LABOUR RELATIONS REFORM BILL 2002

Standing Orders Suspension

MR KOBELKE (Nollamara - Minister for Consumer and Employment Protection) [4.02 pm]: I move without notice -

> That so much of the standing orders be suspended as is necessary to enable the following parts of the Labour Relations Reform Bill 2002 to be considered as one question each during the consideration in detail stage -
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> Part 6; part 7; part 8; part 9; part 10; and part 11 and schedule 1.

The effect of this motion is that we will have just one vote on each part. This process is not strange to the Labour Relations Reform Bill, because when we dealt with clause 4, which was in excess of 60 pages, we would have had to deal with the whole matter with simply one vote. Therefore, the House recognised the difficulties of progressing through the Bill and trying to make sure that the debate was productive and orderly. The debate was conditioned to some extent by the fact that when an amendment was moved, we could not go back and discuss something at an earlier stage, prior to the point at which the amendment was moved, whether it was carried or lost. Although that debate went on for a considerable time, it was productive, and members had the opportunity to debate the issues, instead of being tied down too much in the technicalities.

It is clearly the Government's wish to expedite the Bill and to move through it as quickly as we can, but we do not wish to stop debate on all the key issues. If this motion is passed, we will deal with each part, and debate can range over the part. Part 6 of the Bill deals with industrial agreements and good faith bargaining. It seems to me that we should enter into general debate on that issue, look to the specific provisions, and then have one vote on that part. Part 7 deals with unfair dismissal. Again, that is a very important issue. The whole debate should relate to unfair dismissal. However, that does not stop members moving amendments, of which there are many on the Notice Paper. If this motion is passed, we will deal with the whole issue of the changes relating to unfair dismissal. Part 8 deals with right of entry, record keeping and inspection procedures. Again, that is one area of reform, so one vote would be taken on part 8. Part 9 deals with procedure and enforcement amendments; part 10 deals with the minimum conditions; and part 11 and schedule 1 deal with other amendments and transitional arrangements for the minimum weekly rates of pay. Within each of those parts are clear and significant issues that the House needs to debate. It is appropriate that the House debate the issues and go into the detail as necessary, but it should not get tied down and locked into a debate, clause by clause. Because of the complexity of the Bill, we found that some members tried to speak on the key issue that they knew we were dealing with, but they referred to the wrong clause - the matter related to another clause.

It is clearly the Government's intention to move through this Bill expeditiously. I assume that this process will not be abused by members going backwards and forwards all over the place. It will also be curtailed to some extent by the fact that once an amendment is moved - I repeat that many amendments are on the Notice Paper - a member will not be able to go back before that and deal with an issue. This is a way to make sure that members have the opportunity to address the major issues in the Bill, as well as the technicalities. I seek the support of the House for this procedural matter, which relates only to the Labour Relations Reform Bill that is before the House.

MRS EDWARDES (Kingsley) [4.07 pm]: In the great spirit of cooperation, the Opposition will support the proposal being put forward. It makes a lot of sense, and it will not limit our ability to debate matters clause by clause as we go through. However, it limits our ability to oppose and divide on a clause, if we wish to do so. The only reason I raise that matter is that many people will read the debate in *Hansard* in the future, and they may wonder why a particular position was taken, when in fact we may or may not have divided on individual clauses. I put that on the record for future readers of the debate in *Hansard*. However, we support the motion.

Question put and passed with an absolute majority.

Consideration in Detail

Resumed from 21 March.

Debate was adjourned after clause 124 had been agreed to.

Part 6: Amendments about industrial agreements and good faith bargaining -

Mrs EDWARDES: Part 6 deals with the real crux of this legislation, in that it centralises industrial relations in this State with the use of collective bargaining and industrial agreements; in fact, it is union collective bargaining and, therefore, union industrial agreements. This part introduces a new concept into Western Australia; that is,

good faith bargaining. People might ask how we could argue against good faith bargaining; it sounds and feels so good. I propose to identify some of the issues that will arise out of good faith bargaining. This is the first time that something like the good faith bargaining concept has been introduced into Western Australia. It is new, and, obviously, a great deal of concern will arise from that. In New Zealand, good faith bargaining has been introduced, and some concerns have been realised. We hope that the same sorts of issues will not arise here. Of course, New Zealand's industrial relations system differs markedly from ours in a number of respects. It has sought to limit some of the issues that arise out of good faith bargaining.

Good faith bargaining applies to the process of bargaining; it does not apply to the outcome of it. A marked difference is that unions are given a particular leverage by these provisions. They are, in fact, given a great deal of leverage in the whole legislation. This is the case in areas such as the removal of the order to return to work; the inclusion of occupational health and safety not only as cause for a right of entry, but also as an industrial matter; and the granting of extensive rights of entry. These all give unions a huge leverage in the new industrial relations format of Western Australian workplaces. Clause 125, with its new direction toward collective bargaining, shows a real philosophical shift, from individual contractual bargaining to collectivist principles.

The series of amendments to section 6 of the Act adds new objects to that section. Proposed section 6(aa) reads -

> to provide for rights and obligations in relation to good faith bargaining;

Will the minister outline how he sees this object being taken up in the different applications, throughout the Act?

Mr KOBELKE: I will use an example to illustrate good faith bargaining. It applies only when a union may be pressing for the establishment of an industrial agreement. It does not apply in relation to award modernisation or other areas that may come before the commission. During the period of the previous Government, when an application was made to establish an industrial agreement, inordinate delays were used as a tactic. Figures I received in an answer to a parliamentary question indicated that, in one period, the average delay for industrial agreements for public sector workers was almost two years. A way needs to be found to avoid that sort of frustration of the process. Good faith bargaining, in one of its key components, seeks to overcome that problem. To return to my example, when a union seeks to establish an industrial agreement, it will proceed through a standard process. Either party can invoke the procedures for good faith bargaining, if it believes that the other party is simply frustrating the process. That frustration may result from inordinate delay; the provision of responses that are untruthful or irrelevant; the provision of insufficient information to progress the debate; or making provisions for times and places that are clearly set up to inconvenience the other side. If either party takes that obstructionist approach, it is open to the other party to seek, through the commission, to apply the good faith bargaining provisions. In that case, the commission can require people to come before it and lay down schedules or timing arrangements, or to provide enough information to advance the negotiation process. There is an allowance for flexibility, in that the commission can send the parties away to negotiate, or bring them into a conciliation mode if it is felt necessary. A fair bit of onus will be placed onto the commissioner handling the matter to utilise the provisions to get results for both parties, even though one side may be pushing the matter. Both sides must have their rights upheld in arriving at a resolution. The application of the flexibility may be that both parties agree that they want to conclude an industrial agreement, but there is considerable conflict over the details. In such a case the parties may allow the commission to arbitrate an outcome.

Both parties have to agree that they wish to conclude an agreement; it is only disagreement on the content that makes it possible for the commission to arbitrate. If the employer does not want an industrial agreement, but the union is trying to drag the employer into such an agreement, the commission cannot, under the good faith bargaining provisions, impose an industrial agreement on the employer by arbitration. It is not intended in any way, through this legislation, that the commission should impose an industrial agreement on an employer who has clearly stated that such an agreement is not wanted. At appropriate times the commission may feel that it is best to withdraw from the matter and leave it to the parties to try to sort it out, and then bring them back before the commission to report progress or to try to advance the matter further. If, however, it comes to the point at which the commission is clearly requested to do so by one of the parties, and the basis is there, then it can arbitrate. In that case, the outcome of the arbitration will be an enterprise order, with a maximum period of two years, not three, as would be the case with an industrial agreement, and it also will not exclude the offer and registration of employer-employee agreements during its life. I have tried to encompass the broader view, though the member for Kingsley may wish to consider some more specific issues, but that is how the Government sees these provisions working, and the key issues that may arise in the use of good faith bargaining in the establishment of an industrial agreement.

Mrs EDWARDES: I thank the minister for the outline. With all those aspects combined, an employer really has little option but to go with the application for an industrial agreement. The employer must respond within 21 days that he intends to bargain in good faith, and then, whether the process is lengthy or quick, the big stick is

always the enterprise order. That is an imposition by the commission of the conditions on which that workplace will operate. As such, there is no form of agreement on an enterprise order. It may be the worst of all evils, compared with an industrial agreement. To some extent, all those options combined leave the employer little option but to agree to go with the application for an industrial agreement, and to sit down and abide by the good faith bargaining provisions. That is of major concern because, although the minister has said that an EEA can be in place during the term of an enterprise order, no non-union collective agreement is possible under this legislation. With all the other tools this legislation gives to the unions, the unions, quite clearly, will have a monopoly in determining the terms and conditions applying in the workplace.

