LABOUR RELATIONS REFORM BILL 2002

Second Reading

Resumed from an earlier stage of the sitting.

MR TRENORDEN (Avon - Leader of the National Party) [8.02 pm]: My major concern is that small businesses are having to make major plans to meet the requirements of the new legislation. I have made a point of speaking to small businesspeople in my electorate about what they think of this legislation. They have no idea what to think about it, because they have no idea what the consequences will be.

Mr D'Orazio: How many people in your electorate are subject to these agreements?

Mr TRENORDEN: That is not the point.

Mr D'Orazio: How many?

Mr TRENORDEN: The agreements are not the point. The point is the whole Bill. One family in my electorate run a 24-hour business, and they have said that they will sack seven people.

Mr D'Orazio: Nonsense.

Mr Logan: That is scaremongering.

Mr TRENORDEN: That is right. It is absolutely scaremongering, because they have no idea what they are in for. I have not told them anything.

Mr D'Orazio: Nothing will change.

Mr TRENORDEN: That is not true. One important thing at least will change in rural Western Australia: this Government will make it compulsory for people to clock on and clock off. A few people in my electorate still do that, but the vast majority of employers do not have that working relationship with their staff. The Bill provides that employees shall clock on and clock off.

Mr D'Orazio: All they do is write in a book.

Mr TRENORDEN: How many people have that in the year 2002?

Mr D'Orazio: Everyone.

Mr TRENORDEN: Virtually nobody in rural WA.

Mr D'Orazio: How do you pay them?

Mr TRENORDEN: Employees are paid for the job. The problem is -

Mr Hyde: The goods and services tax?

Mr TRENORDEN: I will come to the GST in a minute. Government members have the mindset of employee versus employer. In country areas people do the job; they can go home early as long as the job is done.

Several members interjected.

Mr TRENORDEN: Surely the member for Swan Hills is not saying that it is not true.

Ms Radisich: You cannot say that it will happen in your 24-hour retail outlet, because it will not.

Mr TRENORDEN: I wanted to answer an interjection from a member opposite. In the member for Swan Hills' electorate people working in the vast majority of small businesses are not clocking on and off. She should go into the deli in Mundaring and ask the proprietor if staff are signing on and off.

Ms Radisich: I will. I know the proprietor of the deli in Mundaring.

Mr TRENORDEN: Exactly, and the member is saying that this Bill will have no effect on the proprietor. If the employees do not write down 9.00 am and 5.00 pm and the inspector visits, they will be found to have broken the law.

Who will lose under this process? It will be the employees. In my days when I used to work for the Western Mining Corporation I clocked on. I was usually seven minutes or 10 minutes late, and I lost that time off my wage. If I worked an extra 10 minutes or 20 minutes at the end of the day, I did not get paid for it, because the employer said that my job was from 7.00 am to 4.00 pm. Most small businesses now ask their employees to turn up and do their job.

Mr D'Orazio: Cut it out.

Mr TRENORDEN: They do. The vast majority of small businesses in rural WA do exactly that. The member for Ballajura is not living in the real world.

Mr D'Orazio: I certainly am.

Mr TRENORDEN: He is certainly not. I am particularly interested in work practices in places like the Kimberley which have a wet season and a dry season. Many people employed in government services in those areas work extraordinarily long hours during the dry season and take time off during the wet season.

Mr D'Orazio: That is what it is all about.

Mr TRENORDEN: The proposed legislation does not allow that flexibility.

Mr D'Orazio: It does.

Mr TRENORDEN: It does not. This legislation is about jackboots; it is not about flexibility at all. All the small businesses in my electorate that have not had major problems for decades will now be faced with a situation in which if somebody walks in the door and demands all their records, they must produce them.

Mr Logan: You are showing that you do not know what you are talking about.

Mr TRENORDEN: They must produce them. Why should they be enamoured with this Bill? They are terrified by it, and they have every reason to be terrified of it, because they do not know what to expect.

Mr Logan: You are terrified.

Mr TRENORDEN: I certainly am. The member for Cockburn will realise that the issues are fundamental. The last time that the Labor Party was in government I had a very close friend who worked in Kambalda. He was sacked because he had imposed upon him a $100 union levy to pay direct to the Labor Party. He refused to pay it, and so he lost his job.

Mr Logan: Rubbish.

Mr TRENORDEN: The member can say rubbish as much as he likes, but it is a fact.

Mr Logan: What is his name?

Mr TRENORDEN: His surname is Metcalf. He was sacked by Western Mining because he would not pay the union levy. That is what this legislation is about. It is to bring in the jackboot and bring back the conflicts of the 1950s into industrial relations. It will cause major problems.

The member for Perth referred to the GST. How quickly the mob opposite forgets. They are a wonder. For two years they terrified people - quite correctly I might add - about the responsibility of record-keeping that the GST would bring upon people, yet they bring in a Bill which will do just the same.

Mr D'Orazio: Come on.

Mr TRENORDEN: They are. They are imposing mandatory record-keeping on small businesses, which do not have it now.

Several members interjected.

Mr TRENORDEN: It is a fact.

Several members interjected.

Mr TRENORDEN: How many people in rural Western Australia are unionists or working under awards? Most of them are working under common agreements.

Mr Logan: You said this morning that they are working to the awards.

Mr TRENORDEN: I did not say that. I said that the 19.5 per cent of workers who are unionists want to work under awards. I did not say 70 to 80 per cent of small business employees are working under awards - some are and some are not. Most are working under common agreements between the employer and the employee.

Members opposite are ignorant about country Western Australia. The previous debate proved that they have no compassion for rural Western Australia. They are appalling. People in rural Western Australia are shaking their heads and asking why they cannot be represented and why they cannot have a Government that treats them in a reasonable, fair and representative manner. Walking the streets during the Woolarama festival the other day was interesting. People repeatedly talked about how the Labor Party has washed its hands of rural Western Australia.

Several members interjected.

Mr TRENORDEN: I am happy to repeat it. Hon Tom Stephens - the delightful minister -

Several members interjected.

Mr TRENORDEN: Read *Hansard*. He is also on record as saying in Bindoon that the National Party treated people too well and that the Labor Government was going to take back some money.

Mr Hyde interjected.

Mr TRENORDEN: He did say that, but he also said it was one of the best coalition Government programs. The member for Perth is dribbling again. He should wipe his chin.

Several members interjected.

Mr TRENORDEN: He is telling the truth - it was one of the better Court-Cowan Government programs.

The National Party will oppose the provisions dealing with unfair dismissal claims being lodged beyond 28 days. This is a very important matter and the system must be fair. However, we cannot have a totally open process. People must decide within a reasonable timeframe. A month is a reasonable period in which to allow people to decide whether they wish to pursue a matter. People have to get on with life. Whether an employer is right or wrong, he must be allowed to carry on with life. Wrongful dismissal is very important, particularly for small businesses. Members opposite do not understand that rural Western Australians must get on. They live and play bowls and golf together. They go to the same churches, their wives socialise and their kids go to the same schools. They know each other intimately. They must be on reasonable terms with their employers and employees.

Several members interjected.

Mr TRENORDEN: That is for debate in another place. We will not worry about that. I know the minister is not listening, but that does not matter. The National Party will not oppose the entire Bill.

In 1990 the average age of a unionist was 36, and in 1999 it was 40. If members of the union movement and the Labor Party think that the answer to that is to kick workers into unions using jackboots, they are sadly mistaken.

Young people have a different view of life. Only a few months ago I listened to my son and his friends talking about life and work. One young bloke who is a mechanic said he is planning to leave his current job to get a job with a firm that specialises in diesel machines. His reasons for doing so are that his boss is struggling and it would help if he moved on, and that he has been in his current job for five years. People of our generation believe that we should have few jobs during our working life. My children and their friends are happy to move on. Young people are happy to pick up expertise and move on to improve their position. We should not knock them for that. If we do not allow these young people the flexibility to do that, we will pay the price. The Labor Party has paid that price at the last couple of federal elections. Young Australians will not support the Australian Labor Party.

This Bill is very disappointing. I saw hate for the first time in my life during the Graham Kierath debate. Members opposite deliberately generated that hate.

Several members interjected.

Mr TRENORDEN: It is true. I led the way into this place in front of two female parliamentary staff and the member for Roe. The mob at the side entrance were spitting and punching. Two burly people came at me with looks of pure hatred in their eyes. I thought I was gone. Thankfully, two policemen whipped them back and they were gone. There was no question about their intent.

Several members interjected.

Mr TRENORDEN: The point I am trying to make is that we are meant to come into this place to govern fairly. I did not agree with parts of the Kierath Bill. Nevertheless, it was passed. Members opposite are reversing the situation. As I said, large businesses will not worry; the vast majority will move across to federal awards with the consent of their employees. Small businesses will feel the pain. They do not know what is coming; no-one can tell them. I cannot tell them because I do not know.

MR BARNETT (Cottesloe - Leader of the Opposition) [8.18 pm]: The Western Australian economy is inherently strong. It should be expected to grow in the range of three to six per cent, and generally at no less than four per cent per annum. Growth is a measured statistic; it is a compilation of consumption, investment, government spending and net exports. It is a statistic and it does not necessarily describe what is happening in

the economy. Because of its high level of investment in the resources sector, this State tends to experience strong growth. The real issue for the people of this State is whether those statistics translate into employment growth and employment opportunities.

Some people claim that industrial relations legislation creates jobs. I dispute that. The role of industrial relations legislation, or the industrial relations system, is to ensure that demand in the economy - whether it be consumer demand, export growth or business investment - translates into local employment. To use the analogy of a car, it is the transmission mechanism. It is not the motor, but it is the apparatus that maximises the chance of growth flowing to employment and opportunities for individuals and families. That is why it is so crucial to understand.

It would be possible to have a situation in Western Australia in which the headline growth statistic looks quite good; it might be three or even four per cent. At the same time, there could be rising unemployment. It would be due to the peculiar economic structure of this State. We have to be very conscious of maximising our inherent advantages in Western Australia. We need an industrial relations system that transforms the naturally high rate of spending and investment into employment. That is the key role of the industrial relations system. There is no doubt that industrial relations is surrounded by a lot of ideology. Both sides of this House are as far apart on this issue as on any. Perhaps the position that most people in the community support is in between. I concede that both sides, Liberal and Labor, tend to take ideologically extreme positions in some respects on this. We all feel very strongly about it. Most mainstream Australians have an opinion somewhere in the middle. Perhaps there were some aspects of the previous Government's legislation that should have been reviewed. As the member for Kingsley said in her speech, there is no doubt that there are unscrupulous employers who take advantage of existing laws. I have no truck with them at all. Equally, there are unscrupulous employees. That is the case. There is bad on both sides. Mostly in Australia and in this State there is an enormous amount of good on both sides. The vast majority of employers are responsible people who want to see business grow and are concerned about the economic welfare of their employees. The vast majority of employees care about their jobs and are interested in the business enterprise in which they work. They want to see themselves and their colleagues succeed and they want to have successful working lives. Our industrial laws need to pick that up.

One thing that the industrial system of workplace agreements did that is critical to this issue was to bring the employer and the employee closer together. There is absolutely no doubt about that. For the first time in Australia's archaic industrial relations system, which developed in the previous century, the system allowed and encouraged the employer to sit down and talk to the employee. Companies that had a history of industrial disputation did that. It was a symbolic change in the iron ore industry that had a long history of traumatic, disruptive and expensive disputes for all concerned when, suddenly, the distinction between white-collar workers and blue-collar workers went. Everyone became a staff member. They were all the same. For the first time there was a breakdown of the old ideological, almost class-driven divisions. That had some way to go, but this legislation will be regressive. People were involved in the workplace, working cooperatively. They were empowered and had a sense of contributing and working together.

Members should re-read the member for Kingsley's speech as it is a detailed and thorough account of the state of industrial relations and what is wrong with the legislation introduced by the Labor Party. As with so many issues, the campaign is based on slogans. This is not about getting rid of workplace agreements. This is not about undoing the so-called Kierath reforms. This is trying to take the industrial relations system of this State way back; that is what it will do. I do not pretend to be an expert in industrial relations although I have appeared in the industrial relations court a few times. In the post-war period and through the 1970s and 1980s we had an industrial relations system that was totally inflexible. The award structure was totally inflexible. The economy was riddled with demarcation disputes, industrial stoppages, infighting between unions and employers and unions were at each other's throats. We had a dreadful industrial climate in the 1970s and early 1980s. The industrial relations club was at its zenith and we had people marching up and down Collins Street or wherever making decisions that may well have suited a large union or a large employer, but the conditions and award rates were immediately imposed on all workplaces across the country or across state jurisdictions. It was totally inflexible and an environment in which one could not translate Australia's economic potential into employment potential for the workers of this State and country.

The inflexible, rigid and archaic award structure existed through the 1970s and 1980s. After that period we had the first signs of a break-out into the modern era. We saw the emergence of enterprise bargaining and enterprise agreements. Individual business enterprises could reach a collective agreement with their work force. Company A could have a slightly different set of arrangements from those of company B for whatever reason. It may have suited their market, product, regional location or workplace. For the first time we had the first element of employers and employees discussing working conditions and conditions of employment that suit a specific

enterprise or group of workers. That was a move away from industry-wide and sector-wide, rigidly imposed, arbitrated terms and conditions to a more enterprise-focused agreement. It was a significant advance.

Mr Logan: It was largely due to the ACTU.

Mr BARNETT: It evolved through the system. I give the ACTU due credit. Kelty played a significant role in the evolution of that. Enterprise bargaining was important. One can see the progression from a very rigid system to a more flexible system. It was a significant change. Workplace agreements took it one step further and allowed individual arrangements with individual employees. That effectively took the notion of decision-making for business or an enterprise into the small business sector in which there may only be two, three or half a dozen employees. It was a progression. This legislation introduced by the Labor Government is not taking us back to pre-1993 - to pre-workplace agreements - it is taking us back to pre-enterprise agreements. That is the point. If one had a philosophical or ideological objection to workplace agreements and said there will be no more workplace agreements and we will go back to a system in which there is genuine enterprise bargaining whether it is through union or non-union agreements, we would be unhappy but at least the Government would not be throwing out the whole system. The Government would not be going back to the rigid, archaic disputation days of the 1970s and early 1980s. If the Government wants to have a philosophical and ideological difference, it should at least go only to that point and leave something for the Western Australian industrial relations system. This is not a short-term change; this is not going back to pre-Court and Kierath reforms - I can be included in that as well - it is going back a further decade. It will put Western Australia out of touch with modern employer-employee relations. It will put our industrial relations system at a competitive disadvantage not only with other States, but also with the federal system. It is important that Western Australia has the ability to have its own industrial relations arrangements. Yet when the issue arose, the Premier, to his shame, was all too quick to say in the case of Rio Tinto Ltd that it was its choice: "Let it go". Never has this State had a Premier who will throw away the rights and privileges and responsibilities of this State as this Premier does. He will do it on any issue; he throws it over the Nullarbor.

