one majority - and that's all I've ever attempted to do, and that's all I will ever do.

So all I'm asking for is a very simple decision in relation to tallies for piece workers in the industry and - and probably that will fix just about everything up. But I think the first step forward is that.

COMMISSIONER GOZZI: Alright, thanks, Mr Swallow.

Well, the submissions are clear.

MR SWALLOW: And could I just finish?

COMMISSIONER GOZZI: Yes - yes - yes, Mr Swallow.

MR SWALLOW: There's one thing I forgot to say. Whether the industry likes it or not and whether Mr Edwards keeps carrying on about the tally question, on the 1st December there will be tallies in Tasmania.

COMMISSIONER GOZZI: Well that might fix all of the problems.

MR SWALLOW: Yes. I just don't want Mr Jak to go away from here thinking the opposite, because most certainly there will be tallies in Tasmania on 1st December 1993.

COMMISSIONER GOZZI: Well that might - that might help everybody.

MR EDWARDS: That means this application is superfluous then?

COMMISSIONER GOZZI: Well everybody - well look, I understand the arguments and it would be improper for me not to indicate that I see the technical difficulties and I understand - I understand those - those difficulties with the claim that Mr Edwards has highlighted and I think it's not unexpected that that would be the argument and I do recognise that whilst Mr Edwards is the advocate, that that is in fact the position of Blue Ribbon, and it's the position of Gilbertson's and no doubt they are very much aware of what Mr Edwards is saying, and they are aware that there is a statutory obligation on the commission to have regard for the commission's own wage fixing principles, and the commission's own wage fixing principles which the union also has a commitment to, do present some very important obstacles to this claim.

But rather than me ruling on that situation now, I recognise those difficulties but I want to have a think about it and what I intend to do is to address the wage fixing principles as a threshold matter and I'll issue my decision on the - on the question of wage fixing principles first.

Now that will determine what happens with the rest of the claim, because there are two distinct arguments: the argument of Mr Swallow that he's seeking no more than to put in part of the award that already exists, for tally ordinary earnings - ordinary weekly earnings in another part of the award, and the calculation methodology stands up - no doubt about that.

I agree with you, Mr Edwards, that in the context of applying that to that part of the piece work section of the award that if you produced the overs you'd get the sort of increases that you - that you project and the significant change argument - the work value argument is - is of course very much caught up with all that.

So look, I'll have a look through it all and issue a decision on the wage fixing principles aspect of it without going to the - to the further details of the claim. Now that will determine how we go on from here.

However, in addition to that - and that won't take me that long to do - I'll issue that in a reasonable period of time - before 1st December - but in addition to that obviously there are discussions going on and I'm not unattracted at all to putting in place section 55 agreements and I'd facilitate those. They provide, in my judgment, fewer impediments than do the award variations.

Alright, I'll adjourn this matter sine die until the issue of the decision and then depending what happens from there we can relist or whatever. Okay? Thank you.

HEARING ADJOURNED SINE DIE

14.10.93

108