Mr KOBELKE: I will attempt to allay the fears of the member. I can understand that, because the changes are so big and she and I have different philosophical points of view, the member for Kingsley, and many of the people she speaks for, may see this provision as something of a Trojan Horse, with hidden implications. She was correct in a number of points, and I will touch on one or two of those. There is a clear requirement for 21 days notice of initiation of bargaining. If, however, the employer says at that point - or at any later point - that that is not the way he wishes to manage the business, and that an industrial agreement does not serve the interest of that enterprise, that is the end of the role of good faith bargaining in the process.

Mrs Edwardes: The commission could impose an enterprise order.

Mr KOBELKE: The Western Australian Industrial Relations Commission has the ability, upon application, to establish an enterprise order. As applies to the whole process, that is not one-sided. It is my expectation that all parties - employers, employer organisations and unions - will, in the majority of cases, be reticent to embark on this because it will mean the commission will be given control of the matter.

Mrs Edwardes: As I said, an enterprise order will be seen as the worst of all evils.

Mr KOBELKE: Both parties will have that. The unions will consider their position before they make application to the commission to impose an enterprise order. As has occurred in the past, the commission might decide that the status quo is a fair and reasonable situation, in which case the unions will get an enterprise order that confirms a situation they do not want. I am not saying that will happen in the majority of cases, but it will be a real possibility, particularly when the new objects to be included in section 6 of the Industrial Relations Act are taken into account. Proposed paragraph (af) states -

> to facilitate the efficient organization and performance of work according to the needs of an industry and enterprises . . .

Proposed paragraph (ag) states -

> to encourage employers, employees and organizations to reach agreements appropriate to the needs of enterprises within industry and the employees in those enterprises;

The position and arguments to be put to the commission are clearly stated. The employer will be able to say that he needs certain conditions to ensure competitiveness and the success of his enterprise. This provision will allow the commission to be a balanced and fair umpire, and both parties will have to work with the commission. The change will be evolutionary rather than revolutionary, in that the commission will have to find its feet. We know that the Western Australian Industrial Relations Commission is innately conservative. I do not think it will try to write new laws for early determinations. That would not be the expectation of players who have had dealings with the commission. The commission will seek to fulfil the objectives of the Act, which will be to ensure that the commission considers issues of fairness and equity and recognises that enterprises must be able to compete and succeed. That is the balance we want. Through this process, the Government is saying to the employers and the unions that it would be best if they could sort it out themselves. That is the intent of industrial agreements. I believe we shall see more industrial agreements formed than is currently the case without this provision being utilised. The unions and employers will decide that they do not want to hand over to the umpire. The employers will want a fair deal that the employees can commit to and that gives them the productivity they want, and they will look for trade-offs that will be fair to both sides. That is how the parties will come to an agreement. This provision will not be utilised in the vast majority of cases. However, this mechanism will lead to more speedy resolution of disputes that have the potential to undermine an enterprise and possibly spread to other enterprises across that industry. The enterprise order may be used on some occasions. I think that it will be of the nature of the order given in the BHP dispute. I see the BHP decision as a holding position. The issues have not been resolved; they must still be worked through by the parties. That is why we have provided a shorter time frame for the operation of the order. We did not want to make the period of the order so short that it would lead to instability; however, if an order lasts for two instead of three years, it will send a clear message that it is an interim arrangement that has been put in place because the parties could not work it out between

themselves. We want the parties to work it out between themselves rather than have an arrangement imposed by the umpire.

Mr MARSHALL: Good faith bargaining in the workplace should take place. Of the seven paragraphs that will be inserted into section 6 of the Industrial Relations Act, six concern employees. The employer appears to have been left out. I remind members that good faith bargaining occurs between unions and an employer - a single person against an organisation. We must think about the employer. He is the one who takes the risk and puts up the capital. He is the one who is enterprising and takes the gamble. He is the one who has the courage. He plans, promotes and manages his business so that it is a success. Proposed paragraph (aa) states -

> to provide for rights and obligations in relation to good faith bargaining;

That is a good pick. Proposed paragraph (ac) states -

> to promote equal remuneration for men and women for work of equal value;

The proposed paragraphs continue in repetitive fashion. Each is about what the employees should receive. I believe that the employer will not be considered in good faith bargaining under this arrangement. I refer to proposed paragraph (af) -

> to facilitate the efficient organization and performance of work according to the needs of an industry and enterprises within it, balanced with fairness to the employees in the industry and enterprises;

Once again, the provision refers to fairness to employees. I would like "fairness" defined more fully. It seems that the record of unionism, through which a representative can walk into a shop and ask for the books etc, does not demonstrate fairness to the employer. It also seems that when unions lose in the good faith bargaining process, they strike. They spit the dummy and say that they did everything that the Act said they should do, and now that they have lost they will go on strike. That is not good faith bargaining.

I cannot see any part of the amendments to section 6 that explain fairness to the employer. I reiterate that the employer is the forgotten person. He is the one who has the courage to go into the industry and set up a business. He is the person who takes the gamble. He is the person who is least considered; yet he is the person who must every week do the payroll and, if necessary, meet the deficits. I admire people who run small businesses and employ 15 to 20 people. It is a tremendous responsibility to be an employer. Those employers are usually involved in good faith bargaining on their part because a successful business is the result of a team effort by the employer and the employees. All these proposed paragraphs bar one favour the employees. I would like "fairness" better defined.

Mr Kobelke: The employer groups I spoke to were happy with these principles.

Mr MARSHALL: Is that a generalisation?

Mr Kobelke: I am answering the question. We discussed these provisions with a number of employer groups and employers, and they were very happy with them. The Act currently does not require the commission to consider the needs of industry. We will put it in for the first time.

Mr MARSHALL: My initial observation was to commend the Government for including a provision relating to good faith bargaining. However, only one of the seven proposed paragraphs refers to the employer. I am very anxious about that.

Mr JOHNSON: I carry on from where my colleague the member for Dawesville left off, because some of his concerns are my concerns. Good faith bargaining is a wonderful concept and it should be used in all employment situations. However, does the minister honestly believe that the Construction, Forestry, Mining and Energy Union could, in view of recent and past events, be considered to engage in good faith bargaining? I question that. The standover tactics that the CFMEU uses on construction sites represent anything but good faith bargaining. The principles that the CFMEU leadership has espoused in recent times and that have been reported in the media have made it clear that the union does not intend to change its ways. Like the member for Dawesville, I have looked at the paragraphs that are proposed to be inserted in section 6. I ticked a few, put a query against one, and put a cross against another that I think will be detrimental to not only employers but also many thousands of employees. That provision is proposed paragraph (ad) -

> to promote collective bargaining and to establish the primacy of collective agreements over individual agreements;

The minister and I differ fundamentally on this new paragraph. This is a denial of rights to workers who want individual agreements. I understood the minister to say last week in this House that if a number of workers want individual agreements and some want a collective agreement, the collective agreement is paramount. If one or two people want a collective agreement the rest can go to blazes. That is a denial of rights to those people who

for genuine reasons want individual agreements with their employer. Individual agreements suit them for all sorts of reasons; for example, personal and family responsibilities may necessitate a different type of shift or flexitime. If a collective agreement exists those individuals and the employer are denied what they need most - flexibility in the workplace. Employers want flexibility to employ people to do certain jobs at certain times and for those people to receive the money that they are entitled to whether that is under an award or an individual agreement. That suits the employer and the employee. However, this clause and other clauses will deny them that flexibility because a collective agreement will supersede everything else.

I also have a problem with subclause (2). Proposed paragraph (ab) reads -

> to promote the principles of freedom of association and the right to organize;

I support freedom of association. However, this clause makes that the priority. The Construction, Forestry, Mining and Energy Union would love this because it is a no ticket, no start clause. The clause does not say that workers have the freedom not to organise or not to join a union.

Mr Kobelke: That is what freedom of association means.

Mr JOHNSON: It depends on interpretation. The way I understand this new paragraph, and the way that unions interpret it, is that it is the freedom to join a union. It will become compulsory. The minister and I both know that will be the case, particularly in the building industry.

Mr Kucera: That is garbage.

Mr JOHNSON: It is not garbage. The minister can ask Kevin Reynolds and Joe McDonald, who have said that if people do not join a union they will not get work on a building site. It is as simple as that. It is the absolute truth.

Mr Kucera: That is not what the legislation says.