Workplace agreements are not the only factor. The economic climate is also important. Let us look at the raw data on the labour market. Pre-1993 the unemployment rate was nine per cent. Toward the end of the term of the coalition Government it went down to 5.9 per cent. The Government should be wary that it is now seven per cent. An additional 10 400 people have been added to the figures in the past 12 months yet the Premier boasts of strong economic growth. There can be strong growth with rising unemployment in an economy that has the structural characteristics of the Western Australian economy. This is not New South Wales or the United Kingdom; this is a unique and different economy. Pre-1993, youth unemployment rose to 34.5 per cent but it was reduced to 14.2 per cent. If any group of workers suffered under rigid workplace arrangements it was young people. Remember all the concern about participation rates and youth unemployment in the early 1990s? Young people were the greatest beneficiaries of flexible workplace arrangements because they got jobs. They got casual or part-time jobs or they got their first job. Young people's first job is their most important job, and this system allowed that to happen.

Productivity in this State grew at 0.1 per cent pre-1993 and averaged 3.9 per cent post-1993. Over a five or six-year period pre-1993, wages grew at an annual average rate of 0.43 per cent; and post-1993, it grew at 2.8 per cent. I could go on and on about any broad measure of the performance of the labour market. The performance through the period of workplace agreements far exceeded that of pre-1993. I remind members that we are not going back to pre-1993; we are going back to the late 1970s and early 1980s.

Mr Logan interjected.

Mr BARNETT: Has the member spoken on this Bill yet?

Mr Logan: I have. I wish you had been here; I quoted you.

Mr BARNETT: The Premier said on a radio program that only nine per cent of people have workplace agreements. I do not know whether that is true. However, I know that 275 000 were signed, and many of those were re-signings. I acknowledge that. An element of double counting was reported in some of the media at the time. Nevertheless, at least 45 000 Western Australians had signed and re-signed a workplace agreement.

Mr Kobelke: That is how many times an agreement has been signed; it is not that many individuals.

Mr BARNETT: I am happy to look at the figures. It was a significant part of the workplace environment in Western Australia and it was growing, particularly among the small business sector. The average working days lost per 1 000 in Western Australia pre-1993 was 188; and post-1993 it was 79. That was because for the first time there was sensible, cooperative and honest communication between employees and employers; that it was the first time was to the shame of both employers and employees. For the first time they were not taking their

issues to the arbitration commission; they were working cooperatively within the workplace. That is the most important factor. I know it gets up the minister's nose that union membership declined. He thinks union membership declined because of workplace agreements. I put it to the minister that union membership declined for far more pervasive reasons than workplace agreements. However, it did decline. As it stands today, 15 per cent of the private sector and probably about 20 per cent of the public sector are in unions. I do not know the exact figure.

The system may not be perfect, but it put in place minimum conditions. The minister may argue about minimum conditions, but the idea was that there be a simple set of minimum conditions. If the minister wants to raise, change or add maternity conditions or whatever else, that is fine. They are all public issues and they changed during our term in government. The idea was to have a safety net or a level below which no employer could or should go. The minimum conditions were there to ensure that no-one could be exploited.

Mr D'Orazio: Can you live on $8 an hour?

Mr BARNETT: The minimum conditions were there for that purpose. Very few people were getting the minimum conditions. If members' philosophical position is that the minimum conditions are too low, although I may not agree with them, they should raise those conditions; they should not throw out the system.

There is no doubt that this Government is beholden to the unions. I will not go into the politics of that. The unions have 60 per cent of the vote in the Labor Party and they provide most of the Labor Party's money. Most of the pre-selections depend on the unions and that money comes through. When there was a change of government, Kevin Reynolds and his mates immediately showed their industrial muscle on building sites. The no ticket, no start signs went up; yet the Labor Government says that it is a form of advertising. I have never heard such a wimpy response. Now we will see the reintroduction of closed shops at industrial sites in this State. The test case in the public arena will be the convention centre. What is going on at the convention centre site? Has the minister taken an interest in that yet? I bet he has not. I suggest he put on his hard hat and go down to the convention centre site to see what is brewing.

Mr Kobelke: What is happening down there?

Mr BARNETT: The minister should visit the site.

Mr Kobelke: I asked the department and it said nothing.

Mr BARNETT: It had better have a careful look at it.

Mr Kobelke: What are you suggesting? Do you have some basis for your allegation?

Mr BARNETT: The convention centre is very quickly heading - it is not there yet - towards the deals of the 1970s and early 1980s. It did not take unions long to stop work on the Woodside tower. It just stopped. What was that about? Who knows?

I do not want to spend a lot of time on the detail of the Bill because the member for Kingsley went through that.

[Leave granted for the member's time to be extended.]

Mr BARNETT: The Bill will get rid of workplace agreements. I disagree with that. If the minister were to do that, and leave in non-union collective agreements and a genuine enterprise collective agreement, at least something would be salvaged for the people of this State. However, the minister will not do that. He talks about employer-employee agreements. They will not apply. They will be a nonsense. It is a sham. Hardly anyone will enter into those agreements. Rio Tinto Ltd has already examined them very carefully and has found that they are a waste of time. It will enter into a non-union collective agreement under the federal award. Many other businesses with fewer employees will use Australian workplace agreements. They will not enter into the Government's employer-employee agreements for a number of reasons that the member for Kingsley explained. There is no certainty about them. The ability to bring in the union, opt out or cancel the agreement is there all the time.

Mr Logan interjected.

Mr BARNETT: Yes, it is. We will go through that in detail. The EEA is set against the award structure and, with all its complexity, the award structure effectively will become the minimum conditions. With a no-disadvantage test, there is no ability to trade off any conditions under EEAs. We will go through that at the consideration in detail stage. The award will become the minimum conditions. If people cannot trade or swap conditions under the award, they will have nowhere to go. No employer, if he looks at it carefully, will enter into an EEA.

If ever there is to be a calling point to employers, it is the right of entry. The unions will now have a right of entry and will be able to walk into any workplace, whether or not there are union members on the site, and search and access records, including the private records of individuals. We will go through that issue in detail. The minister says that the unions must give 24 hours notice unless that contravenes the awards. Many awards do not have any period of notice. Again, as has been pointed out by the member for Kingsley, the unions will be marching onto work sites. That is under way already; they are setting that up now.

Pattern bargaining is the old award system. If one employer notices that his competitor has an advantage over him in the marketplace or has more flexible agreements, what does he do? He, or the union, bowls into the Western Australian Industrial Relations Commission, there is a bit of a wink and a nod, they do some deal, and the commission arbitrates and imposes the decision right across the system so that every employer loses any advantage. I will tell members what that is, and it is not something for Mr Fels. That is essentially how the arbitration commission has been used, and will be used again, in this State to bring about uncompetitive, collusive, monopolistic practices entered into in the product market through arrangements in the labour market. Members will see that happen, just as it did in the late 1970s and early 1980s, with unfair dismissal arrangements and the like.

Mr Logan: Can an employer get onto the North West Shelf project if he is not a member of the Chamber of Commerce and Industry of Western Australia?

Mr Barnett: I think there would be a lot; most of them are.

Mr Logan: It is a closed shop. Go and check it out!

The ACTING SPEAKER: Members!

Mr BARNETT: As the member for Kingsley also pointed out, not only has there been no economic analysis, but also there has been no labour market analysis of what this will mean. This is essentially a labour market measure. Its first impact will be in the labour market. Its secondary impact will be on the economy. We have a large, vibrant small business sector in this State. We have an economy that depends on the State's natural resource industries, but its employment pattern is heavily skewed towards the services sector and not the total value of production. That is the nature of the Western Australian economy. That sector employs all sorts of people in hospitality, retail and community services, and in that I include aged and disability care and nursing homes. They tend to be areas that often employ a large number of people who are not always highly qualified. These operations are seven days a week, 24 hours a day, and they rely heavily on casual and part-time employees to get that flexibility. These industries allow for married couples - it was typically the woman; however the arrangements are far more modern - to share in the caring for the children, and for one partner to pick up night or weekend work. It allows students to pick up work, and it provides the unemployed person who would like to work a 40-hour week with the opportunity to pick up 10 or 15 hours work a week, and gradually move into the work force. These types of job opportunities occur in the service industry sectors. They will be the first jobs to go if this legislation is passed. That is the harsh reality of the legislation. I do not want it to be that way. However, the part-time and casual jobs for youth, female, migrant, and low-skilled workers will be the first to go. These people are the weakest groups in the labour market, but they will be the first ones to fall off. The irony of all this is that the Labor Party comes into this Chamber and pretends to be the champion of the worker and the underprivileged. However, because it is so ideologically driven, the Labor Party's measures will hurt the most vulnerable people in our community first, and hardest.

Mr Logan: During its time in office, the Liberal Party had less employment growth than did the Labor Party.

Mr BARNETT: That is absolute nonsense.

This legislation brings back the industrial relations club. If a company were looking to invest in Western Australia, and it saw industrial disputes, a Government beholden to the union movement - that is obvious to everyone - and a lack of flexible arrangements in the workplace, it would not invest in the State, or it would channel more investment into other States or offshore. The Premier believes that there will be a boom in the resources industry. His biggest problem will be having the work carried out in Western Australia - I had the same problem when I was a minister; it is always a challenge - because employers, fabricators and contractors will not be able to offer flexible arrangements in Western Australia. It will give some of the major resource companies that are not necessarily interested in the welfare of Western Australia the perfect opportunity and excuse to have the work carried out offshore. The work will be done offshore, floated in, bolted together, and the company will pay a small amount of royalties and federal tax, and off they will go. We worked very hard over the past eight or nine years to ensure that the amount of Australian, and particularly Western Australian, local content on major resource projects came to this State. I had endless meetings with unions, and some

members were particularly cooperative. I spent a lot of time with Tony Cooke and we had many great successes. Stephanie Mayman was also cooperative.

Mr Logan: What about Jock Ferguson?

Mr BARNETT: Yes, there were people in the union who were very cooperative. However, the Government will find that cooperation difficult because despite the good will, they will not be able to carry out the work in a rigid system. The quality of the work will be better, but they will not get that work.

It does not matter which industry group we look at, each view is consistent. The Property Council of Australia estimates that the cost of property management in this State will rise by about 20 per cent because, again, we are talking about casual and part-time, 24-hour days, seven-day a week workers in security, cleaning and those types of jobs.

The Restaurant and Catering Industry Association of Western Australia commented that the repeal of the Workplace Agreement Act 1993 would lead to the public's paying higher prices for dining, with fewer dining options. That is the point made by the member for Kingsley. The community enjoys low prices and good quality and would it not also be great to receive good service? That has been one of the major problems in the tourism and hospitality sectors in this country. Flexible working arrangements, in which people are rewarded for the work they achieve, creates that type of service.

Where is the equity when students who work in a restaurant on a Wednesday night receive X amount of dollars, while students who work on a Saturday or Sunday night receive X plus dollars. Where is the equity between the students? There is absolutely none at all. It is lunacy. The Government is living in a time warp in which the world lives from Monday to Friday, 9 am to 5 pm. This is the twenty-first century, and we live in a very competitive economic world environment, which has a young population that is very much service orientated. It is also very much about receiving quality and good prices seven days a week, 24 hours a day. That is true of this economy. We do not have a large manufacturing base in this State. The mining industry is big and rich. It can look after itself, and it will survive. However, small business and the service industry will suffer under this legislation.

What will be the effects of this legislation? Our labour market will weaken substantially, and the weakest groups within the labour market will be quickly affected. We will also see an aggressive union movement - there are already plenty of signs of this. It will behave badly because it knows it has a Government that will behave weakly. We will see a switch to a federal system. There will always be a rivalry between state and federal jurisdictions in a federal system. There is shock and horror from the federal Government, but I know that the federal bureaucracy is licking its lips. It loves this because although it protests loudly, it knows that there will be a huge flow of business and employees into the federal system. They will flock into the federal system. With 4 000 employees, Rio Tinto is the largest employer in this State. Once Rio Tinto goes, there will be a rush to move into the federal system. Does that matter? The Premier's inept response to this question was that that is exercising choice. One of the critical factors for WA if it is to continue as a strong State economy, and if the people of this State are to have a determining role in their future, is the Government's ability to make decisions. If we lose the control that remains over industrial relations in this State - probably about half - then we lose the ability to make this State competitive. We will lose the ability to do something better and differently. The current Premier, like no other Premier before him, is selling out Western Australia, and selling it out too cheaply. On all issues of conflict, he simply blames the Commonwealth or hands it over. Selling out on industrial relations will damage our ability to develop resources, infrastructure, regional centres, and to provide employment opportunities for young people. The Premier's attitude is a disgrace, and his inept comments reveal that he does not understand the industrial relations system.

What about the Government sector? The Master Builders Association estimates that the cost increases that will occur on capital projects as a result of these changes will be at least five per cent. A school will cost another $1 million. Where will we get five per cent less for the taxpayer and the community for capital works spending? There will be delays in industrial disputation, and the like. What about the cost within the public sector of recurrent expenditure? I lay London to a brick that the Minister for Consumer and Employment Protection cannot provide the details of the direct wage costs for public sector employees after these changes have been made. I bet the minister cannot put a dollar figure on that. If the minister cannot, he has demonstrated his absolute failure to go beyond the Government's ideology and philosophy to look at the merit of this case. The minister sits there and smiles in a churlish little Cheshire cat way. However, over the next three weeks he must demonstrate that he understands industrial relations, and that he understands employers and employees. A long time ago I met a trade union official in Detroit. He complained to me about the "me too" generation. He pointed out - I will never forget this - that people in today's generation are wealthy and independent and they like to

make decisions for themselves. They will not go into a bureaucratic, regulated system. The Government is going against the spirit of young people. It is going backwards, and it is out of step with the community. This is dreadful legislation.

MR KOBELKE (Nollamara - Minister for Consumer and Employment Protection) [8.49 pm]: I thank the 25 speakers who contributed to this debate. In general, there were three categories of speakers. There was the minority who had an understanding of the legislation and the matters involved, and they made a reasoned contribution to the debate. For the most part, the Leader of the Opposition was reasoned and reasonable. Unfortunately, towards the end he could not resist hiding his ignorance and his lack of knowledge with personal abuse. I will put that aside because on the whole his contribution was reasoned and reasonable. It falls to the member for Kingsley to be the only member on that side of the House who has any technical knowledge of the legislation or this area.