Mr JOHNSON: That is what the unions are saying, and that is what will occur because the Government has not stated that people have the right not to join a union.

Mr KOBELKE: Freedom of association needs to be applied fairly to those who want to be members of unions and those who do not. There are difficulties with enforcement. However, the last Government put these provisions in place and we are not interfering with them. The Government is making freedom of association a principle that should be recognised more broadly as the commission seeks to apply the Act.

No basis exists for the member's argument that good faith bargaining will somehow be inflexible for employers. Some of the most flexible work arrangements are as a result of industrial agreements. The use of industrial agreements in the late 1980s and the early 1990s opened the way for flexibility in workplaces. We are referring to agreements, and for both sides to feel they are getting something, there will be trade-offs. The difficulty with individual contracts is that only one side benefits. People have come up to me in the street because they feel they have no job security and they feel totally abused because they have no bargaining power. The Government wishes to establish the principle of fair bargaining power. The member for Hillarys alluded to an example of the application of good faith bargaining in which a clear majority of employees do not wish to have an industrial agreement. If a union, on behalf of the minority of employees, initiates a case to establish an industrial agreement, which is its right, employers can say at the outset that they do not wish to put in place an industrial agreement and they can enter as evidence in support of their case that the majority of the employees do not wish an industrial agreement and are happy with the employer-employee agreement, or whatever is in place. Under good faith bargaining the Industrial Relations Commission would not be able to impose an industrial agreement. If an application is made to the commission, potentially it can go down the path of an enterprise order. The enterprise order would apply to those members that the union represented and not to the others. The other employees can stay on the employer-employee agreement, which they and the employer are happy with.

Mr Johnson: Where does it say that in the Bill?

Mr KOBELKE: It says that the provision of an enterprise order does not preclude registration of an EEA. I suspect it is in the clause on EEAs. We will provide the member with the relevant clause number before we finish this debate.

Dr WOOLLARD: I am pleased to see subclause (2), proposed paragraph (af), which reads -

> to facilitate the efficient organization and performance of work according to the needs of an industry and enterprises within it,

I hope the intent of that paragraph is reflected in the sitting hours of this Chamber this week.

An enterprise bargaining agreement is a form of industrial agreement. If a union has developed an EBA and a member of that union acquires extra qualifications to increase his or her job performance, can that person go to the commission, with or without the support of the union, and argue for an enterprise order?

Mr KOBELKE: No, as I explained earlier, the enterprise order would be made to resolve a dispute and when one party did not want an industrial agreement. If an industrial agreement were in place the commission would not be able to issue an enterprise order.

Dr WOOLLARD: Does the Bill provide for a person to argue in the Industrial Relations Commission, despite an enterprise bargaining agreement or industrial agreement, for an increase in salary in the light of additional qualifications or duties that person might have taken on board?

Mr KOBELKE: The present Industrial Relations Act allows only limited opportunities for an individual to access the commission such as for unfair dismissal or denial of contractual benefits. Otherwise, only the key parties can take cases to the commission. At present an individual cannot take the approach suggested by the member for Alfred Cove. Although we examined that possibility on some issues and as a matter of policy, this Bill will not change the rights of an individual to have certain matters changed.

Dr WOOLLARD: If it is not within this Bill, and I do not believe the Government will be introducing any other Bill to amend that aspect - based on the adviser's expression, perhaps an amendment will be introduced later to enable employees to take such a matter before the commission - will the minister please clarify that process?

Mr KOBELKE: The member is seeking a solution to a problem that does not necessarily exist in industrial agreements. They have incredible flexibility and can be written to take account of the interests of a very small part of the work force or of individuals in the workplace. Industrial agreements can be designed to allow for those matters. In an extreme example, an individual might be disadvantaged. However, we are not trying to open up the Industrial Relations Commission to deal with that small number of extreme cases. In the first place, industrial agreements must recognise the range of employees' interests in the enterprise and put together a package that provides flexibility.

The recognition of skills, educational qualifications and length of experience can be written into industrial agreements. If people have worked for a company or government department for a long time and have upgraded their qualifications, industrial agreements can recognise that and provide for commensurate higher salaries or benefits. Industrial agreements already allow for that. Perhaps some agreements contain clauses that are too rigid, which is causing individuals problems. However, the duration of agreements is only three years; therefore, when new agreements are negotiated people can lobby to ensure their interests are addressed.

Mrs EDWARDES: The minister indicated to me and the member for Hillarys that he sees people in the street every day who are unhappy about the unequal bargaining power that led to the signing of their workplace agreements. On the other hand I have received many telephone calls and e-mails and heard comments in the street from both employers and employees who have been very happy with workplace agreements. It is incorrect for the minister to generalise. The minister is correct, industrial agreements have provided a great deal of flexibility, particularly in the mining industry and other resource sectors. That applies to both workplace agreements and non-union collective agreements. The other day someone who works for a mining company asked me what will be the effects of the Bill and whether it will mean that if he signs an industrial agreement the unions will act on his behalf and determine what he needs or does not need. I had to say yes because individuals will no longer be able to negotiate. The minister has just confirmed that individuals cannot take an issue concerning workplace conditions to the Industrial Relations Commission. The Bill contains no requirement for employees to be involved in negotiations on industrial agreements. That is a major flaw in this legislation.

I refer the minister to proposed paragraph (aa). He indicated that good faith bargaining would be provided for only in part 6; yet it is part of the objects under section 6 of the Industrial Relations Act. Although good faith bargaining is outlined and to some extent defined in part 6 of the Bill, it could probably have a wider application to the parties' rights and responsibilities. The courts have taken a relaxed view on extending those principles, particularly when they are outlined in the objects of a case. Will the minister outline why he is adamant that good faith bargaining will apply only to part 6 of the Bill?

Mr KOBELKE: Good faith bargaining has not been previously written into the statutes. It is included for two major reasons: first, to overcome the use of inordinate delays as an industrial weapon. Its inclusion is to prevent people from thwarting the proper processes of the system. The second reason is that should a stand off occur when a union seeks industrial agreement, as it will have every right to do and as many employees want - this may relate to the member for Hillarys' question on a union seeking to negotiate on behalf of a minority - the procedures for good faith bargaining provide, in part, a resolution.

Mrs Edwardes: How?

Mr KOBELKE: If an employer said from the outset that he did not want an industrial agreement, an enterprise order would apply to people who were not party to an employer-employee agreement. It will not solve all the problems but it will be a way of helping parties work together to find a resolution. It will not be the only way, but if a stand off occurred in a major dispute it would provide a method by which to resolve it. When I was examining earlier drafts of clause 125 I was concerned about what would happen when a dispute spread to affect the industry or the community. This proposed amendment will provide a means by which the parties can be brought before the commission. It will not be the only method but it will enable a matter to be taken into a forum where a resolution can be sought.

Mrs Edwardes: What provision requires parties to go before the commission? The enterprise order will be made upon application.

Mr KOBELKE: No. It takes one party to get into the process, and then all the various provisions about how that process is handled rest there. I am not trying to tie those provisions down; however, although they are detailed, they are also far more flexible than the current provisions. Therefore, due to the flexibility of these provisions, once parties embark on the course of resolution, the commission will not find that the matter has passed a certain stage and the parties can no longer go back and seek to resolve the process by conciliation. Section 44 of the Industrial Relations Act deals with a compulsory conference. It can also be used if one party wishes to bring the other party back into the process.

Mrs Edwardes: But the commission does not have the power on its own to bring the parties together.

Mr KOBELKE: While the parties are in the good faith bargaining process, one party must make an application. Good faith bargaining is orientated towards the parties resolving the issue outside the system. It is only when they cannot make it work that they get pulled into the system by one party. We do not want the commission grabbing them and pulling them in. The parties are pulled in when one party feels that the other side is frustrating it and it wants the help of the commission to reach a resolution. One side must make the application. However, the side that does that does so knowing that potentially it may get something it does not want. There will be pressure on the parties to sort out the disagreement by themselves; if they cannot, the good faith bargaining process is available to them.

I will return to the initial part of the member's question of why does good faith bargaining apply only to this area relating to industrial agreements? It is a new approach in the Bill so we did not wish to extend it universally. Also, it was designed specifically for this area, as I have indicated. That is not to say that in the future we might not come back and review this provision. If parties say that the provision is working and provides benefits, we may extend the good faith bargaining process, or certain aspects of it. First, the process has been designed primarily for the handling of disputation over industrial agreements. Secondly, because it is a new process, we would rather curtail it to that area initially to see how it works.

The member for Hillarys had a query related to proposed section 97UF, which states that there can be an employer-employee agreement when there is an enterprise order. It does not say explicitly that an EEA can be had, but it does so indirectly by excluding EEAs only during the term of the industrial agreement. The only time an EEA is excluded because of some other instrument that is in place is when there is an industrial agreement. An enterprise order is a different instrument, so it does not exclude EEAs.

Mrs EDWARDES: I accept the minister's explanation about good faith bargaining and the insertion of the object. The object is to provide for rights and obligations in relation to good faith bargaining. The minister will find an extension of that over time in any event, not by him bringing back legislation but by the way it is inserted into the object and the way it is worded.

I return to the issue of disputation and good faith bargaining and the point the member for Hillarys made about the actions that are being referred to the current Royal Commission into the Building and Construction Industry. I recall one comment last week made by Mr Fox when asked about the dispute resolution clauses in the agreement and the process. The comment came back along the lines that, "We go to the on-site union organiser and we go on strike." Any dispute resolution clauses within agreements are totally ignored and, therefore, good faith bargaining is not done in good faith. I am sure that everybody would agree. Where do we go with that? The practical example of what we have seen is that parties have gone on strike or had stop-work meetings on a regular basis. Any provision can be included in the Act but, at the end of day, the level of bullying and intimidation we have seen stops employers from following through with complaints. We have seen this happen increasingly over the last 12 months. The minister may not accept this as fact, but employers have been subjected to this process many times and the commercial reality of the business is to deal with the union. Employers have found that they are in a weak position because they do not have anybody on their side. If we see some action of the sort the minister mentioned in his answer to my question at question time today, it might give

back some confidence to the business community; that might happen if the Government looks after their interests and applies the law. The statements that we have heard from Mr Fox show that the practices are widespread. They occur to the detriment of industry in Western Australia. They affect investment. There are concerns at the moment about whether people will invest in property. If we put indemnity insurance to one side, it will just be another problem for the minister. I hope that he will have an answer to that in the next few days. At the end of the day the issue is the increasing level of militancy that would clearly be outside what is referred to in this legislation as good faith bargaining. There needs to be a response by the Government, otherwise good faith bargaining will go well and truly out the window.

The minister has indicated that he is trying to encourage people to sit around a table. The other reason he brought in the provision is the delays that have been occurring in the resolution process. Unless these provisions can be enforced through the commission, there will still be delays. The big stick in terms of the enterprise order still has to be taken up by one party. The minister has just said that one of the issues is that neither party will want to do that because nobody will want to have imposed upon him an enterprise order. The parties would prefer to make their own agreements or arrangements. We have seen this happening in New Zealand, where to some extent good faith bargaining has lost credibility. In the second reading debate I mentioned to the Minister for Health the nurses dispute in New Zealand. The party that has shown a lack of compliance with the good faith bargaining principles has been the health department. It is seen to be extending that process.

Mr MARSHALL: Of the seven proposed paragraphs in clause 125(2), six relate to the employees. The employers seem to have been left out and I want to address that issue. When a person goes into business he must consider four ingredients. He must plan, establish and promote his business; and he must then have control over it. He must be in control in order to be competitive, and he must have some control over his staff. There must be a combination of the four if he is to have a successful business. The better the business runs, the more employment occurs within that business as it grows. All of those ingredients are important. If the employer misses out on any one of them, he is in trouble.

Good faith bargaining looks good, but it is a kind of flattery or charade because the employer is not being considered. Proposed paragraph (ag) states -

> to encourage employers, employees and organizations to reach agreements appropriate to the needs of enterprises within industry and the employees in those enterprises;

This is the only time that employers are mentioned in this provision. If an agreement that is appropriate for both parties is to be encouraged, that is what should be done. However, what happens when the employer does not agree? Where is the good faith bargaining then? What happens when the employer reluctantly agrees to the good faith bargaining process and then realises that his staff are screwing him and not doing the right thing by him, when he is taking all the risks? What happens to the employer when he knows he should be able to dismiss an employee, but the law prevents good faith bargaining? It looks good in the legislation, but it will not work in practice. Employers are not being considered. They should have control so that they can make a success of their businesses.

Mrs EDWARDES: Subclause (2), proposed paragraph (ab) states -

> to promote the principles of freedom of association and the right to organize;

Why has the minister included this provision? He has not amended the freedom of association provisions and there is no equivalent in any other State's legislation. The reference to "freedom of association and the right to organize" is taken from International Labour Organization convention No 187. What does the minister expect to achieve and what does he believe "freedom of association" means? It has a traditional meaning, which we have already agreed includes the right to join or not to join a union, and a decision in that regard cannot impact upon an employment agreement in any way. In addition, closed shops cannot be established. We have already addressed no ticket, no start, contractors with non-union employees not being permitted past the gate, prospective employees not being discriminated against on the basis of appointments, dismissals, promotions or anything detrimental to their employment conditions and so on. The principle also encompasses any attempt to intimidate or to induce an employer to act prejudicially towards an employee or prospective employee and any form of coercive behaviour by a union or any other person on the basis of membership or non-membership of a union. That includes coercive behaviour to persuade an individual to join in strike action or to prevent a person requesting that a secret ballot be held. Is that the minister's interpretation? Does he believe that including this provision will extend freedom of association?

Mr KOBELKE: The freedom of association provisions are already in the legislation. We are not interfering with or changing them in any way. What might be seen as an oversight was an attempt to indicate that they should be included in the objects of the legislation. That is what this clause does. The general principles espoused in ILO conventions have been ratified by the Commonwealth Government, and this Government

wishes to comply with them. They are designed to work in support of people who wish to organise a union and to be members of a union and not to be discriminated against. Similarly, the conventions uphold the rights of those who do not wish to join a union. We are not changing or interfering with those provisions in any way, even though there may be shortcomings in the way they are applied or work. It is appropriate that this be included as an object of the legislation.

Mr MARSHALL: These provisions are loaded and gutless. I note that 13 government members and five opposition members are participating in this debate. Not one of the 13 government members has been an employer.

Several members interjected.

Mr MARSHALL: I will grant that I may be wrong; I will concede that 11 have never employed anyone. Of the five members on this side of the Chamber, four have employed people. Given that the Labor Government has introduced this legislation, it is not surprising that it looks after employees. There must be a greater emphasis on employers, who take all the risks. Fairness should be defined more strongly to ensure harmony.

Several members interjected.

Mr MARSHALL: I will accept that a couple of members opposite have employed people. However, people who have always been in the work force and who have never had to gamble as an employer generally do not know what it is like to be in business. I spend the week in my electorate listening to people's worries. I enjoy going to Rotary on Monday nights because Rotarians are self-employed community leaders who are optimistic, courageous and adventurous. These provisions are designed to protect employees. Members opposite have generally been employees and they take a short-sighted approach. Good faith bargaining looks good on paper, but it will not work in practice.

Mr McGOWAN: I move -

That the question be now put.

Point of Order

Mrs EDWARDES: It is an absolute disgrace that the minister has moved in this way. I am particularly upset because he asked for support for a motion earlier. That was a sneaky way of moving through this legislation part by part with six votes rather than debating individual clauses. This part has 10 clauses - one of which has 14 proposed sections - and numerous amendments have been tabled. It is appalling that the Government believes it can rush the debate on this legislation in this way.

Several members interjected.

Mrs EDWARDES: I have looked back through the debates. The previous Government might have used the guillotine during debate on its labour relations legislation, but every clause was debated. This is an absolute disgrace!

The ACTING SPEAKER (Mr Edwards): There is no point of order.

Debate Resumed

The ACTING SPEAKER: The motion is that the question be now put. I have no recourse but to put it. I put the question.

Question put and a division taken with the following result -

Ayes (28)

Mr Andrews	Ms Guise	Mr McGinty	Mr Quigley
Mr Brown	Mr Hill	Mr McGowan	Mr Ripper
Mr Carpenter	Mr Hyde	Ms McHale	Mrs Roberts
Mr Dean	Mr Kobelke	Mr McRae	Mr Templeman
Mr D'Orazio	Mr Kucera	Mr Marlborough	Mr Watson
Dr Edwards	Mr Logan	Mrs Martin	Mr Whitely
Dr Gallop	Ms MacTiernan	Mr Murray	Ms Quirk *(Teller)*

Noes (17)

Mr Ainsworth	Ms Hodson-Thomas	Mr Masters	Dr Woollard
Mr Barnett	Mr House	Mr Omodei	Mr Bradshaw *(Teller)*
Mr Board	Mr Johnson	Mr Pendal	
Mr Day	Mr McNee	Mr Barron-Sullivan	
Mrs Edwardes	Mr Marshall	Ms Sue Walker	

Question thus passed.