I turn to some of the points made by the Leader of the Opposition. The Leader of the Opposition claimed that the coalition's legislation brought employers and employees together. That is a nice sentiment, but there is no evidence to support it.

Mr Board: What about the economy?

Mr KOBELKE: Pipe up! The member knows about smoking devices and not much else; let us leave it at that. The one example the Leader of the Opposition gave was that blue and white-collar workers have been brought together. That is correct, but it happened before the legislation was enacted so he cannot say that was a result of the coalition's legislation. That was happening before 1993 and it continued, but it gives a nice, warm, fuzzy feeling to say that employers and employees have come closer together. There is some evidence of that, but there is no evidence that the legislation contributed to it. There is plenty of evidence that the Opposition's legislation did the opposite.

Secondly, the Leader of the Opposition is suggesting that this legislation is going back, not to the situation in 1992, but to the old rigidity of the 1960s and 1970s. I accept the prior statement that in the 1960s, 1970s and early 1980s the system was unacceptably rigid. Labor Governments around Australia overcame those problems, which was a big step forward. The suggestion by the Leader of the Opposition that this is going back to the situation prior to 1992 is based on misinterpretation of some elements of the legislation. The Western Australian Industrial Relations Commission will have an increased role, and some people say that that is going back to the 1960s and 1970s. It is not. We shall also provide the opportunity for comparative wage justice in some areas. The Leader of the Opposition has overlooked the fact that the Government has changed the objects of the Act and a whole range of other things, which mean this is a big step forward; it is very different from the situation in 1992. It builds on what has been done to free up the legislation, but includes the fairness that was taken out by the previous Government. It is very different from the situation in the 1960s and 1970s.

The Leader of the Opposition also heralded a lot of statistics. I cannot say whether they are right or wrong but, as he is generally good with statistics, I accept they were most probably right. The Leader of the Opposition was picking a number. He can pick any statistic from a range of economic parameters, but they mean nothing unless they are in context. The Opposition, in government, did that time and again. Western Australia has performed well over the past 20 to 40 years. Statistics can be picked at any time to show that we are doing better than we were five or 10 years previously, and that on average we were doing better than other parts of Australia. That says nothing about the achievements in the industrial relations systems. I will return to more statistics later.

The final comment I make about the Leader of the Opposition is that we can take the boy out of the CCI, but we cannot take the CCI out of the boy. His is still very much a hard rationalist economic approach, which regards people as one of the components of production. Fair enough; that is an economic view of the world, but it is not one we share.

A number of members on the other side admitted they did not know much about industrial relations but they expressed their concerns in a genuine way. I accept that. There was a lot of misunderstanding, but theirs were genuine contributions to the debate and I will try to respond to as many of those matters as I can. A whole lot of members then spoke about union thuggery and that is all they said. Their speeches had no basis. They were using language that devalued their contributions because they had no meaning. As I drive around Perth I find in more and more suburbs big flocks of parrots and galahs that make a lot of noise. It seemed that from time to time this flock of parrots descended in this place, and there was so much squawking and ruffling of feathers that there was no understanding of what they were talking about. It did not add to the debate.

I will respond to some of the matters raised. I commence with matters raised by the member for Kingsley. Other members raised some of these points and I will not refer to them again. The member for Kingsley complained that the explanatory memorandum was inadequate. With a Bill as complex as this, we had to make a

choice. Our explanatory memorandum is as good as, or better than, the average explanatory memorandum in this place. I think it is very good, but it does not technically try to cover every point clause by clause. That was not done - on the evidence during the debate so far we made the right choice - because the overwhelming majority of members, including many on our side, do not have an intricate understanding of complex industrial relations legislation. The explanatory memorandum explained the issues but did not get down to technicalities. I direct members who want to understand the Bill to the explanatory memorandum as a means of getting a reasonable understanding.

The member for Kingsley has certainly shown herself to be a fantastic workhorse who prefers to get down to the detail. I apologise that the explanatory memorandum did not meet her need for technical detail, but it was tailored for most other members in the House. I do not think anyone from the other side would have benefited from a highly technical explanatory memorandum.

The claims made by the member for Kingsley and many others that the unions wrote this legislation are incorrect. It would make my life easier if members opposite went to the unions and convinced them that they wrote the legislation and were happy with it. I have been battling with the unions throughout Western Australia for two years about many aspects of the legislation they do not like, and I have even been in touch with the Australian Council of Trade Unions. We tried to accurately mirror - and I believe we have - the policy we released before the election, which was based on more than a year's consultation with small business, large business, peak business groups, individual unions and union groups. We made a minor change in one area only to the policy document we took to the election. The consultation process was to check with people who have the technical expertise that this delivers on the policy with which we went to the election. No-one has been able to point to any major issues that do not totally and faithfully deliver on that election commitment. The election commitment was that the Government would have to do more and it will later introduce further legislation dealing with those other matters, as was always intended.

The member for Kingsley gave an example of the cafe business, and said that small cafes and restaurants will suddenly go out of business. Throughout last year we worked on a major follow-through to ensure there was compliance in this sector. We have fairly firm statistics on what is happening in cafes and restaurants. As a result of that survey, we know that only 11 per cent of restaurants and cafes in this State use workplace agreements solely. About one in 10 cafes and restaurants are totally committed to workplace agreements. Another five per cent use both.

Mrs Edwardes interjected.

Mr KOBELKE: I do not have those statistics with me, but that was published earlier.

Mrs Edwardes: Therefore, you do not even know how many are employed in that 11 per cent.

Mr KOBELKE: The member will have time to go through this at the consideration in detail stage. I can give the member the report and she can look at the numbers. This drives home the Opposition's claim that restaurants and cafes will go broke because workplace agreements will be removed. Only 16 per cent have both award and individual contracts; 86 per cent use awards or EBAs currently. The Opposition has claimed that there are a lot more workplace agreements. The figures we used were from the Australian Bureau of Statistics survey about three years ago, which showed there were 87 per cent. I have been handed a more recent ABS survey dated May 2000, and the publication number is 6306.0. It shows that in Western Australia, registered individual contracts or workplace agreements were in existence for 6.5 per cent of the work force; for the whole of Australia it was only 0.8 per cent. We are way ahead of the rest of Australia, but it is still only 6.5 per cent - approximately one in 20 employees. Yet the Opposition suggests that somehow there will be a disaster because these people must decide whether they go to an EEA, the award or an EBA. The fact is that businesses will close.

Mrs Edwardes: If it is such a small number, and you are talking also about only a few employers not doing the right thing, why are you presenting in excess of 800 amendments?

Mr KOBELKE: Because we are putting in place a new industrial relations system that brings us into this century. It not only gets rid of the nasty things the previous Government put in place, but also offers a platform from which to go forward. This is a new and innovative system. It will open up a whole new way of ensuring better workplace relations, higher productivity and a real future for this State. We are not going backwards, which the previous Government did, but forwards. That is why it is a major piece of legislation. I am glad the member for Kingsley has cottoned on to why it is so important.

Businesses will close down. Businesses are closing down all over the place because of the goods and services tax, which the previous State Government supported foisting onto them. Businesses are closing for a range of reasons. However, they will not close because the Government is improving the industrial relations system in

this State. The Government has consulted carefully to ensure that it looks after the interests of business. There may be a small number of businesses that can be sustained only by the employer exploiting people. I am afraid that in those situations, they will have to go out of business. If those businesses can be viable only by exploiting employees, they have a problem. In my experience, very few employers are in that category.

The member for Kingsley asked why this legislation does not provide for non-union collective agreements. The Leader of the Opposition also mentioned that point. The Government considered making provision for that but, as was indicated by way of interjection a moment ago, this is complex and large legislation. The Government did not seek to put everything that it possibly could into the legislation. We acknowledge that. The non-union collective agreements that were in place under the previous Government's system were used by less than one per cent of employees. Why then would this Government, in this initial approach, put it in the legislation? The Government has indicated that if some sectors want those types of agreements, they are provided by the federal system. We do not want people to use the federal system; we want them to use the state system. However, the Government did not want to go into the extra complexity of expanding the legislation to buy into that system when less than one per cent of employees used it under the previous Government's legislation.

Mrs Edwardes: Hogwash!

Mr KOBELKE: Why?

Mrs Edwardes: The unions would not allow it.

Mr KOBELKE: I thank the member for Kingsley for her comment, but she is wrong. The union movement in Western Australia was totally opposed to the attempt by the federal Labor Government to introduce non-union agreements. I think that move was made by Laurie Brereton. However, when I discussed the issue with the unions two or three years ago, they had changed their view; they were happy to consider non-union enterprise bargaining agreements. Those agreements were not included in this legislation because less than one per cent of employees used them under the previous Government's system. We did not want to buy into that extra complexity at this point. That can be done if there is demand for non-union agreements. Although we would prefer people to stay with the state system, people can go to the federal system for non-union collective agreements. It is wrong to say that the measure of our legislation is the fact that one or two major companies, or even a larger number, will go to the federal system. A huge number of employees went to the federal system under the previous Government's legislation. All our teachers, a whole range of our medical workers, and tens of thousands of Western Australian employees jumped into the federal system to get away from the previous Government's legislation. I hope a number of those people will come back to the state system under our legislation. If some go the other way, we will see what is the net effect.

To say that there is a deficiency in this legislation because a non-union collective agreement has not been provided is to totally misunderstand what has been happening. The member for Kingsley tried to misrepresent a letter that was waved around in here last year. When the Labor Party was negotiating its policy with employers and unions a year or so before the election, all sorts of demands were made. Different groups gave me letters outlining what they wanted. The member for Kingsley flashed around one of those letters of demand at different times in this place. I had rejected that letter of demand. All the key union groups told me what they wanted and I told them that they would not get what they wanted.

Mrs Edwardes: Why is it in the legislation?

Mr KOBELKE: Because some elements in the letter were already in our policy. There is supposed to be some kind of connection.

Mrs Edwardes: You never had a review of your policy.

Mr KOBELKE: We did. The member for Kingsley should go back and read it. Our policy said that there would be a review.

Mrs Edwardes: The policy was written after the letter was received and the deal had been done.

Mr KOBELKE: The member for Kingsley's theories are great. She is normally a logical person. I ask her to accept that when the facts do not fit the theory, she does not have grounds upon which to keep running the theory. She does not have any facts to back up her accusation. It is totally untrue. That letter of demand was not accepted and was not part of what was provided in this legislation. The letters of demand stated that the unions did not want individual contracts. However, the Government has provided individual contracts as a major part of this legislation through the employer-employee agreements.

There was also a claim that health and safety could not be an industrial matter. I accept that there have been times -

Mrs Edwardes interjected.

Mr KOBELKE: Listen to the member for Kingsley! I will take an interjection, but the member should first let me make my point, otherwise I will think that the parrots have descended. I did not have the member for Kingsley in the parrot category. The accusation was made that health and safety should not be an industrial matter. There clearly have been times when health and safety has been improperly used as an industrial matter. I am totally opposed to that and will take whatever action I can to stamp that out whenever I am aware of it occurring. There are huge problems with not allowing health and safety to be treated as an industrial matter. There can be a range of disputes in which health and safety matters are genuinely caught up. Under the current legislation, the commission simply cannot deal with situations like that. That is stupid. That rigidity needs to be removed so that the system can function effectively. That is what the Government is doing. Robert Lang, a former commissioner of the Industrial Relations Commission, has released a review of this legislation and suggested that that is necessary. The Government is careful to make sure that jurisdictions are not confused in this legislation. If WorkSafe Western Australia is taking action on a complaint to the health and safety magistrate, the commission cannot pick it up; it cannot be taken up as an industrial matter.

I have already touched on the fact that there was wide consultation on the policy document. The Government is delivering on that policy document. It smacks of hypocrisy for members opposite to say that the Government has not consulted widely or has not consulted some groups. How much consultation occurred with any group other than the Chamber of Commerce and Industry of Western Australia and a couple of law firms when the previous Government made its changes to industrial relations laws? Absolutely none! The Labor Government is suddenly supposed to consult and consult and consult, even though the previous Government did not consult with a range of groups, other than a small, select group of its strong supporters.

I will mention statistics once again. Many members opposite spoke about how huge, positive statistics were suddenly indicative of all the good work the previous Government did and that we had inherited a fantastic economy and huge job growth. It is another example of a situation in which the position put by a number of speakers has no basis in fact. We know that in the 2000-01 financial year - the one this Government inherited from the previous Government - the State's economy went backwards by 1.2 per cent. I heard the Treasurer say today that if members refer to the financial year prior to that, there was a reduction of 1.4 or 1.6 per cent. The Government inherited an economy in decline; it had negative growth. The Leader of the Opposition is returning to his seat. He knows that there are world economic cycles, into which Western Australia is locked.

Mr Barnett: Do you know the growth figure in the quarter in which the Government changed hands?

Mr KOBELKE: He is going to pick a number again! He should choose the best possible figure he can find.

Mr Barnett: I will tell you. Would you like the seasonally adjusted figure? That is probably best. If you go back over a seasonally adjusted period, at the time of the election the economy was growing very well. There was a dip during 2001. I concede that part of that was due to the influence of the goods and services tax. There was also a dip in commodity prices. The economy was growing modestly in the December quarter. There was strong growth in the election quarter. There was a dip in June and there was some strong growth in September. The Government actually inherited an economy that had come through and was still growing strongly at the time of the election, and in which there had not been a rise in unemployment. The economy was going quite well.

Mr KOBELKE: I do not dispute the figures used by the Leader of the Opposition, but he is picking a number. What he is doing is akin to the way a drunk uses a lamppost. He clings to it for support, rather than to look for illumination. That is the way the Leader of the Opposition is using statistics. The fact is that for the last financial year of the previous Government, this State had negative growth.

Mr Barnett interjected.

Mr KOBELKE: I have already taken the interjection of the Leader of the Opposition. This is my speech.

Mr Barnett: You have called me a drunk, which is unparliamentary, but I will let that one go through to the keeper.

Mr KOBELKE: I did not. Members opposite should listen instead of just yelling all the time like a mob of parrots.

Let me continue on to what I wanted to use those statistics for. I am not saying that the previous Government caused the current state of the economy . In fact, the huge amount of money placed into capital works over two years - even though the Liberal Government said it would not do it - was fantastic for the State's economy. It kept things going. It was a good thing for the Government to do. The only thing wrong was that the

Government said it would not do it. It was a good thing but the then Government could not admit to it. The point I am making is about the total incapability of any of the members opposite of mounting any kind of rational debate. The Opposition claims that the Government inherited a fantastic economy. I am not blaming the Opposition for it, but that was not the case. It just shows the way, time after time, the opposition speakers threw numbers around without a clue of what they were talking about.