Part put and a division taken with the following result -

Ayes (28)

Mr Andrews	Ms Guise	Mr McGinty	Mr Quigley
Mr Brown	Mr Hill	Mr McGowan	Mr Ripper
Mr Carpenter	Mr Hyde	Ms McHale	Mrs Roberts
Mr Dean	Mr Kobelke	Mr McRae	Mr Templeman
Mr D'Orazio	Mr Kucera	Mr Marlborough	Mr Watson
Dr Edwards	Mr Logan	Mrs Martin	Mr Whitely
Dr Gallop	Ms MacTiernan	Mr Murray	Ms Quirk *(Teller)*

Noes (18)

Mr Ainsworth	Ms Hodson-Thomas	Mr Masters	Ms Sue Walker
Mr Barnett	Mr House	Mr Omodei	Dr Woollard
Mr Board	Mr Johnson	Mr Pendal	Mr Bradshaw *(Teller)*
Mr Day	Mr McNee	Mr Barron-Sullivan	
Mrs Edwardes	Mr Marshall	Mr Sweetman	

Part thus passed.

Standing Orders Suspension

Mr JOHNSON: I move, without notice-

> That so much of the standing orders be suspended as is necessary to enable the following motion to be moved forthwith -
>
> > That this House has no confidence in the Minister for Consumer and Employment Protection for denying the democratic rights of members to debate this Bill fully.

This is quite a serious motion to put at this stage of debate on the Bill, and I do not do it lightly. There are many other avenues with which to delay this Bill, if that were the intention of the Opposition; however, it is not. This is such a complex and convoluted Bill that it needs proper examination. It was a dirty move by the Minister for Consumer and Employment Protection to scuttle the debate on this part of the Bill. We have agreed with the minister's suggestion that we deal with the Bill part by part to facilitate his handling of the Bill. He had the cooperation of the Opposition to do that and there were no problems. However, he gave no indication that he would gag the debate in such a draconian way. There was no notice of that whatsoever. We have taken quite a while to debate this Bill, because obviously it goes to the crux of industrial relations in this State. This Bill is changing conditions, and many people say that it is taking us back 30 or 40 years to the dark ages when the unions had the power. Now the Labor Government is giving the unions back the power. That is fine. The Government has the numbers to do whatever it wants. I am not stupid. I realise that if the Government has more numbers on its side of the House, it will have its way, whether it is the morally right way or the legally justifiable way.

Mr McRae: Are you suggesting it is illegal?

Mr JOHNSON: I did not say that. The member is not listening. We are barely into this part of the Bill. We have reached part 6 on page 130 and have had about an hour's debate on this issue. Members have a great deal of concern about this legislation. The minister obviously wants to get this legislation through before Easter. I imagine that government members have told him that they do not want to be here on Thursday and they certainly do not want to be here on Good Friday. The minister has decided he wants to get this legislation through as quickly as he can tonight. If the minister is going to gag debate on part 6, we shall be through this Bill in no time but we shall not have properly debated and scrutinised it. Only one or two members on the government back benches made a contribution to the second reading debate; and not one member of the Government has taken

part in the debate at the consideration in detail stage. I suspect that some government members do not have a clue what is in this legislation. They might know some basic principles but they do not have a clue about the detail.

Mr Dean: Do your homework.

Mr JOHNSON: The member should do his homework. The Bill will go through this House, and some of the government backbench members will be ignorant of its full impact on employers and employees. I moved the motion to suspend standing orders because it is the only option open to us. The Minister for Consumer and Employment Protection organises the government business before the House and he should take some notice of the Opposition's concerns before gagging this debate, or the gloves will be off for the remainder of this legislation. If the minister gives us an assurance that he will not use the gag any more, we will carry on acting responsibly and asking pertinent questions that need to be asked for not only employers but also employees and all Western Australians. That is how important this Bill is.

Mr BARNETT: I support this motion. We do not intend to prolong this debate about suspending standing orders, but I want to place a few things on the record. This Parliament has procedures that can and may be used to accelerate debate. As Leader of this House for eight years, I certainly did use the guillotine but I never ever used it unless there had been debate on clauses. On many occasions I sat in this Chamber with the minister handling contentious legislation and allowed sometimes hours of debate before I applied the guillotine. When I formed an opinion -

Mr Brown: What a lot of rubbish. That is unbelievably untrue.

The SPEAKER: Order, members!

Mr BARNETT: Mr Speaker, I have just been accused of telling untruths - lies, presumably.

Mr Brown: Untruths.

Mr BARNETT: I want to explain to members the procedures in this House so they can use the guillotine. I used the guillotine on legislation for the split-up of the Perth City Council and on industrial relations legislation.

Mr Brown interjected.

Mr BARNETT: The Speaker denied me the opportunity to use the word "cheat" last week, but I am struggling at the moment for a more appropriate word to use in this Parliament. I, as Leader of the House, used another procedure. This might get the tiny mind of the member for Bassendean around the issue. The procedure I used as Leader of the House was the sessional order, which is a different procedure. I recognise it has its pros and cons. A sessional order was put in place which stated that a program would be set for the forthcoming week and if, by the end of the week, that program had not been achieved, the matter would be put to the vote. I can argue the pros and cons of that sessional order. On many occasions when legislation had been properly debated and issues had arisen -

Several members interjected.

Mr BARNETT: Mr Speaker, are you going to do your job in this Chamber?

Withdrawal of Remark

The SPEAKER: I call the Leader of the Opposition to order for questioning the Chair. I am sure the minister who is responding by way of interjections will desist from doing so. I call on the Leader of the Opposition to withdraw his comments about the Chair.

Mr BARNETT: I withdraw my comments, but I could not hear myself speak.

Debate Resumed

Mr BARNETT: I will explain again to new members. If the Government decides that it wants to end a debate, it can move that the motion be now put. The Government can apply a guillotine to debate, and I did it when I was Leader of the House. It is reasonable to use the guillotine when there has been some debate on an issue. I used it after the then Opposition had engaged in long, drawn-out, deliberate delaying tactics, and I would do it again. However, that circumstance does not arise in this case.

We are debating clauses 125 to 134 in part 6 of the Bill, from page 130 to page 148. We have had less than an hour's debate. The only clause that has been debated is clause 125. Clauses 126, 127, 128, 129, 130, 131, 132, 133 and 134 have not been debated in this Chamber. That is not what the guillotine is about; a guillotine motion is used to truncate or conclude debate when it becomes frivolous. How can the Government do that when we

have not even reached those other clauses? This is an absolute abuse of Parliament - something I did not do and would not do.

The sessional order that I put in place meant there could be debate and a vote would be taken at the end of the week. On numerous occasions when genuine issues arose and debate had been reasonable, I removed items from the list to which the sessional orders would apply. Occasionally debate on Bills was guillotined, but the difference was that the Opposition of the day was able to pace itself through that week. Government members then in opposition often decided that they would extend debate on one Bill and not debate some sections of other Bills. I agree there are defects in that situation and I doubt whether I would put that sessional order back in place, but what the Leader of the House did today is outrageous. After an hour's debate, the Government guillotined debate in an extra sitting week that it scheduled before Easter. What is the reality? Government members, particularly country members, do not want to be here on Easter eve. That is the reality. The Government scheduled the extra week and members are prepared to debate the legislation. After less than an hour's debate the minister has guillotined the debate.

The Leader of the House now has his back to me. The Premier is hiding in the back benches and does not have the courage to sit in his seat. He does not have the guts to sit over there and defend the Leader of the House. The Premier is sitting on the back bench where he properly belongs. He does not have the basic courage -

Several members interjected.

The SPEAKER: Order!

Mr BARNETT: I am addressing my comments to the Speaker. Let me move to the contrivance and the deceit that has been brought upon this Parliament today. The Leader of the House - who is smirking now, as he is inclined to do - came into the Chamber and discussed with the member for Kingsley a procedure to facilitate the passage of this legislation. We recognise that parts of the Bill are long and complicated. Some of the clauses and proposed sections have many subsections. The member for Kingsley agreed, as did I as the Leader of the Opposition, to the suspension of standing orders so that the Government could change the procedure and a vote could be taken on part 6 as a whole, after we had debated the clauses in that part. We took the Leader of the House at face value. We took him to be a decent member of Parliament, who would tell the truth and be honest about his intentions. He was anything but. The member for Kingsley and I agreed to deal with the Bill in this way, and in less than an hour he deliberately contrived to implement the guillotine. It was a plot, a plan, a typical Labor Party tactic. The Leader of the House came into this Chamber with a clever, scheming, crummy, cheating little plan to dupe us to agree in goodwill to try to get through this legislation this week. The Opposition certainly does not want to be here on Thursday night either, so it agreed to that in order to facilitate progress. However, under the tutelage of the Speaker, the Leader of the House came in here with a contrivance and put it into effect within less than an hour. He has denied members the right to vote on those clauses. That is a disgraceful act.

I put the Leader of the House on notice right now that he has lost the confidence of the Opposition. He may smirk, which is his nature, but the Opposition will not take his word or trust him on any other matter. He has lost that confidence. As Leader of the House, he needs the support of members on this side. He needs pairs, and arrangements to re-do legislation at different times. When I was Leader of the House and the present Leader of the House was sitting on this side, I had many discussions with him, as I did with the member for Belmont, but we never betrayed each other. The present Leader of the House said to me on many occasions that he did not like the guillotine to be used. I then said that was his bad luck; the Government intended to do just that, but only after hours of debate. If the Leader of the House wants to know how much debate the previous Government allowed on the City of Perth restructuring and the industrial relations legislation, he should read *Hansard*, in which it is documented. From memory, I think there was over 60 hours of debate. Debate on this Bill has also been long, but I never broke faith. I never walked behind the Chair, looked the present Leader of the House in the eye, told him my intentions, and then went back and did the exact opposite. The Liberal Party does not do that. The Leader of the House has abused not only this Parliament but also the position of the Chair while a Liberal member was in the Chair. That is entirely inappropriate. If the guillotine is to be used, the Government should do the respectable thing and do so while one of its own members, or the Speaker, is in the Chair. That is the proper and courteous thing to do. The member for Rockingham, a decent person, is now compromised, because he became part of this deal.

This is an abuse. It is your responsibility, Mr Speaker. You have the role of Speaker. You are the custodian of this Parliament, with the role of defending the standing orders and the right of members to speak on legislation. How can you claim to have done that when the Leader of the House has come in here and denied members the opportunity for debate? This is not just one clause -

Point of Order

Mr McRAE: Mr Speaker, I am concerned that the Leader of the Opposition was firstly reflecting on an Acting Speaker who was in the Chair prior to you and is now proceeding to reflect on your role in the Chair, when my understanding is that the Chair -

Several members interjected.

Mr McRAE: I am asking for the guidance of the Speaker. I am asking whether the Leader of the Opposition is reflecting on the role of the Chair.

The SPEAKER: I listened very carefully to the Leader of the Opposition. I do not think he is reflecting on the Chair. He is suggesting that other people may have been in the Chair at the time. I am sure that the Leader of the Opposition will not stray into criticising the Chair.

Debate Resumed

Mr BARNETT: So what has the member for Nollamara done? That is what he is back to being - the member for Nollamara.

Government members sit and laugh and giggle. Some of them will get the chance to be ministers of the Crown before too long, with responsibility for making decisions that affect the lives of people. To do that with confidence, they will need the trust of people. I would not be inclined to giggle and laugh too much. Government members should sit quietly, listen to the debate, and decide how they might behave if they were ever in that position. At least two or three of them will have that opportunity before too long.

The member for Nollamara and Leader of the House came into this Parliament and sought the cooperation of the Opposition to suspend standing orders to change the normal procedures of the consideration in detail stage to facilitate the passage of a complex Bill. The member for Kingsley, after consulting with the member for Hillarys, agreed to that in good faith. The Opposition took the Leader of the House at his word. That is what I find most offensive. The Opposition agreed to the suspension of standing orders and the procedure suggested by the Leader of the House. However, after less than an hour of debate on clause 125, the Leader of the House guillotined not only that clause but the whole part. Had the Government guillotined only clause 125, I would not have been as passionate about this, but the Government also guillotined clauses 126 to 134 without debate. Do any government members even know what is in those clauses? They have not even got to them. Immediately, by going along with this, government members have failed in their responsibilities to their constituents. They have also failed this Parliament by allowing no debate on those clauses. It is one thing to limit debate to hurry things up, while allowing the member for Kingsley to not only debate those clauses but also move her amendments. The Government has denied any member of Parliament the opportunity to move amendments to this legislation, or even to raise the issues, whether they affect small business, employers or employees. The member for Kingsley has been denied her right, on behalf of the Liberal Party and constituencies in the community, to even raise the issue. The Government has the numbers to get the Bill through, but it does not have the right to curtail, expunge, dissolve and eliminate debate.

Labor members must go back to their electorates and tell their constituents that they came into this Parliament and voted for the guillotine, after an hour, like a bunch of wimps, because they wanted to go home for Easter. They did not have the guts, the courage, the fortitude, the intellect, or the energy to debate this legislation. Like a bunch of wimps they sat on the back bench and allowed ten clauses to be guillotined without debate. The reason is that the minister wants to go out to dinner tonight. The minister wants to go out to dinner! What is the event? The labour relations society? What has become more important? He does not want to miss out on his pre-dinner cocktail or his soup, so he is now guillotining the debate for his personal convenience.

The SPEAKER: I know the Leader of the Opposition is passionate about what he is saying, but the suspension of standing orders is being debated. I have given the Leader of the Opposition a huge amount of leeway because of his position in the debate, but he should direct his remarks to the suspension of standing orders.

Mr BARNETT: Thank you, Mr Speaker. I will withdraw my comments. I realise this motion is about the suspension of standing orders. Government members will vote against the suspension of standing orders because they have all been told that is what they will do, and none of them will think independently. The Minister for Health sniggers, but he cannot even get a magnetic resonance imaging machine for the children in Princess Margaret Hospital for Children. When the vote is taken - which will happen very shortly, because the Opposition does not wish to prolong this - government members will be voting not only to deny debate on 14 pages of this legislation but also to deny even a debate about debating it. A government member has called it a stupid motion. He is one of those with a chance of making it into Cabinet, but if this is his attitude - although he has two absolute lunatics on his left -

Withdrawal of Remark

The SPEAKER: I direct the Leader of the Opposition to withdraw those comments about the members.

Mr BARNETT: I withdraw.

Debate Resumed

Mr KOBELKE: This issue is so trumped up that at first I thought there was no need to respond to it. However, given that the suspension motion expresses no confidence in me as the Leader of the House, I must explain why it will not be supported. We know that when the Leader of the Opposition does not have any facts, he resorts to abuse. We have just had a classic example of him abusing other members and me. He somehow considers that to be a substitute for dealing with the matters before the House.

The suggestion that trickery was involved in a procedural motion has no basis whatsoever. Earlier, we dealt with the vote on this legislation by divisions and parts. It is appropriate that we deal with it by parts to expedite its passage. In speaking to that procedural motion, I made it clear that we were interested in expediting the passage of the Bill. We did not say that the procedural motion would delay the passage of the Bill; we said up front that it would expedite its passage. If members opposite do not understand the standing orders, that is an issue for them. The standing orders are clear. I suggest if members opposite want to make accusations against other members by way of smirks, sniggers, trickery and other emotive terms without any basis whatsoever, they should learn the standing orders. Before we began debate on the Labour Relations Reform Bill today, we had already spent over 42.5 hours debating it. At that stage, we had dealt with 126 out of 280 clauses. We had dealt also with five parts out of 11 parts plus a schedule. In over 42 hours, we were half or two-thirds of the way through the Bill.

I will put on the record the facts as opposed to the assertions of the Leader of the Opposition. In 1993, the Workplace Agreements Bill, the Minimum Conditions of Employment Bill and the Industrial Relations Amendment Bill were passed having had a total of 37.5 hours debate. We have debated this Bill for well beyond 40 hours and the Government has allowed ample time for every part to be debated. The previous Government did not do that. Contrary to the false claim made by the Leader of the Opposition, the Workplace Agreements Bill was guillotined during debate at clause 8. Clauses 9 to 101 were not debated. The Leader of the Opposition does not want to admit that. The Minimum Conditions of Employment Bill was also guillotined on clause 8. Not a word of debate was allowed on clauses 9 to 47. The Industrial Relations Amendment Bill was guillotined during the second reading debate and the consideration in detail stage, and the third reading was not debated. That is what the former Government did with the guillotine.