Mr Barnett: I will provide some figures. In the December quarter, prior to the election, the seasonally adjusted growth figure was 0.1 per cent, or almost stagnant; in the March quarter, which was the time of the election, there was 3.4 per cent growth. In the June quarter -

Mr KOBELKE: The Leader of the Opposition has had his opportunity, and is now picking numbers and not providing analysis that stacks up to anything. In the Opposition now we have, the same as when they were in government, a group of people, some of whom have some interest and capability in these areas, but who lack decency when it comes to dealing with ordinary workers. They really do not have a feel for the situation of the ordinary working men and women of this State. They are keen to talk about productivity, but there is no commitment to fairness. They do not believe in creating and managing a system that produces both productivity and fairness. They are happy to dispense with fairness so long as they can get productivity. That shows a lack of decency towards ordinary people of this State. We heard members opposite talk about bad apples, and say that somehow the Government had a nanny State mentality, because it wanted to ensure fairness. The Government does have a keen interest in ensuring that it tries to look after people.

The member for Merredin suggested that the commission would not be considering anything to do with the economy when making decisions. That would be a matter for real worry, which was brought to the Government by industry during the consultation. This was one of the good things that took place in the changes that resulted from the consultation. In the objects of the legislation, there is a new section intended to guide the commission in all its decisions and to facilitate the efficient organisation and performance of work according to the needs of an industry and enterprises within the industry, balanced with fairness to the employees in the industry and the various enterprises. The Government has set this as an objective, and it is repeated in the general powers of the commission, and in the award modernisation section. If it comes to making a decision, and a group of employees or their union is asking for fairness, the commission must also look at the needs not only of the whole economy, but also of industries and individual enterprises. It cannot put the rule across all of them because one or two are doing well and apply the same high standard of wages to all the rest. That was always intended. Some of the industry groups pointed out that they feared it would not happen, so it was put in there in three different places to ensure that the commission would have that as a guiding principle.

The member for Vasse, along with many others, talked about how this Bill was somehow favouring unions. Clearly, unions do well out of this legislation; there is no denying that. What was totally lacking from members opposite was any understanding that the collective approach is actually enshrined in International Labour Organisation conventions. It is upheld and promoted all around the world. Individual employees cannot maintain standards and uphold their rights as individuals. Everyone who knows anything about labour relations knows that a collective approach is necessary. Individual rights can only be upheld in the collective. I will give a simple example. I was speaking to a businessman who had managed a Perth-based company that had grown over 30 years into a national company. I will not name the company, but it is a well-known major company. This man said to me that these workplace agreements worked well for his company. The employees did well and so did the company. It had good, loyal, dedicated employees who worked hard, and the company was loyal in return. He did not realise what a stinker workplace agreements were. A British company bought out that company, and it is now screwing the workers. It is asking these people, who have been loyal to the former owner for 10 or 20 years, to dig their own graves and fill them. He did not know workplace agreements were so bad. This is an employer - a member of the conservative establishment. Workplace agreements can be used by unscrupulous employers to drive down wages - and we have well-documented examples of that. Good employers will always get on with their staff. They will look after their staff and get loyalty from their staff. Workplace agreements have worked well for them. The other point that members opposite are paying no heed to at all is that if an employer is a poor employer or, as in the case I just mentioned, the ownership has changed and the new owner wants to decimate the work force, then workers have no rights under workplace agreements. I have used the Fox case before. This was run through *The West Australian* week after week. A leading hand in a mining company who stood up for his rights had to put his house on the market to afford a lawyer to uphold his rights. He spent tens of thousands of dollars attempting to uphold his rights when the employer was totally wrong. That is well documented. I know the mining industry does not like it because it knows the case, and that the employer was wrong. It brought a very bad reputation to the State's fine mining industry. It is true that the workers had absolutely no rights under the workplace agreement. Workers cannot afford to mortgage their

houses and pay $20 000 to $40 000 to take a case through the courts because the employer has failed to give them their rights. There is a lot wrong with workplace agreements, not just the way they drive down wages. That is what the Government will be fixing with the new employer-employee agreements.

The member for Murdoch spoke on behalf of small business. I know the member for Ballajura is a very successful small businessman. We have them on this side as well. None of the businessmen on the government side actually sell bongs or water pipes. I do not know whether the member for Murdoch was speaking on behalf of small business or of members of this flourishing trade we saw the Leader of the Opposition trying to promote on television the other day. He wants to sell smoking implements.

Withdrawal of Remark

The ACTING SPEAKER (Mr Dean): I assume the Leader of the Opposition will talk about Standing Order No 92. I ask him to keep his comments to that.

Mr BARNETT: The minister impugned my reputation by stating that I was promoting the sale of implements for using marijuana. That is what he did. I know it was probably said in jest. For the record, I want him to withdraw it.

Mr Kobelke: I did not say you were promoting the sale of drugs.

Mr BARNETT: The leader said I was.

Mr Kobelke: I said you were promoting the product, not its sale.

Mr BARNETT: It is the same thing. The leader implied that, as Leader of the Opposition, I was promoting the sale of drugs on television. That is what I heard. At the very minimum, he should withdraw and apologise.

The ACTING SPEAKER (Mr Dean): Many Acting Speakers have commented on the robust nature of this debate.

Mr Barnett: Not about drug dealing; that is not robust.

The ACTING SPEAKER: I heard something slightly different, which I agree was borderline. The Leader of the House may choose to withdraw. I will not force him, because I consider the comment borderline. I do not consider it a slur on the Leader of the Opposition's character; it was statement about what was seen on television.

Mr KOBELKE: I did not intend to cast a slur on the character of the Leader of the Opposition. To the extent that he took it that way, I apologise.

Mr Barnett: Thank you.

Debate Resumed

Mr KOBELKE: The member for Murdoch talked about bullyboys and thugs. Time and again members opposite have said we are friends of thugs. We have not taken offence, because the statement is meaningless. They simply devalued the term. We know that a thug is a standover merchant; that is, a person who extorts, bullies or threatens. The clearest example of thuggery was the Court Government's support of the federal Government and its use of masked thugs and their dogs on the wharves of this country only a few years ago. Members opposite supported thugs in those days.

We have thugs in our society and we must stand up to them. Unfortunately, there are thugs in the union movement, and they must be dealt with. The Liberal Party also has thugs.

Several members interjected.

Mr KOBELKE: What about Mr Michael Brazier? Would members opposite call him a thug? He was a major fundraiser and treasurer or president of a Liberal Party branch. He is serving his second or third term in jail for drug dealing. He was a keen member of the Liberal Party. I am sure members opposite are glad to see the back of him, because he does the party no good. We are happy to see the back of thugs in any environment. Members opposite devalued the term "thug" because they threw it around without understanding it.

I accept that business is nervous about these changes. I am concerned that many businesses are unduly worried. Any change concerns business; business wants stability. Change is a cost and a threat, and the Government acknowledges that. It will do everything it can to ensure the smoothest possible transition. However, that is not helped by the Chamber of Commerce and Industry's false and misleading advertisement, and by opposition members circulating surveys and misinformation purporting to reflect what is in the Bill. That activity has spread fear in business about the changes.

The other issue of concern to members opposite is the ability of unions to access, inspect and copy the records and personal information of employees. It was suggested that access will be totally unlimited. That is not true. The grounds for access are limited to investigating a suspected breach of the Industrial Relations Act, the Minimum Conditions of Employment Act, the Long Service Leave Act, the Occupation Safety and Health Act and industrial incidents under section 49I(1). If a union official abuses that right, his authorisation can be withdrawn. That is not possible under the Act. A union official can abuse those rights and there is no easy way to apply a sanction. This legislation will require a union official to be authorised and will provide an easy avenue to withdraw that authorisation. The member for Kingsley incorrectly suggested that that withdrawal would require the concurrence of the full commission. An employer, a fellow worker or a government official will be able to lodge an application for withdrawal of authorisation and that application will be heard by a single commissioner. If the union official appeals, the matter will then go to a bench of three commissioners. That might have confused the member.

The member for Wagin raised concerns about unfair dismissal beyond 28 days. The new provisions are the same as those in the federal legislation. I am concerned that allowing applications to be lodged beyond 28 days will cause a flood. However, I do not expect that to happen. Any application lodged beyond 28 days would have to involve a clear case of unfairness if the claim were not heard. I expect only a small number of cases to get through.

I accept that the 28-day period might be a problem for employers. However, sometimes people are on holidays when the dismissal occurs and when they get back they ask friends and make inquiries. In that case, the 28 days goes quickly. That person might suddenly find that the 28 days has elapsed.

Mr Waldron interjected.

Mr KOBELKE: If a person were on leave and came back to a dismissal notice -

Several members interjected.

Mr KOBELKE: There are exceptional circumstances. It is not envisaged that this will lead to a deluge. It is only fair that this provision be included. It is in the federal legislation. We can deal with that in more depth at the consideration in detail stage.

Ms Hodson-Thomas: Surely the 28 days will start when they return from leave?

Mr KOBELKE: In some hard cases, a dispute arises about when the notice was given and so on. We are talking about the hard cases in which unfairness would result without this opportunity. Only a small number should get through as a result of this provision. I would be concerned if it became a floodgate and would seek to close it. The Government is trying to reduce the number of unfair dismissals. That is one of the objectives of the three-month probation period. Currently, 25 per cent of the cases heard in the commission relate to the first three months of employment. Most of those cases should not get through. That is why the Government has proposed these changes.

The member for Kalgoorlie again used statistics in a meaningless way. I seek leave to incorporate a table in *Hansard*.

[The following material was incorporated by leave of the House.]

Statistics on Wages and Employment Growth

Period	Full Time Employment Growth	Part Time Employment Growth	Total Employment Growth
1983 - 1991	112,000 **(24.2%)**	76,700 **(74.8%)**	188,700 **(33.4%)**
1993 - 2001	108,400 **(18.8%)**	69,800 **(37.1%)**	178,200 **(23.3%)**

Source: ABS Labour Force Catalogue number 6203. Seasonally adjusted data for February in each year.

Average Weekly Earnings	1983 - 1990 Labor Govt Advantage to WA* (%)	1993 - 2000 Coalition Govt Advantage to WA (%)	Difference
Males - AWOTE	1.1	2.9	-1.8
All Males - AWE	3.0	1.6	1.4
Females AWOTE	-0.6	-4.7	4.1
All Females - AWE	-8.0	-10.7	2.7
Persons - AWOTE	0.9	0.7	0.2
All Persons - AWE	-1.3	-3.7	2.4

Notes:

AWOTE - Average Weekly Ordinary Time Earnings

AWE - Average Weekly Earnings

** - The difference between WA and Australian earnings expressed as a percentage.*

1. *Data relates to Average Weekly Earnings (ABC Cat. 6302) seasonally adjusted, averaged over quarters each year.*

2. *ABS Figures for 1983 include raw data for the first three quarters as seasonally adjusted data did not commence until the November quarter 1983.*

Mr KOBELKE: This table compares employment growth. Between 1983 and 1991, employment grew by 33.4 per cent, and between 1993 and 2001 it grew by 23.3 per cent. I am not using those figures to suggest that what happened under the Labor Government in the 1980s meant that everything was done more effectively. However, the statistics totally refute the claim that workplace agreements create more jobs. That cannot be supported by a soundly based statistical analysis.

Mr Barnett: What happened between 1983 and 1991?

Mr KOBELKE: That was the first eight years of the Labor Government, and the eight years of the Liberal Government -

Mr Barnett: What happened between 1992 and 1993?

Mr KOBELKE: We went into a recession. The Leader of the Opposition can pick out a date, but he should remember that the world economy was in downturn in 1981-82 and we were coming out of it in 1983. The coalition was elected in 1993 after a major downturn in 1991 that affected Western Australia severely. If the leader were honest, he would agree that those figures stack up. He picks a starting date to suit his purposes, and in doing that he can come up with any figure.

I turn to the remaining figures. The Australian Bureau of Statistics releases its average weekly earnings figures every quarter. We averaged those quarterly figures over the eight-year periods of the Labor and Liberal Governments. The only category that showed better results under the Liberal Government's system was that of male average weekly ordinary time earnings. Under a Liberal Government, the state average weekly ordinary time earnings for males were better than the national average. However, according to the figures for the total population, people were much better off compared with the rest of Australia under the Labor Government in the 1980s than they were under the Liberal Government in the 1990s.

The reason for that sort of analysis is that Western Australia has generally done better than the rest of Australia on certain measures. Different periods provide different results, and we should therefore take figures from a longer period - in this case, eight years - that reflect similar parts of the economic cycle and compare Western Australia with the rest of Australia. The key controller to the national economy is that which is done out of

Canberra. If we want to see how Western Australia is doing, we should compare it with the rest of Australia. On that basis, the figures show that the last coalition Government has no wages record of which to be proud. The figures reflect what a range of reports have shown; that is, that Western Australia has gone backwards compared with the rest of Australia.

The member for Kalgoorlie also incorrectly claimed that this Bill would remove the offence of bribing union officials. It will not. Bribery will continue to be a criminal offence. This Bill does not alter anything whatsoever in that area. It does not change anything.

Mrs Edwardes: It does. If you think it does not, you have been misled. The Bill waters down the offence from a criminal to a civil offence.

Mr KOBELKE: It does not.

Mrs Edwardes: It does, mate.

Mr KOBELKE: The member for Kalgoorlie said that we were removing the offence. We will not remove the offence.

The member for Greenough also expressed his fear of unions and a return to the old days. Members opposite have either refused to acknowledge or do not understand that our very vibrant national and state economies were built on the changes that took place in the 1980s and early 1990s. Through the accord with both State and federal Governments, the union movement helped put in place more flexible arrangements that helped open our economy to international competition and stimulated economic growth that was not matched anywhere in the world. Employment growth in the 1980s and 1990s exceeded that of our competitors around the world. The Howard Government inherited that. Our good economy continues because of what was implemented by the Labor Government with cooperation from the union movement. The union movement can be very proud of what it has done for job creation and security in this nation by being cooperative and flexible. Members opposite want to pick out only the nasty things in which unions have been involved. They do not want to recognise their incredible contribution to the development of this State and this nation.

I thank all those who have contributed to the debate. The Bill will require significant time in consideration in detail so that we can go through some of the matters in depth. I look forward to the contributions of members, and assume that the consideration in detail stage will not be used to delay or posture. Some of the clauses contain much detail and complexity, and I hope members will spend time debating the provisions and not waste the House's time with things that are not relevant to the debate. I thank all members who have contributed so far, and commend the Bill to the House.

Question put and a division taken with the following result -

Ayes (25)

Mr Andrews	Mr Kobelke	Mr Marlborough	Mr Templeman
Mr Bowler	Mr Kucera	Mrs Martin	Mr Watson
Mr D'Orazio	Mr Logan	Mr Murray	Mr Whitely
Dr Edwards	Mr McGinty	Mr O'Gorman	Ms Quirk *(Teller)*
Ms Guise	Mr McGowan	Mr Quigley	
Mr Hill	Ms McHale	Ms Radisich	
Mr Hyde	Mr McRae	Mrs Roberts	

Noes (18)

Mr Barnett	Mrs Edwardes	Mr Omodei	Ms Sue Walker
Mr Barron-Sullivan	Mr Edwards	Mr Pendal	Dr Woollard
Mr Birney	Ms Hodson-Thomas	Mr Sweetman	Mr Bradshaw *(Teller)*
Mr Board	Mr Johnson	Mr Trenorden	
Dr Constable	Mr Marshall	Mr Waldron	

Pairs

Mr Ripper	Mr Day
Mr Brown	Mr Masters
Mr Carpenter	Mr McNee

Question thus passed.

Bill read a second time.

Consideration in Detail

Clause 1: Short title -

Mrs EDWARDES: I thank the minister for his response to the many comments that have been made. I take the opportunity on this clause to reiterate that instead of being called the Labour Relations Reform Bill this legislation will become known as the "Loss of Jobs Act" because that is what it is about. The minister gave the example of the cafes - only an 11 per cent reduction in staff - yet the biggest criticism that will be levelled against the minister will be for not having done an economic impact analysis on jobs, investment, businesses and industry. The minister could not tell me how many cafes and/or restaurants constitute that 11 per cent. How many workers are represented by that figure? It is quite a large figure, particularly in that industry. The minister should look at the suburb in which he lives. How many restaurants and cafes are in the minister's suburb? Quite a number. The figure of 11 per cent is quite considerable. The minister offered me a copy of the survey and I will take him up on that offer. That is the criticism that will be levelled at the minister.

The minister raised the issue of being criticised because of a lack of consultation. The minister said that because the previous Government had not done an economic impact analysis it was all right for this Government not to do one. The minister suggested that because the previous Government had not consulted more than a handful of employers it was also an excuse for this Government. The impact of this legislation will be enormous. We have talked about certain examples of businesses. The minister has accused the Opposition of raising some of the nasty things that have been done by unions. This debate can become very emotive by using individual examples. I agree with the minister on that. Let us move away from that and reach an understanding about where the real impact will be. The minister missed a great opportunity today by not being at the Stirling Business Association's lunch. He did not take the opportunity of reaching very small business operators, many of whom employ less than 10, 15 or 20 people. They were vociferous in their concerns and they were particularly angry that the minister had not taken the opportunity of attending the lunch. They raised a number of questions. It was a big meeting. The minister has been a member of that association for a number of years and he will recognise that having 130 small business people at a lunch is quite significant. They were very emotional about the impact the legislation will have on them. The minister just casts aside the issue and says that in one industry only a small number of people will be affected. I tell him that that small number will grow through businesses closing, reducing hours and putting off employees. Owners will cover the work themselves and become owner-operators. In the industries that have created opportunities for people who are semiskilled and more vulnerable, particularly youth, people who lose their jobs will not forgive the minister. They will ask why they have to lose their jobs and lose the opportunity to earn more. The minister may give a reply based on his ideology and say that they cannot have a job if they will be paid less than what the Government or the unions believe they should

be paid. I have news for the Government: a lot of young people can decide for themselves. By not getting out and listening to people about their concerns and the impact of this legislation, there will be a backlash. The employers may not have marched from St Georges Terrace to the steps of Parliament and they may not be in the gallery, but let me tell the minister that they are busy earning a dollar to pay the wages on Friday. They will not easily forget this.

Mr BARNETT: This Bill will have a major effect on the labour market. We will see the effects played out over the next 18 months. To use the word "reform" in the title of the Bill is somewhat paradoxical because this is a totally prescriptive, regulatory piece of legislation. It is inflexible in its nature. It essentially establishes an award system. The Labor Government may want to change its philosophy or allow less freedom for individuals if it thinks there is exploitation. It will modify the system if it has to. It should not throw out the whole system and go back to the old inflexible award system. It is sheer lunacy. As some members said during the second reading debate, the Government should recognise young people in the community. About 30 per cent of the population now have tertiary qualifications. It is a great thing that tertiary education is now widely available in Australia. More young people are completing school; 30 per cent are getting tertiary qualifications and many others are obtaining other qualifications and skills. Many young people - the "me too" generation - are educated, informed and independent. No matter what the Government does they will make decisions for themselves. The Government is totally out of touch with the community, particularly young people. Young people will not follow this legislation. It does not matter what the Government does. Who thinks that young people will join unions and seek advice from the Government on these things? It will not happen. Will it happen in the service industry or in the information technology sector? Does the Government realise that the hardest-working and relatively least-rewarded group in our community is young managers - people in junior supervisory positions? They work enormous hours under great pressure trying to achieve and get on. Does the Government think that that emerging group in our society will run to unions and get involved in award structures?

Mr Marlborough: I have something for the Leader of the Opposition. It has fallen out of a baby's mouth up in the gallery.

Several members interjected.

The ACTING SPEAKER (Mr Dean): Order, members! The Leader of the Opposition has the floor. I demand more decorum from members on my right.

Mr BARNETT: I appreciate it; is it a genuine offer? I have a couple of young nieces and nephews. One of the members opposite is a wealthy pharmacist but he is too stingy to make a few free dummies available. I do not want used ones, thank you. One cannot trust Labor. Even the babies of Western Australia are misled by this Government! Even the babies cannot trust them! They offer universal dummies for the babies of Western Australia but when it comes to the crunch the Labor Government under Dr Gallop reneges. Even the babies are let down! Six-month-old children cannot rely on these people. They are appalling. How can the workers of Western Australia treat this legislation with any seriousness? This is a backward piece of legislation.

I will tell the House what will happen. Apart from the effects of this legislation on the labour market, in a huge section of the Western Australian work force and business, in all sorts of sectors, this legislation simply will not apply, because people will not follow the law. This legislation is totally out of touch. Employers will not follow it, and employees will not follow it. The Government is introducing legislation that is so out of context with modern society that it will be absolutely irrelevant to probably one-third of the community. What will the Government do? Will it run around and prosecute everyone?

The ACTING SPEAKER (Mr Dean): Order! Before we continue, I need to bring two items to the attention of members. Firstly, the series of amendments has been collated into a booklet that is marked with the letter "B" and is available at the back of the Chamber. Secondly, I have given the Leader of the Opposition some leeway, in that we are debating the content of clause 1, which is the short title. Clause 1 contains 12 words. The debate on clause 1 is not a licence for members to have another second reading debate on the Bill. I have been lenient, but I will draw to a conclusion any member who in my opinion is straying from clause 1.

Point of Order

Mr JOHNSON: Point of order.

The ACTING SPEAKER (Mr Dean): There is no point of order against the Acting Speaker's ruling.

Mr JOHNSON: I seek an explanation.

The ACTING SPEAKER: The member can ask a question.

Mr JOHNSON: Mr Acting Speaker, are you saying that you will not allow someone to give a reason that the short title of the Bill should be changed?

The ACTING SPEAKER: No, not so long as that reason is related to the content of the clause. The Leader of the Opposition gave a very amusing little talk. However, a lot of what he said was not related to the short title of the Bill. The member for Murdoch has the call.

Debate Resumed

Mr BOARD: Thank you, Mr Acting Speaker. We are debating the short title of this Bill, which is the "Labour Relations Reform Act 2002". We argue that that is an inappropriate title, because it does not reflect the nature of the proposals in this Bill. This Bill is not about reform. It is not about going forward. It is not about change in a positive sense. It is about a regressive form of industrial relations that we on this side of the Parliament find abhorrent. My colleagues and I argue that although the short title of this Bill refers to reform and to the progressive nature of labour relations, this Bill is not progressive at all but is a retrograde step for the State of Western Australia. As the Leader of the Opposition and our labour relations spokesperson have said, this Bill is about a lack of job creation and a shrinking of employment opportunities in Western Australia. There is no doubt that the people who will suffer as a result of the inappropriate title and direction of this Bill are young people. I ask members opposite to reflect on the fact that when the coalition came to government in 1993, this State had the highest youth unemployment rate in Australia. The reality is that as a result of the industrial relations changes that were introduced by the former coalition Government, this State has gone from having the highest youth unemployment rate in Australia to having the lowest youth unemployment rate in Australia. The reason is that there has been huge flexibility in the job market, particularly the after-hours and weekend market. A huge number of university and even school students are now able to access employment after hours and on weekends as a result of the abolition of the inflexible, aggressive and adverse penalty rates for part-time workers that acted as a disincentive to the creation of employment. That is the crux of the issue of youth employment .

The short title of this Bill indicates to the community of Western Australia that we are moving forward and are being progressive in this State. However, the reality is that we are moving backwards, and the minister knows it. As a result of this Bill, the Government will create a situation in this State in which the job market will shrink. There is no doubt that if employers will have to pay increased penalty rates for young people who choose to work after hours or on Saturdays or Sundays, or if people who want to open their businesses and compete in the labour market will be controlled by the types of conditions that apply under awards, people will not be able to continue to afford the job creation that has been taking place over the past four or five years. That is the reason we argue that this is an inappropriate title for the Bill. We are talking not about reform and moving forward but about a Bill that is regressive in nature. The short title of the Bill should reflect the fact that we are going back not only 20 years but to another century in respect of the conditions that will govern labour relations in this State.

Mr MARSHALL: In debating the short title of this Bill I was chuffed when I heard the member for Kingsley say she thought the short title should be changed to the "Loss of Jobs Bill", because I had written down that I think the short title should be changed to the "Introduction of Low Employment Figures Bill". I want to comment on the research that I have done and the answers I have received. One of the businesses commented that the options for small businesses owners who wish to operate at night and on weekends are to reduce trading hours, which will be a negative for consumers, or work extra hours themselves, which will reduce the need for extra employees. Many employees who like to work at night and on weekends because it suits their lifestyle may lose their jobs. The emphasis of this Bill is on losing jobs. It is nice to know what some of the people in the community are thinking.

Another letter came to me this morning and is from a gentleman who states -

> Having read the proposed Labour Relations Reform Bill 2002, it is alarming that this Bill has been put together with an underlying agenda that gives the particularly undesirable elements in the Union movement almost unlimited power to intimidate and blackmail business operators who employ the very members that this Bill is supposed to look after.

Again, I return to the tragedy that this Bill will bring to this State in the form of unemployment. The letter continues -

> I fail to understand why we have a Royal Commission into Police Corruption when this Bill proposes to make the police totally powerless in dealing with corruption and blackmail within our Building Industry.
>
> To justify my statement, I only have to go back through my 35-year career in the Industry in Perth.

> I started with AV Jennings as a steel fixer in 1968 and was told to join the BLF otherwise I would lose my job.
>
> When I was a Construction Manager for Jennings, we had a ban on a concrete pour on a Woodside Project in 1980. No consultation or vote by the workers was taken. This was after I was told by senior management that the BLF had stopped a concrete pour in Melbourne and in Mandurah to blackmail us in this action and I had no choice but to sack the subcontractor.
>
> I have experienced many other examples of similar instances while I was at Jennings.

As I have the time, I will read a bit further, because there is a lot of merit in this letter.

Point of Order

Mr KOBELKE: Mr Acting Speaker, I again draw your attention to Standing Order No 97 and the fact that we are dealing with the short title. The member for Dawesville made a contribution during the second reading debate. That was the appropriate time to bring representations from constituents about this Bill. I do not believe the member can do that now without contravening Standing Order No 97.

Mr BRADSHAW: The member for Dawesville has said that the title of the Bill is incorrect. He has been explaining why the title should be changed; therefore, what he is saying is allowable. Unfortunately, the minister seems to be in a hurry to get through the consideration in detail stage. However, he must be patient and understand that members have freedom of speech and should put forward the views of their constituents.

Mr McRAE: Members who have been in this place for much longer than I referred me to a quote from the Westminster Parliament of the nineteenth century in which a government member noted that parliamentary democracy was a forum in which the Opposition would be heard and have its say but ultimately the Government would have its way. Standing Order No 97 -

Mr Board: Is this all about bulldozing the legislation through Parliament?

Mr McRAE: No, not at all. If the member understood and reflected on what I just said, he would know exactly what I am saying. Standing Order No 97 allows for full debate of every matter that comes before Parliament. However, it does not allow for a system or behaviour that produces debates that are irrelevant and not related to the question before the Chair.

Mr Barnett: If that were the case, members would not be able to say a word.

Mr McRAE: The Leader of the Opposition is a sad case. The point is that we want to have this debate. The Leader of the House has identified that the debate must be relevant to the question before the Chair. It is clear that the member for Dawesville's material is not, and I ask that his comments be drawn to a close.

Mr JOHNSON: I was happy to let my colleague, the Opposition Whip, make the point of order; however, because the member for Riverton has introduced a new argument to the point of order, it is incumbent on me, as the Opposition Leader of the House, to clarify with you, Mr Acting Speaker, whether you will allow members on this side of the House to explain the reasons for their objection to the short title of the Bill. Members on this side of the House have given reasons that the Leader of the House may consider unjustifiable or irrelevant; however, to members on this side they are relevant. Opposition members genuinely believe that this is the wrong title for the Bill. I thought they had every right under the standing orders to explain why they believe the title of the Bill is incorrect and should be changed.

I have heard reasons why Opposition members believe the title of the Bill should be changed. I have been in this place for nine years, eight of which were spent on the other side of the House. During that time I had to listen to all types of points of order every time a Bill went through this House. Our arguments about the short title of the Bill are similar to the arguments that the Leader of the House used on many occasions in the past. I ask whether in your ruling on the point of order, Mr Acting Speaker, you will allow members on this side of the House to give genuine reasons why we believe that the title of the Bill should be changed.

The ACTING SPEAKER (Mr Dean): I will deliver my decision. I have heard enough on the point of order. Members on either side are entitled to put their case for why they consider the short title of a Bill to be bad. I understand the member for Riverton's point of view; however, the point of order does not relate to Standing Order No 97, to which he drew my attention. However, I reflect on Standing Order No 94, which states that a member's speech must be relevant to the question under discussion. In my opinion, the member for Dawesville strayed from the question under discussion. The member has two and a half minutes left and I suggest that to expedite this process, he get back to the question under discussion, which concerns the words of the first clause.