This is not a guillotine motion. The Government has applied the gag so that every major part of the Bill can be debated. It is open to the Opposition to debate it properly or to waste time by going over matters that do not have to be established to achieve clarity. That is what has happened in this debate. I put aside the member for Kingsley's contribution; she is the only member on the other side who has some understanding of this issue. Although she has gone over and over matters, which some people might have found boring, she has basically debated the Bill. In order to support the member for Kingsley, a number of other members have spoken on issues totally unrelated to the matter before the House. That is why this debate will be extended well beyond 42 hours. It is likely that by the time the consideration in detail stage is completed, up to 50 hours will have been spent on the Bill as opposed to the situation under the former Government, which allowed 37.5 hours of debate on the passage of three major industrial relations Bills.

This motion to suspend standing orders is another ploy to try to delay the passage of the Bill. Not a single fact supports the motion. The Leader of the Opposition has said that he never stopped debate on a clause. He is wrong. There is no basis for the Opposition's argument. We have allowed considerable debate on this Bill far beyond what would normally be expected. We are not guillotining debate. We are simply saying that at the start of this exercise we had passed only five of the 11 parts. There will be a limited time to debate each part and then we will move on. Every part and major issue can be debated before Parliament for a lengthy and extended period, as it should be, but it is not the purpose to try to delay the passage of this important legislation, as this motion seeks to do.

Mrs EDWARDES: However the Leader of the House dresses it up, he has essentially stopped the democratic right to fully debate this Bill, as is outlined in our motion. The minister has indicated that this is a gag, not a guillotine. However, previously when the guillotine was used in the sessional order, the then Opposition had a chance to program or time its debate. Therefore, it had a choice about how it did that. If the then Opposition decided not to deal with particular sections because others were more important, or it just wanted to make a point, that was its decision.

The minister told me that he wanted to move this motion to deal with the Bill in parts instead of dealing with each clause. He said that that was similar to what we did on a previous occasion. On that occasion, we broke down the parts into divisions, subdivisions and the like. Obviously this situation is different because we are combining the clauses into parts and we will not vote on each clause, but on each part. The effect of what the minister has done is that he will not have to move to gag debate on every clause. Had the motion not been passed, he would have had to move 10 gag motions when debating this part. The Leader of the House had that in mind when he came to see me. I am disappointed that he did not let me know about it. He indicated that there would be time to debate each clause and the amendments. For this part there are 29 amendments on the Notice Paper. If five minutes were spent moving and responding to each amendment, it would take far longer than the allotted hour.

The minister was not straight with me in our discussions about his intentions, which I find very disappointing. I am usually pretty up front and straight; I tell it as it is. When the minister said that the Government wanted this debate to progress, he did not tell me that I had only five minutes left for debate. He then said that some members supported it. Only one Independent and two members on the Liberal side got up. This part is the linchpin to which all the other parts relate. This is the critical part of the legislation. It provides for union industrial agreements to re-emerge as the predominant means of regulating workplaces in Western Australia. Many people with whom I have met have raised their concerns about that. I am not the only one who has worked on these amendments. Many people have spent time and money not only dealing with the philosophical difference, but also drafting amendments that will improve the Bill. If the Government introduces this type of legislation, it needs amendment to make sure it works.

The amendment that deals with industrial agents is very important. A critical issue that has been raised with me is how industrial agents will operate with clients. I thought the Government would want to protect employees in that regard. I was told about a solicitor who was struck off, but who applied to get accredited as an industrial agent and was refused. He then became an employee of a corporation that he set up and he is now acting as an industrial agent under that corporation. The amendment was to exclude corporations from being accredited. It is a democratic right for members to be able to put forward amendments and views.

Another critical issue that has been raised with me is the way in which misinformation has been used to discourage people from entering or encourage people to enter into industrial agreements. The clause, which has been amended to deal with industrial agreements, was exactly the same as that in the employer-employee agreements. The minister has said that he believes they will have quite a substantial impact.

The SPEAKER: It is a requirement to stick as closely as possible to the need to suspend standing orders. I understand the member is debating the issue. I am sure the member will be able to bring her speech back to debating the need for the suspension of standing orders.

Mrs EDWARDES: The point of going through some of the issues relating to the amendments is that the Opposition has not had the opportunity of moving them. People put those views to us and drafted some of the amendments. We are here to represent the people. The motion is so worded because of the denial of the democratic right to debate. People with those views have been denied the opportunity to have this Parliament hear what they have to say. That is a travesty.

I was putting forward an amendment about threats of intimidation. The essence of the amendment was quite clearly identified in the EEAs but not in industrial agreements. Pattern bargaining is a major issue in the extension of rights for industrial agreements, particularly when only a union industrial agreement is being allowed. Before this Parliament voted, people wanted it to hear exactly what they wanted to have said on pattern bargaining.

The minister listened and made some amendments following the draft that he put out, but when he brought the Bill into this Parliament further amendments were made, some of which had not been raised by people who had spoken to me and might have been left off the list of those examining the draft. We in this Parliament represent people's views. The movement of the gag motion denies that right. If the gag motion is to apply to every single part of this Bill, why are we here? Why did I go through all the work over months of talking to people, reading, re-reading, talking to people again, and writing amendments and re-writing them?

Mr Barnett: This Government has insulted your role as a parliamentarian and as a member. It has shown no respect for the thousands of hours that I know you have worked on this Bill.

Mrs EDWARDES: This is a very complex piece of legislation. The next parts cannot be put through the Parliament with an hour spent on each one. The parts of the Bill that are to be dealt with include parts on unfair dismissal, which is a major issue, particularly for small business in the community. Right of entry is another major issue. How quickly will we push that part through? The right of entry affects the privacy of individuals

who are not members of unions. The privacy of their employment records are at risk. People have an absolute right to be heard on the issue. All we do is represent their views. A key amendment is the removal of the Industrial Relations Commission's ability to order a return to work when there is a strike. Another key amendment is the change from enforcement provisions involving a criminal offence to their involving a civil offence. The Government may not want to hear about some of those issues, but the people want the Government to hear about them. The gag on this Bill means that that will not happen.

One issue that was raised was the discussion I had with the Minister for Consumer and Employment Protection and Leader of the House. I usually deal with issues as they arise. I took him at his word.

Mr Barnett: You trusted him.

Mrs EDWARDES: I trusted him to say that the clauses and amendments would be able to be dealt with. It was not a question of there being an hour in which to do it. If nobody else had spoken and the minister and I had taken only five minutes each upon each amendment, despite the rest of the clauses, it would have been impossible to deal with it in an hour. That is an example of the unrealistic expectations that have been imposed by the gag motion.

The objects of the Bill were points of very keen debate. One of the major issues that people have wanted to have debated in this Parliament is pay equity for women. The Premier and the minister have consistently said in this Parliament that workplace agreements were the cause of driving down women's conditions and creating the gender gap between men and women. That is absolute nonsense. By inserting the object that the minister intended to insert, what did he hope to achieve to improve the gender gap without a whole range of other actions?

The SPEAKER: The member has been speaking for 10 minutes. I urge her once again to look at, not the motion that she is seeking to debate if standing orders are suspended, but the reason that we should suspend standing orders. There is not the capacity to debate the motion that she wishes to debate.

Mrs EDWARDES: Thank you very much, Mr Speaker. The issue of the suspension of standing orders is its urgency. Quite clearly, immediately following the vote on the part of the Bill, we need to move a motion to say that we on this side of the House are being denied a democratic right to fully debate the Bill. As a result of this, the people are being denied a democratic right to have this Bill debated fully and to have their issues put forward. The minister did not have the courtesy to attend a small business function and hear the views of small business people.

The only way in which we can discuss these issues is to have the opportunity to suspend standing orders in order to debate the substantive part of the motion. If we do not have the opportunity, which would immediately follow the vote, we would not have any opportunity. The motion is one of urgency to support the suspension of standing orders, because we have been denied the democratic right to continue to put forward the views of many employers and employees and their associations. If members opposite do not understand that or respect the views of those people, we can do nothing to convince them to change their minds, because it would appear that the only thing government members are looking at is the numbers. They think that because they have the numbers they can do whatever they want in this House. That will undo this Government far more than anything else that it will do with legislation or decision making. If the government members start to treat this House and members on this side with contempt, it will be a very sad day.

Mr Barnett: The leader has misled the House.

Mrs EDWARDES: There was a misleading of the House, but, more importantly, I believe it was deliberate. That is my real concern. I am very disappointed in the minister. We have had a long relationship over many years when I was a minister and he was in opposition and when I was in opposition before that and he was a cabinet secretary, as the title was then. We have known each other for a long time. I feel very disappointed that he has done this. I could probably express myself in far stronger language, which perhaps I will do to the minister personally. The approach the minister has adopted is very disappointing. As Leader of the House he has the ability to organise the debate.