Debate Resumed

Mr MARSHALL: I challenge the short title in part because of a letter that I have received from a gentleman who powerfully expresses his objection to this legislation.

The ACTING SPEAKER: I ask the member to draw to my attention how that relates to the short title.

Mr MARSHALL: I will. The letter states -

> As a Member of Parliament you are there to serve all the people in this State and to protect freedom of association and the democratic rights of workers, not standover tactics, blackmail and extortion.

I get a little emotional when I receive a letter from a proprietor of a business who is sure that he will not be able to employ people in this State because of this new legislation and because of the labour relations reform title. This man has taken time out to explain how he has run a business over a number of years and how extortion and blackmail have forced him to reduce the number of staff he employs. I feel that he has a case. I will quote some extracts from the letter; I will not quote the whole letter because I know that would delay the passage of this legislation even further.

The unfair dismissal rules, the minimum conditions of employment, the right of entry and the other changes to which I will refer later will cause unemployment to rise dramatically in Western Australia. I know we referred to it in the second reading debate, but I will refer to it again as we proceed through the consideration in detail stage during the four or five minutes I have to challenge these clauses. It is good that the democratic system does not allow members to hog the show and waffle for an hour. In four minutes members must produce facts, extracts and quotes to ensure that what is recorded in *Hansard* is something of which those members will be proud. I am proud of the statement I made that this short title is not appropriate. The Bill should be called the "Introduction of Low Employment Figures" because that is exactly the effect this reform will have on Western Australia.

Mr TRENORDEN: I also disagree with the title because it does not correctly relate to the history of the Bill, which goes back to about a year before the state election when the Labor Party was elected. At that time, the Premier went to the United Kingdom and brought back to Western Australia the proposal of "New Labour" from his great friend, the Prime Minister of Great Britain. Members will remember the fanfare with which he brought back that proposal. He said that he would reform the labour relations process just as Prime Minister Tony Blair had done. However, the Premier got rolled. He took the proposal to the ALP conference and lost the debate 10-0. The Premier did not get a chance to snick it through to the keeper.

Having lost that position at the ALP conference and in the caucus room, the Premier was in no position to introduce his new labour proposals into Parliament. The law within the Labor Party that the union members should comprise 60 per cent of delegates prevailed substantially. Therefore, this Bill was drawn together by the union movement, which through the process of the ALP system demanded that it be brought to this House. This title, even the word "reform", has nothing to do with the history of the Bill. The correct description of the Bill should be "How the Premier was Rolled". It is interesting that the Premier is not here.

Mr Board: What about "Who is Running the State?" That would be a good title for the Bill.

Mr TRENORDEN: We all know that the member for Fremantle runs Western Australia. We know who the Premier is; it is the member for Fremantle. The public relations person is the member for Victoria Park. He turns up with all the good news.

Ms Sue Walker: He is a puppet.

Mr TRENORDEN: That is right; he is the talking head. I admit that he is a pretty good talking head. Nevertheless, the member for Victoria Park is the talking head and the member for Fremantle is the Premier of Western Australia.

I return to my comments on the short title of the Bill. It is important to reflect on history. The Premier brought back the New Labour proposal from Great Britain with great fanfare and enthusiasm. He even came into this Chamber and outlined how he was going to reform the whole process with the brand new New Labour proposal. He did that only to walk into the brick wall of the 60 per cent union control within the Australian Labor Party. It is an important part of this proposal. It is a total misnomer for the word "reform" to appear in the short title. This is as much a reform as the reform of my drinking habits. It is not a reform.

Mr McRae: No interjections are recorded!

Mr TRENORDEN: Exactly. From its start to its end, this Bill does not reflect the short title given on page 2. The title "Labour Relations Reform Act 2002" is a total misnomer.

Dr WOOLLARD: I have listened to the alternative titles given by some members, and I have looked at *The Australian Pocket Oxford Dictionary* definition of "reform", which states -

> make or become better; abolish or cure abuses etc . . . improvement, amendment, removal of abuses etc.

Mr McRae interjected.

Dr WOOLLARD: No, it is not perfect. Some government members may feel that it is perfect for some of the bigger unions, but it is not perfect for all workers. A lot of people will be disadvantaged by this legislation. That is why I believe it should perhaps be selective.

Mr McRae: Who will be disadvantaged?

Dr WOOLLARD: The member for Riverton asks who will be disadvantaged by the legislation. It will not disadvantage the bigger unions, but this award will bring in an enterprise bargaining agreement for the public hospital sector, which will mean that directors of nursing will come under an EBA rather than be able to negotiate an enterprise agreement. That is not in the interests of nursing. Part of the definition of "labour" is -

> . . . providing what is wanted by the community;

Does the Government have the right to decide what is wanted? Surely it should be asking the different professional groups. I was interested in an article in *The West Australian* this morning that reported that only 20 per cent of workers are members of unions. I am still a member of a union and was president of a union. I will fight very hard -

Mr McRae: Which union?

Dr WOOLLARD: The Australian Nursing Federation, which is a professional group.

Mr McRae interjected.

Dr WOOLLARD: I was initially a member of the Royal Australian Nursing Federation, which later became the Australian Nursing Federation. It represents both the professional and industrial interests of its members, as do other unions, such as the Australian Medical Association.

The DEPUTY SPEAKER: I ask the members for Alfred Cove and Riverton to cease their conversation. The debate in the Chamber should be directed via the Chair.

Dr WOOLLARD: Sorry, Madam Deputy Speaker. I return to the short title of the Bill. I do not believe that this title is a fair reflection of what the Government is intending to do with this Bill. Professional groups will be disadvantaged by this legislation. As members of the Opposition have said, a lot of people within the business community feel that this Bill will cause a lot of hardship for students, part-time workers, and some of our pensioners who work part-time and who, as a result of this Bill, will lose their employment.

Mrs EDWARDES: I suggest that an alternative short title for this Bill could be the "Labour Relations Regulation Act 2002". That alternative title would highlight the lack of flexibility and increased interference by a third party that will result from this legislation. Job losses will result from increased business costs, not only in terms of changes to the awards, agreements and the like, but also in the high transaction costs that are found throughout the legislation. If business costs go up, jobs go down. If jobs go down, workers lose their pay options. As I reiterated during the debate yesterday, a rise in business costs will mean that consumer costs will also go up. The legislation will impact on people because of the regulation that will be put back into the labour relations system. The Government is re-regulating the labour marketplace. That will not be good for the economy or productivity. It certainly will not be good for jobs in this State.

A large number of employer organisations have raised concerns about the lack of flexibility that this legislation will provide in terms of those extra costs. The minister indicated in his response to the second reading debate that the legislation would not only change the minimum conditions of employment to protect those who the Government believes might be disadvantaged, but also would create a whole new labour relations system. That is what the Government is doing; it is setting up a costly new state industrial relations system, backed by a Western Australian Industrial Relations Commission with wide powers. I do not believe that the changes the Government is making to the commission's powers will provide the commission with increased status or credibility. It will set up a whole new regime of regulation. That is why I move the following amendment to this clause -

Page 2, line 3 - To delete the word "reform" and substitute "regulation".

The amendment highlights exactly what this legislation is all about. The Bill seeks to set up a new regime that will be costly not only in terms of output on a weekly basis for wages, but also in terms of transaction costs in dealing with the commission. Third party intervention will increase those costs.

I raised a couple of issues yesterday about the lack of flexibility that will result from this legislation. I raised the example of a union not allowing a group of employees to change their rostered day off to another day. That is absolute nonsense. The other example I gave was of a subcontracting company whose employees wanted to work extra hours between a Monday and a Thursday so that they could go home early on a Friday. What did the union say? It said that they could not do that. The flexibility that these people would like to have in their workplaces will not be provided under this legislation. A new example provided to me today was of a fast food shop - probably one of the 11 per cent - that employs a number of university students and a couple of mums, who work unconventional hours. They are paid above the minimum wage and just below the award rate, but they also get a productivity bonus. They appreciate that bonus. They will not be able to get that bonus under the inflexible system the Government is introducing. As such, the owner and his family will not be able to afford to employ five people in that operation and will have to fill in some of those hours. I therefore suggest that the real short title of this Bill should be the "Labour Relations Regulation Act 2002".

Mr BARNETT: I support the amendment. This is not a frivolous amendment. The suggested title properly describes this legislation. This is not a reform Bill. A reform Bill generally liberates, removes restrictions and allows choice, flexibility and the like. Reform suggests going forward and freeing up. This legislation represents reregulation -

Mr Kucera interjected.

Mr BARNETT: I do not need the minister's contribution. He has wandered in here and started mouthing off. I am not interested in that. This is a serious amendment. This Bill regulates -

Several members interjected.

Mr BARNETT: It is no longer Trades Hall; it is now UnionsWA. They are all yuppies now; it is the chardonnay set. If the minister were to go to the union headquarters he would be cheered. The unions are not interested in labour relations reform and deregulating and freeing up the labour market. The unions' and the ALP's objective is to reregulate. The member for Kingsley's amendment is apt; this is a regulation Bill. Members opposite should be honest and admit that that is what they are introducing. They should not pretend they are reforming or modernising industrial relations. In no sense is this modern; in every sense it imposes a regulatory regime. As we go through this legislation, we will reinforce that it is about imposing or reimposing regulatory structures.

This legislation should be called the "Labour Relations Regulation Bill". The minister should be proud of it. If he believes in the Bill, he should be able to wander down to the union headquarters with a bottle of chardonnay. I doubt that any decent old unionists will be there. He should admit that the Government has introduced legislation to reregulate the labour market.

Mr Kucera interjected.

Mr BARNETT: The Minister for Health cannot handle the supply of a magnetic resonance imaging machine for the Princess Margaret Hospital for Children. If I were him I would not sit there sneering.

Mr Kucera interjected.

Mr BARNETT: This is not about the Dark Ages. In every sense, the amendments impose new regulations. They restrict choice and flexibility. This legislation would be much more appropriately entitled the "Labour Relations Regulation Bill". It is putting in place a regulatory regime. It is not reforming and it is not deregulating. It is incorrectly named.

I appeal to the minister's commonsense and vast intellect. He should be grasping this unique opportunity to enjoy bipartisan support with regard to this legislation. We will not agree with the rest of the Bill, but we will agree that it is a regulation Bill. This is a chance to be honest. He will be able to boast that he has reregulated the labour market. He is certainly not reforming or modernising it.

Mr MARSHALL: This Bill will involve extra costs. Gerry Hanssen, of Hanssen Pty Ltd, wrote to me in the following terms -

> In 1984, I left Jennings and started my own subcontracting business in tiling, ceilings and marble and granite.
>
> In 1990, on the Australian Tax Office project in Northbridge, I was told that if I didn't put a particular shop steward on, I wouldn't get paid my $400,000.00 progress claim. In fear of not being able to pay our workers, I reluctantly complied with the demands of the CFMEU.
>
> In 1991, on the Observation Rise project, I was forced to sign a "No Pyramid Subcontracting" agreement. My company was forced to pay our tilers wages instead of m^2 rates. After a three-day strike and $48,000.00 worth of strike pay we caved in, to the dismay of our workers . . .
>
> I am certain that if any of you were prepared to listen to the average worker and not the thugs in the Union, you would oppose many of the provisions of this Bill.
>
> Remember that the law for minimum conditions of employment protects the workers and Worksafe regulates safety. The Industrial Relations Act should protect everyone's rights in freely entering into employment contracts and relationships.

Point of Order

Mr KOBELKE: I again draw attention to the need for relevance under Standing Order No 94. We are now dealing with an amendment moved by the member for Kingsley about the word "regulation". The member for Dawesville may have a letter from a constituent that contains a genuine complaint, but I do not see its relevance to the amendment now before the House.

The DEPUTY SPEAKER: I was listening to the member's comments and I heard the word "regulation" mentioned a number of times. I was listening closely because I wanted to assure myself that the member was referring to the amendment, which is about deleting the word "reform" and substituting the word "regulation". I hope the member for Dawesville will draw his quote to a rapid conclusion and confine himself to the amendment.

Debate Resumed

Mr MARSHALL: I appreciate that advice. Unions are well-known for creating artificial disputes, and safety in the workplace has been used as a tool in that regard. The provision to request a secret ballot before a strike is also of concern. These are points of concern among employers. As I said, this legislation will affect employment. My main concern is that Western Australia will go back to the Dark Ages. Employers will never be able to deal with the burdens imposed by and the injustices inherent in this legislation. The unfair dismissal rules will be dealt with in detail at a later stage. It is very difficult for employers not to be able to dismiss people at appropriate times.

Mr Hanssen continues -

> Regrettably, the CFMEU only uses bullyboy tactics and contrived safety disputes to justify their actions. The use of illegal stoppages and industrial blackmail should be outlawed by the Industrial Relations Act - not sanctioned under the guise of "right of entry".

I appreciate the Deputy Speaker's concern and her granting me permission to finish my contribution.

Dr CONSTABLE: I support the member for Kingsley's amendment. It would create a far more accurate description of the legislation. I congratulate her for coming up with a more apt title for the Bill than that presented by the minister. "Reform" refers to something being made better by removing faults and errors. This Bill does not make labour relations in this State any better; in fact, it restricts labour relations and the relationship between employers and employees. It adds a high degree of inflexibility, and that is very worrying. The word "regulation" gives the sense of controlling by rule and subjecting those involved to severe restrictions. It is very authoritarian and authoritative in its direction.

I am concerned about the consequences of the increased regulation that the Bill introduces and the severe constraints it places on employees and employers. This is reflected by the number of constituents who have been to see me, particularly small business proprietors. I have got to know these people well over the past nine or 10 years. Cafe and restaurant operators employ many part-time workers, particularly students and women. They go out of their way to assist those workers by rostering them on around their courses of study and family obligations. These people pay above award rates now. However, they are concerned that they will not be able to afford penalty rates, the increased on-costs to be imposed by the legislation. I have looked into the situation carefully. These employers hold their employees in their businesses. Both parties are very happy with the

situation. The students rely on funds they earn to put themselves through university courses. I have no doubt that many of the young people, students, and women who rely on their part-time work will lose their jobs.

The increased regulations will impact severely on the cafe and restaurant industry and on students and women employed in Western Australia. I urge the minister to look very carefully at that impact. In a year's time we will ask questions about employment in those sectors and we will see a big change in the State. This is an excellent amendment because it very clearly describes the direction that the minister is taking the State with this legislation.

Mr TRENORDEN: I am in a bit of an embarrassing position because the lead speaker for the Opposition did not give me any warning of this. At a caucus meeting I have been rolled. I like the title the "Premier Has Been Rolled Bill". It has a certain ring to it; nevertheless the issue about regulation is important. The Bill contains approximately 190 clauses, which, when we read them over the next few days, will show that the Bill is about regulation. The Bill seeks to introduce a raft of actions that will be required by regulation. Without doubt the benefit of the present system that is under challenge is its transparency and ease of implementation. As I said in the second reading debate, a very small number of people have been penalised by the present legislation.

By regulation, this Bill will penalise a raft of people. Many people who do not usually keep records will be required to keep them. No doubt large and medium businesses will have the capacity to fulfil that requirement. The real angst about the goods and services tax that the minister quite correctly ranted and raved about was the additional requirement placed on small businesses to adhere to regulations. The GST was implemented by regulation and this is a Bill of regulation.

Given the right of entry and inspection of records requirements, the minister cannot say that this Bill is anything else but a reregulation of processes. It should therefore be correctly titled as such. Sadly, a range of small business people in the community have no idea of the consequences of this Bill. That is so even if they listen to talkback radio and read *The West Australian*. If they watch television, that medium is not much use to them because the news is conveyed in 20-second grabs. The information is not available in the community.

The minister may have complained that groups such as the Western Australian Chamber of Commerce and Industry are advertising. However, people will read those advertisements. The message is that businesses will have to do things differently after the Bill is proclaimed. The minister and I have taken part in debates over some years, but in all fairness he cannot deny that he is increasing labour regulations for both employers and employees - employees will be affected also. There is a very sound argument for supporting the Leader of the Opposition's amendment.

Mr BOARD: Why are we bothering to argue about the short title of the Bill? Why are we seeking to replace the word "reform" with the word "regulation"? It is because the name of the Bill is extremely important. It summarises the direction of the Bill and it defines historically the Government's intention. It encompasses the momentum of the parameters of the Bill. The title of the Bill reflects the history of what transpires in this place. We believe that "Labour Relations Reform Bill" does not adequately reflect the Government's intentions. The purpose of the Bill is to implement more workplace controls through more regulation. It will create a narrower scope for labour relations and more stringent and uniform controls. It will place employers' choices within a straitjacket and reduce their flexibility. Even the minister must acknowledge that this Bill will afford less flexibility for employers than has been the case under previous regulations within the State. The Government is seeking to regulate the labour market far more than has been the case in the past. It is seeking to take away its flexibility and implement controls and mandatory requirements for both employers and employees.

Third party persons will be involved in disputes, and the discretion that is built into the existing industrial relations legislation will be abolished. The reality is that the Bill will create stringent regulations. The Opposition believes that the title of the Bill should reflect its objectives. The word "reform" conjures up progress and positive movement forward. The title should reflect the fact that the Bill will impose controls, regulations, and far more stringent labour relations requirements on employer-employee relations in Western Australia.

The Opposition believes very strongly that this amendment should be supported. It will provide an adequate title. As I said at the outset, names are very important. If we do not name the Bill appropriately, the title will inadequately reflect what is happening in this State. I strongly support the amendment to call the Bill the "Labour Relations Regulation Bill 2002".

Mr BARNETT: The amendment far better describes the Bill because in every sense the Bill is about regulation. I cannot understand why the minister does not wish to convey a proper title to the community, even to his own constituency and the union movement, which wants regulation, which is what he has delivered. Why is he

ashamed or not willing to use the term "regulation"? Why does he insist on the term "reform"? The Premier keeps saying he leads a reform Government. It is a trendy, popular term, that gives the impression of moving forward and bringing freedom. His reform agenda in the gay and lesbian area means lowering the age of consent to 16, in the drugs area it means decriminalising cannabis, and in industrial relations it means regulation. Everything has to be presented as a reform, but this Bill is not reform in the sense of freeing up or deregulating. Although I do not agree with those other changes, it could be argued that the Government is deregulating cannabis, making it an essentially normalised good, instead of an illegal good. That is a morally and ethically wrong deregulatory measure, but it is still deregulation. This Bill is not about reform, it is about regulation, and yet the Government will attempt to portray it as a reform Bill. If the Government wanted to present it as the "Labour Relations (Rights of Unions) Bill", or the "Protection of Workers Bill", or the "Enhancement of Workers' Terms and Conditions Bill", at least any of those titles would convey a sense of where the Government is coming from, but to name it as a reform Bill gives the false impression that it is a deregulatory measure.

It is appropriate that this Parliament, if it is to pass or even debate legislation, debate legislation that is appropriately titled. This is not a deregulatory Bill, it is a regulatory Bill. I cannot understand why this minister is not prepared to go into the community and tell the truth - that he is regulating the labour market. I think it is a stupid idea, but he obviously thinks it is a good idea, so why will he not name this Bill as a regulatory Bill and describe it to the community as such? Members opposite do not stand for reform in labour relations in the sense that most people understand reform. They are not about flexibility or deregulation at all, they are about regulation, so why not name the Bill for what it does?

Mr KOBELKE: Any fair commentator would say that this Bill is a major reform Bill. It provides much greater levels of protection for vulnerable employees, and fairness for both employees and employers. On that basis, it is clearly a reform Bill. I accept that in many aspects the Bill is regulatory, but the name should not be changed because of one aspect. The Opposition may have the view that deregulation is what the world is all about, and that fairness and protection are not so important. That is a fair enough point of view, but the Government is about providing protection and fairness. On that basis, it is a reform Bill, and the title should remain.

Amendment put and negatived.

Clause put and passed.

Clause 2: Commencement -

Mr TRENORDEN: I move -

> Page 2, line 7 - To delete "on a day fixed by proclamation" and substitute "in five years from Royal Assent".

The purpose of this amendment is to recognise that people are currently signing five-year contracts. It is not fair for this State to interfere with those contracts. Those contracts should have the capacity to see out their terms.

A government member: You would like that.

Mr TRENORDEN: Of course I would like that. I am trying to put the point. The latest contracts signed would have five years to run from now. We should be fair to both sides - that is, the employer and the employee - and give those people the opportunity to see out those contracts. Why would the Government not allow people who have come to a mutual agreement to see its conclusion? The most important point, which the minister and members opposite will argue, is that we want to give people certainty in life. If we keep changing the rules, we will have a lack of cohesion. People on both sides have gone into these contracts with open eyes, and they have the right to see out the terms of those contracts. The best way to throw the system into turmoil is to keep interfering with it; to keep stirring the wooden spoon in the pot. Ultimately, not only employers but also employees will rebel. People will stop abiding by draconian legislation. One of the most important principles -

Mr Logan: The people decided to get rid of a draconian Government and its legislation when it voted you out.

Mr TRENORDEN: One Nation voted in members opposite. That was the process.

Mr Logan: What was your margin?

Mr TRENORDEN: Let us run through this issue. The One Nation preferences were the tightest of any candidate who directed preferences against me.

Mr Watson: How many votes did you get?

Mr TRENORDEN: About three.

Mr Logan interjected.

Mr TRENORDEN: I think it was about 4 000.

The DEPUTY SPEAKER: Will members conduct the debate through the Chair and address themselves to the amendment?

Mr TRENORDEN: I am enjoying this. I do not mind.

The DEPUTY SPEAKER: Clearly.

Mr TRENORDEN: I am happy to go along with this process. I will talk to members for hours if they wish. I am happy to chat with them. It is a tactic that I enjoy. I learnt it from the previous member for Wagin. He was an expert in it. I am looking forward to many interjections from the other side, and I will answer them all. I will do that as long as I can, because I enjoy it.

Mr Watson: I will help you any way we can.

Mr TRENORDEN: The member for Albany wants to help me. I am very pleased that he is prepared to assist me in this process. Does he want to say anything else?

Mr Watson: You obviously lead a very dull life.

Mr TRENORDEN: My dull life is a topic on which I could speak for hours. I could detail exactly how dull my life is.

Mr Kobelke: You do not need to; it is obvious from your speeches.

Mr TRENORDEN: They will get duller as the night goes on.

I return to the amendment before the Chair, which I am sure the Deputy Speaker wants me to do. The amendment is not frivolous. People have agreed to these contracts. One of the issues that has been debated strongly in both state and federal arenas is retrospective activity negating agreements that were made in good faith. There is every reason that this amendment should be carried.

Mrs EDWARDES: I support the amendment. The issue of certainty, which the Leader of the National Party mentioned on a number of occasions, is very important. This legislation will impact on people's lives and their livelihoods. Not only the contracts under workplace agreements will be impacted upon, as the Leader of the National Party pointed out. The effects will extend far beyond the 12-month cut-off date for workplace agreements entered into before 21 March. The legislation will, in its entirety, impact on people's lives and their livelihoods.

One issue that I keep raising with the minister is that there has not been sufficient consultation, particularly with those people whose lives and livelihoods will be impacted upon. An economic impact analysis has not been carried out. Members might say that I have said that before and that it is repetition; however, it is absolutely fundamental. I do not understand how Cabinet could have made the decision to recommend that this legislation come before the Parliament without fully understanding the cost implications of it. Five years might allow the Government to carry out a proper economic analysis of the impact it will have on people's lives and their livelihoods. Again, how could this legislation have been brought into this House without the Government having a full understanding of the impact on not only the private sector but also the public sector? The questions that have been raised in this House indicate that any analysis that will be done for the budget will take into account some form of assessment of the costs that might arise out of the labour relations reform. However, it will not be sufficient or timely enough for people whose lives will be impacted upon by this Bill. People already have agreements in place.

The DEPUTY SPEAKER: I ask members at the rear of the Chamber to keep the conversation level down or have their conversation somewhere else. It is getting very difficult to hear the member with the call.

Mrs EDWARDES: I thoroughly support the amendment moved by the Leader of the National Party.

Ms HODSON-THOMAS: I also support the Leader of the National Party's amendment. Earlier today when I delivered my speech during the second reading debate, I raised with the minister the issue of the staggered dates. I particularly wanted to understand more clearly why he had included the staggered dates and why he had not made a determination that he would draw one line in the sand.

Mr Kobelke: I suggest that you speak to the matter before the Chair. That is appropriate under this section, but the amendment before us does not cover that matter.

Ms HODSON-THOMAS: That is fair enough. I agree with the amendment before the Chair. As I raised in my speech, I would like some clarification. I am sure the minister will have an opportunity to draw attention to that during discussion on this clause. I agree with the sentiments of the Deputy Leader of the National Party that there should be a date. There should be a distinct date for both businesses and employers to have a clear understanding of when their workplace agreements will be terminated. It is important for small businesses to have an opportunity to understand those changes, most particularly so that they can budget for the costs they will incur as a result of the termination of these workplace agreements. Perhaps when the minister has an opportunity, he might clarify why there is a staggered date and why a specific choice of one date was not made.

Mr WALDRON: I also support this amendment, which seeks to remove the words "on a day fixed by proclamation" and substitute "in five years from Royal Assent". As has already been mentioned, workplace agreements have a life span of five years. Agreements that are already in place should be able to run for their full life, not for 12 months prior to 22 March and then six months after that as it says in the Bill.

We have heard a lot tonight about being fair and equitable. I keep raising this issue, because the Government talks a lot about being fair and equitable. I agree with being fair and equitable. It will be fair and equitable for both employers and employees to allow the agreement they already have in place to keep running. That is commonsense, which I also spoke about. Agreements that have been struck recently should be allowed to run for five years, because the employer and the employee would have planned for the coming five years in that agreement; both parties would have made budgeting and financing arrangements. This amendment would give certainty, which we have spoken about before. We must think about employees, not just employers. I support this amendment so that people can plan properly for the future.

Mr KOBELKE: If the motion before the Chair is passed, royal assent will not be given for five years. That does not achieve what was suggested by the member for Avon. The issue of existing workplace agreements operating for five years is only one part of this Bill. The Bill does much more than that, and many major reforms are needed straightaway. Although I disagree with the member on that issue, that is not a matter that one would seek to implement by amending the section. The member is trying to defeat the effect of the Bill, and I accept that; but that is not what he said.

If part of this amendment were passed, uncertainty for business would be created. Business knows that there will be changes, and it wants those changes in place as soon as possible. Clearly, certain segments of business do not like the legislation, but I have spoken to many people in business, and they want certainty. They want the legislation passed, with as smooth a transition to the new system as possible, and they want to know that the new system will work for them. The Government will make sure that it works for them. However, if members continue to run scare campaigns, they will not help the businesses that they seek to represent; they will make matters worse for them. It is a pity that we have spent something like two hours debating this legislation and members have not taken the opportunity to gain a better understanding of the Act than they had when the debate started. One hopes that if members enter into the debate seriously, the debate will be productive, and members will point out issues that we need to take account of, and they may become more informed about the substance of the Bill.

Mr TRENORDEN: The Government's Bill provides for a 12-month process before the provisions come into effect. We are arguing only about time.

Mr Kobelke: No, this clause applies to the whole Bill, not just to the individual contracts that are part of the Bill.

Mr TRENORDEN: Yes, but for the reason that I have put forward, if the Government wants to bring in this legislation, it should allow five years so that people can talk about it. The minister made a point about this Bill and his understanding of it. We are dealing with clause 2. I think somebody said a little earlier that we have 190-something clauses to deal with.

Mrs Edwardes: There are 800 amendments.

Mr TRENORDEN: Whatever the number is, I suggest that by the time we have gone through that process, we will have discussed the Bill.

Mr Kobelke: Discussing the Bill does not mean that you have picked up any understanding of it. I hope you might, but you have shown no evidence of that so far.

Mr TRENORDEN: We might have a discussion on history again, because going back to the debates on the Kierath reforms, I do not remember much cooperation from the minister when he was sitting on this side of the House. I remember the odd occasion when he raised his voice and was rather strident in particular views. That might happen again. History has a habit of repeating itself.

Mr Kucera: So do Leaders of the National Party.

Mr TRENORDEN: That is an interesting point. The minister was the most disliked person in rural WA. He is no longer the most disliked person in rural WA; the Premier has taken on that mantle. However, I suggest that the Minister for Health has plenty of capacity, and he will soon be the most disliked man in rural Western Australia once again, because he keeps on ripping money out of rural WA and affecting health services.

Mr Kucera: A bit like your federal colleague who took $5 million off rural health programs.

Mr TRENORDEN: The minister is learning. He is good at it. He is a fast learner.

It is true that I am not trying to assist the minister in the interpretation of his Bill; I am trying to change the interpretation of it. He should think about that, and he might realise that that is what I am attempting to do. We will not agree on that. I make the point that in the past days, weeks or months, good people have entered into contracts. I would like those contracts to be honoured.