Sitting suspended from 6.00 to 7.00 pm

Mrs EDWARDES: The motion moved denies our democratic right to fully debate this Bill. We moved for a suspension of standing orders because we thought that it was right, proper and urgent that we debate this issue, particularly because many amendments and clauses have not been debated. Interestingly enough, we were discussing the part of the Bill that deals with good faith bargaining. The minister has just demonstrated what he believes good faith stands for, which is probably a sign of things to come. What sort of role model is the Government presenting to the players who, in the future, will have to reach agreement under this provision? If

the Government understands it to be an agreement that can be broken whenever it suits a specific purpose or the purpose of its colleagues, and that one of the parties does not have to tell the full story in order to get agreement, then the unions can be expected to continue to act in that way in future. If the Government can do it, why can the unions not do the same?

This Bill is important. It will affect the livelihoods of many people. Many employees, particularly young people and women, will be affected by this legislation, as well as small business people. This Bill is so important that members on this side of House are happy to resume the sitting next week to ensure that the Bill is fully debated. We have moved for the suspension of standing orders because it is critical that we fully debate the Bill.

Mr PENDAL: This is a serious matter. The member for Hillarys has moved a serious motion, as was the motion moved by the Leader of the House. It does not matter whether members say this is a guillotine or a gag motion; what counts is the substance behind the Government's decision to curtail debate on matters that other members of this House think it is important to dwell on. A famous Speaker in the House of Commons said that the function of Governments and Oppositions in a House such as this is for an Opposition to have its say, but a Government to have its way. That is effectively what the House seeks to achieve. An Opposition must have its say because it is simply powerless to do anything else, and a Government must have its way otherwise it becomes powerless to get any legislation through a House of Parliament. I understand the desire of the Government to have this Bill passed by Thursday. However, it might have been more appropriate for the Government to have said that, come what may, it intends to apply the gag or the guillotine motion, or restrain debate, by 3.00 pm Thursday, and that it will have its way and the Bill will be passed by 5.00 pm. The Opposition could therefore organise its time so that between now and then it would effectively be in charge of the debate. The outcome would have been that the Government would have got its way, but the Opposition would have had its say.

I intend to support the motion because for seven or eight years I have consistently opposed the notion that we need to apply a gag or a guillotine motion, or restrain debate in a House of this size. I find it offensive that as a result of the Government's motion, none of the Opposition's 29 proposed amendments before the House will be dealt with. That is offensive to not only the parliamentary process, but also the lead speaker for the Opposition who has made that effort. More importantly, it is offensive to the people of Western Australia who see a role for an Opposition just as much as they see a role for a Government in this Parliament.

We then come to this rather hypocritical notion that is played out when a Government says what it has said tonight and an Opposition responds in the way that it has. During the suspension I was tempted to return to the House to move without notice another suspension of standing orders - I do not intend to do so - to the effect that the Speaker leave the Chair and repair to the his chambers to obtain a bible, and an affirmation card for those members who do not want to take an oath, and then require all members to swear or affirm that they will never in the future, no matter where they sit in this place, agree to a gag or a guillotine motion, or a curtailment of debate. That would demonstrate my point that arguments never change in this place. The only thing that changes is members' position on one side of the House or the other. On Mr Speaker's right-hand side there is an inbuilt sense of smugness and arrogance that says, "We do not care. We have the numbers and we will do what we want." At least 12 new members on Mr Speaker's right-hand side have never before had reason to experience the humiliation of debate being curtailed, or gagged or guillotined. As someone pointed out earlier, they will experience that in the future, whether it be in three years, seven years or 11 years. Similarly, there are members on this side of the House who run the argument that to curtail the debate is anti-democratic and runs against all the principles of Westminster Parliaments. However, as soon as the Government changes and its members resume their seats in opposition, all those arguments disappear. The reason that people in the gallery and the media think that, at best, we are a bunch of hypocrites and gangsters is that we change the rules and principles according to where we sit in this House. Frankly, it makes me sick. I return to the maxim of the Speaker of the House of Commons, who said that in the end the Opposition certainly must have its say, but the Government must ultimately have its way. In this context that means that the member for Kingsley ought to have been given the opportunity to have her say. If she had chosen to proceed with the 29 amendments to this part of the Bill and to have used the time available until Thursday, she could not have expected that the Government would not want to have its way and say, "We will get this Bill through by five o'clock on Thursday." That has not happened. The fact that it has not happened is a reflection on the government side of this House. I do not expect that the new members to the right of the Speaker will take any notice of what I say. They might, however, take to their party room the notion of what others and I have said tonight.

It is a most serious matter to curtail debate. I do not believe that we should curtail the debate. We should vote in favour of the motion moved by the member for Hillarys. No-one wins from this. The smugness of the one side is matched only by the indifference of the other. Since the election, the members who used to exercise indifference are now left with nothing better than indifference. This is a very serious matter. It is the reason that

people outside the Parliament think so poorly of this place and Chambers like it around the world. Human nature does not change much anywhere in the Westminster system. I still believe it is the best system that anyone has devised, but it has a long way to go to appear to be equitable. It is a great pity that we had spent over an hour debating an issue that ought never to have come before the House. The Leader of the House is far too experienced to allow this to happen in this way. He knows there are more ways to kill a cat than by choking it with butter. He knows he could have got his way by Thursday. He has every right to say that he will have his way and allow the Government's agenda to proceed. He was in a strong moral position to argue that. However, he broke the moral underpinning of that argument by what he did tonight. He will be the loser in the long run. I hope that the newer members of the Labor Government will question this decision internally and ask whether, one day, they will be in the same position that members on this side of the House are in now. That is all the more reason that the House should follow my half-serious suggestion that members swear they will never do what the Government is doing and what the Opposition did, in its own way, when it was in government. We are all losers. In the end, the Government will have its way. It is a travesty that the 29 amendments proposed by the member for Kingsley will not be dealt with. That means that the Opposition has not had its say.

Mr McGOWAN: I move -

That the question be now put.

Question put and passed.

Question (suspension of standing orders) put and a division taken with the following result -

Ayes (22)

Mr Ainsworth	Mr Edwards	Mr Marshall	Mr Trenorden
Mr Barnett	Mr Grylls	Mr Masters	Ms Sue Walker
Mr Board	Ms Hodson-Thomas	Mr Omodei	Dr Woollard
Dr Constable	Mr House	Mr Pendal	Mr Bradshaw *(Teller)*
Mr Day	Mr Johnson	Mr Barron-Sullivan	
Mrs Edwardes	Mr McNee	Mr Sweetman	

Noes (28)

Mr Andrews	Mr Graham	Mr McGinty	Mr Quigley
Mr Brown	Ms Guise	Mr McGowan	Mr Ripper
Mr Carpenter	Mr Hill	Ms McHale	Mrs Roberts
Mr Dean	Mr Kobelke	Mr McRae	Mr Templeman
Mr D'Orazio	Mr Kucera	Mr Marlborough	Mr Watson
Dr Edwards	Mr Logan	Mrs Martin	Mr Whitely
Dr Gallop	Ms MacTiernan	Mr Murray	Ms Quirk *(Teller)*

Question thus negatived.

Consideration in Detail Resumed

Mr KOBELKE: I move -

That the debate be adjourned until a later stage of the sitting.

Question put and a division taken with the following result -

Ayes (30)

Mr Andrews	Ms Guise	Ms McHale	Mrs Roberts
Mr Brown	Mr Hill	Mr McRae	Mr Templeman
Mr Carpenter	Mr Kobelke	Mr Marlborough	Mr Watson
Dr Constable	Mr Kucera	Mrs Martin	Mr Whitely
Mr Dean	Mr Logan	Mr Murray	Dr Woollard
Mr D'Orazio	Ms MacTiernan	Mr Pendal	Ms Quirk *(Teller)*
Dr Edwards	Mr McGinty	Mr Quigley	
Dr Gallop	Mr McGowan	Mr Ripper	

Noes (20)

Mr Ainsworth	Mr Edwards	Mr Johnson	Mr Barron-Sullivan
Mr Barnett	Mr Graham	Mr McNee	Mr Sweetman
Mr Board	Mr Grylls	Mr Marshall	Mr Trenorden
Mr Day	Ms Hodson-Thomas	Mr Masters	Ms Sue Walker
Mrs Edwardes	Mr House	Mr Omodei	Mr Bradshaw *(Teller)*

Question thus passed.

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