Dr WOOLLARD: I understand what the Leader of the National Party intends with this amendment. He is attempting to use delaying tactics, and I believe that is appropriate in some areas because of the implications of this Bill for large sections of the community. However, some workers are currently compromised and disadvantaged by their workplace agreements, and they are looking forward to enterprise bargaining agreements. The Bill does not adequately address the needs of teachers or nurses who will be disadvantaged by it, but other workers, particularly those in big unions, cannot wait for this legislation to be introduced. I am in a dilemma because I believe the Government should have been seeking new methods of cooperation between employees, the unions and employers. I do not think this Bill does that. This Bill will turn the clock back, by returning to award rates and giving power to the bigger unions. I do not believe in compulsory unionism. I believe that if unions do their job well, members will join the unions.

Amendment put and negatived.

Mr TRENORDEN: As an indication of my fairness, I indicate that I will not pursue my amendment to clause 2(3) because it is consequential.

Mrs EDWARDES: The member for Carine is still waiting for an answer from the minister on subclause (2). Subclause (3) refers to section 109(6) of this Act, and that section repeals section 26A. Section 26(A) is entitled "Workplace agreements not to be taken into account". It states -

> In the exercise of its jurisdiction the Commission shall not -
>
> (a) receive in evidence or inform itself of any workplace agreement or any provision of a workplace agreement; or
>
> (b) award particular conditions of employment to employees who are not parties . . .

Will the minister tell me what this subsection does in effect?

Mr KOBELKE: I will answer the question by giving a much broader answer that will pick up what the member for Carine is asking. Subclauses (1) and (2) show that different provisions of the Act will come into operation on different days as fixed by proclamation. The reason for that is that we have a complex set of arrangements. General provisions will cut across the range of industrial relations, but they may need some regulation. Time is needed to put them in place, although they can be moved by themselves independently. Other matters are interrelated, particularly the phasing out of workplace agreements and the establishment of employer-employee agreements. There are different dates by which workplace agreements are to be phased out. We will come to that at a later stage. Once the gate is closed on the registration of new workplace agreements, the Government wants to have the employer-employee agreements, the EEAs, in place and ready. We do not want any gap; we do not want those who wish to use individual statutory contracts to have to ask where are the EEAs once they find that workplace agreements are no longer available. The EEAs must be set up before workplace agreements are closed off. The EEAs require a no-disadvantage test. We need those parts of the Act that give the commission the power to put in place the rules and regulations for registration. There will be a range of administrative issues in relation to the staff, the office, the advertising and the gazetting of the standard forms that will be required. Different parts may need to be proclaimed in order to get all that working before we close off the workplace agreements by repeal. In general terms, that is why we require subclauses (1) and (2). Subclause (3) relates to the fact that workplace agreements currently cannot be referred to within the Industrial Relations Commission. This removes that as from the date of royal assent. As soon as the first point starts they will be able to be referred to even though new ones can still be entered into.

Subclause (4) covers a range of issues involving the continuation of workplace agreements after the repeal of the Act. The agreements will continue for up to 12 months, therefore we need the provisions that govern and regulate their operation. New agreements cannot be signed but existing ones can continue for 12 months. That explains the need for subclause (4) and why it comes into effect under that particular provision.

Mrs EDWARDES: As is normally the case when things are explained, they can become as clear as mud! Subclause (3) refers to section 109(6) of the Act and I know we will debate the subsection at a later time. The minister made the point that at the moment they are not able to be referred to but they will be in the future. He may like to explain why one would want to have that referred to at an earlier point of time. That may involve some explanation of what section 109(6) will achieve. We need to know why it will come in earlier than the expiration dates.

Mr KOBELKE: As I already indicated, section 109(6) repeals section 26A. That section is entitled "Workplace agreements not to be taken into account". It states -

> In the exercise of its jurisdiction the Commission shall not -
>
> (a) receive in evidence or inform itself of any workplace agreement or any provision of a workplace agreement;
>
> or
>
> (b) award particular conditions of employment to employees who are not parties to a workplace agreement merely because those conditions apply to any other employees who are parties to a workplace agreement.

The importance of introducing the new system is the need to make the process more open. We will open up the workplace agreements books that will continue to operate so that it will be possible to use them as a reference. If section 26A were left in the current Workplace Relations Act, it would prohibit the commission from referring to workplace agreements. Members must keep in mind that this is only one aspect of the legislation.

An early job of the commission will be to establish the rules, including the no-disadvantage test. That is appropriate because where the workplace agreements are being used fairly and are well above standard conditions, it is expected that they will be rolled into employer-employee agreements. Therefore, it will be possible for the commission to consider whether it is relevant to refer to the establishment of a no-disadvantage test or other matters that may relate to setting up EEAs. These matters will be open and parties will be able to put cases before the commission that relate to the establishment of those rules. In establishing those rules, it is appropriate that any relevant existing workplace agreements be considered in the process.

We are removing section 26A to allow workplace agreements to be used as a reference. Workplace agreements that are above the standard might not be relevant references because, generally, the standard is the award, not a higher standard in the workplace agreements. However, we will leave it open for them to be used as a reference. Workplace agreements that are of a lower standard would not be relevant because the legislation sets the award as the standard. In order to be open and to make the system work as effectively as possible, there is no good reason that this restriction should continue once the new system begins. The commission will be involved in setting the rules and regulations that relate to award standards. In due course, arguments about the relevance of existing workplace agreements will be taken to the commission.

Mrs EDWARDES: I have a number of concerns about the issues the minister has raised. I am concerned about the word "open". The legislation under which workplace agreements have been entered into provided that they were not public documents. Some members opposite continue to portray the myth that nobody can tell their mother, father, aunty or next door neighbour about their conditions under the workplace agreements, but that is nonsense. If I were party to a workplace agreement, I could tell anybody I chose about it. However, that information would not be made public unless, as a party to the workplace agreement, I wanted to make it public.

The minister has suggested that section 26A might be removed and the legislation introduced by royal assent earlier than the expiration of the workplace agreements. Is the minister suggesting that the commission, in an open process, will be able to utilise the conditions of the workplace agreements? Does the word "open" mean "public"? Will the terms and conditions of the workplace agreements that people entered into lawfully and in the knowledge that they would not be made public now change?

Another concern we have is that the minister might use the workplace agreements to ratchet up what could possibly be the no-disadvantage test. Will the no-disadvantage test be applied to the award? If no award applies, will the minimum conditions of employment prevail? Is the minister suggesting that terms and conditions in a

workplace agreement that might apply to a particular enterprise or group of workers, or even individuals in an enterprise, even if they are above the award, be used to assess the no-disadvantage test?

The ACTING SPEAKER (Mr McRae): I ask that the member explain to me how this debate is relevant to the commencement clause. The member appears to be leading to the issue of the operation of the clause reference; that is, section 109(6).

Mrs EDWARDES: I am perfectly happy to explain. The minister in his response said that commencement will come in at a very early point in time because the Industrial Relations Commission wants to reference it when establishing the no-disadvantage test. I am therefore trying to get some time frame for the commencement. I have referred to section 26A of the Act and to clause 109(6). I do not have a problem with that by way of explanation.

The ACTING SPEAKER: Nor do I. Those provisions are referred to quite clearly. I am just trying to understand whether it relates to the commencement or the operation of subsequent clauses.

Mrs EDWARDES: Thank you, Mr Acting Speaker.

Mr TRENORDEN: I question the validity and accuracy of clause 2. Where is section 4A in the Workplace Agreements Act? Clause 2(4) reads -

> Part 3 Division 3 and sections 106 and 111 come into operation on the expiry of the *Workplace Agreements Act 1993* as provided for by section 4A of that Act.

The Workplace Agreements Act has no section 4A. It will exist when future clauses are passed, but there is no section 4A at the moment. We have a problem. I would like some guidance, especially from the Chair, about how we will progress.

Mr Kobelke: Look at page 86.

Mr TRENORDEN: We are not at page 86. We have been through this process many times in this House. We are at page 2.

Mr Kobelke: You said you could not find a reference to section 4A. It is on page 86.

Mr TRENORDEN: That is right, but section 4A does not exist in the Act. I am asking if this is the correct procedure, because section 4A does not exist until the Bill is passed.

The ACTING SPEAKER (Mr McRae): I am not sure whether the member is seeking guidance from the Chair.

Mr TRENORDEN: The fact is that section 4A does not exist until the Bill is passed.

The ACTING SPEAKER: As I read the Bill before the Chair, clause 31 establishes section 4A.

Mr TRENORDEN: I hate to point it out, but we are at page 2, clause 2. We are not dealing with clause 31 on page 86. We have been through these procedural matters in this place many times before. I have been told many times that we cannot pre-empt things in Bills.

The ACTING SPEAKER: From my, I accept, relatively limited experience in this place, the ruling I have provided on these procedural matters is that we cannot go backwards. It does not appear to me as though we are going backwards in this case. We are dealing with clause 2(4), which deals with a subsequent clause 31 in this Bill. I have no difficulty at all in dealing with the matter in the way in which it is set out.

Mr TRENORDEN: We can go forward, but there is still no section 4A until we pass the Bill.

The ACTING SPEAKER: That is correct.

Mr TRENORDEN: If we want to go forward, that is fine, but we cannot debate section 4A, because it does not exist.

The ACTING SPEAKER (Mr McRae): Leader of the National Party, nothing exists until the whole of the Bill is passed. So long as we follow a procedure of working through this -

Mr Trenorden interjected.

The ACTING SPEAKER: Thank you, Leader of the National Party. I heard your point. We are dealing with clause 2. I have given my ruling. We will go forward through this Bill. There is no problem with the sequence that has been outlined in the paper before me. If the Leader of the National Party has a matter of substance he wants to debate, I ask him to please proceed.

Mr TRENORDEN: It is already a matter of great substance. I would like to take advice from the Clerk of the House.

The ACTING SPEAKER: Please do. You are free to do that.

Mr TRENORDEN: I want to do that without going beyond this point. If the Clerk of the House can convince me that we are following correct procedure, I am happy to proceed. You have not convinced me, Mr Acting Speaker, that we are following the correct procedure. I rarely take on something that has been said by the Chair. You said yourself, Mr Acting Speaker, that you are inexperienced in this process.

The ACTING SPEAKER: I did not say that at all.

Mr TRENORDEN: Yes, you did, Mr Acting Speaker. Look at *Hansard*.

The ACTING SPEAKER: I referred to the relatively short time that I have been here.

Mr TRENORDEN: You are playing with words, Mr Acting Speaker.

The ACTING SPEAKER: Thank you, Leader of the National Party. Please resume your seat.

Mr KOBELKE: The member for Kingsley was pursuing a matter that is currently before the House. She asked what the implication would be if section 26A of the Industrial Relations Act were removed. That point relates to subclause (3) of the clause we are currently debating. In part, that matter should be debated at a later stage, but it is appropriate that we look briefly at why it should commence early. I read out and spoke on section 26A of the Industrial Relations Act. Perhaps in speaking on it I implied or suggested things about openness other than that which is covered by section 26A. The repeal of that section would not undo any confidentiality or other provisions relating to workplace agreements; it would simply undo the current restriction on the jurisdiction of the commission. The commission currently does not have the jurisdiction to receive evidence or to award particular conditions. This provision will simply open up the commission to those powers.

Mrs Edwardes: You want to do that at a very early stage of the process, probably before many of the other proposed subsections are proclaimed. You are likely to do this first.

Mr KOBELKE: Not necessarily first. It is set apart as being able to be done by itself. It is likely to be done in the early stages so that if the commission is starting its process, it is not barred from such a reference. It does not enable things to be made public or referenced that cannot be done currently.

As to Adjournment of Debate

Mr TRENORDEN: I move -

That the House do now adjourn.

I want the House to adjourn so that I can take advice from the Clerk. I am not convinced that your ruling is correct, Mr Acting Speaker. I do not want to challenge your ruling; however, I want an opportunity to discuss procedural matters with the Clerk of the House.

The ACTING SPEAKER: Leader of the National Party, I just want to clarify whether you want the debate, and not the House, to be adjourned.

Mr TRENORDEN: I want the debate to be adjourned. I want to take the opportunity to speak to the Clerk on this matter. Once satisfied, I will be happy to move on.

Question put and negatived.

Debate Resumed

Mr BIRNEY: I have not been involved in this debate to any great extent. I ask members to forgive me if I go off on a bit of a tangent. We are currently dealing with clause 2(4), which relates to the expiry of the Workplace Agreements Act. I came across the policy the Labor Party took to the last election. I am not sure if any members have raised this point , but it is an important fact and is certainly worthy of members' attention. The Labor Party policy when it went into the last election states -

Point of Order

Mr KOBELKE: Under Standing Order No 94 the member's contribution must have some relevance to the commencement clause. If a member wishes to pursue a more detailed discussion about other clauses, I am happy to oblige if it relates to the commencement. Labor Party policy and the member's first few comments have no relevance to the clause under debate.

Mr BIRNEY: If the member will give me some leeway, I will establish relevance. I am referring specifically to the expiry of workplace agreements.

The ACTING SPEAKER (Mr McRae): I draw the member's attention to Standing Order No 179, which deals with the relevance of debate during the consideration in detail stage. That standing order states -

> Debate will be confined to the clause or amendment before the Assembly and no general debate will take place on any clause.

I am prepared to allow the member a short time to get to the point, but he should confine his debate in accordance with the standing orders.

Debate Resumed

Mr BIRNEY: The policy presented at the last election, specifically with regard to the expiry of workplace agreements, states that the Labor Party will -

> Allow existing WAWAs to continue under transitional arrangements for a maximum period of three years from their commencement date.

This legislation does not adhere to that policy; in fact, workplace agreements registered before 12 March 2002 and still within their term will end 12 months after the new law is proclaimed. I think I have established relevance.

The ACTING SPEAKER: The Labor Party's policy is not a matter for substantive debate at this time. That is a matter for discussion during the second and third reading stages of the debate and not a question before the House. The member must address himself to the matter before the House, or I will put the question again.

Mr BIRNEY: I will specifically address clause 2(4), which states -

> Part 3 Division 3 and sections 106 and 111 come into operation on the expiry of the *Workplace Agreements Act 1993* as provided for by section 4A of that Act.

That clause specifically refers to the expiry of workplace agreements. According to the Labor Party's policy, it will allow existing workplace agreements to continue -

The ACTING SPEAKER: The member will resume his seat. The question is that clause 2 stand as printed.

Points of Order

Mrs EDWARDES: This debate will run very well if we do not rely on the standing orders. The first point of order was raised after only three speakers had contributed to the debate. If we were to remove the blue book from the minister and start to get into and enjoy this debate, we might progress much more quickly.

The ACTING SPEAKER: Is the member raising a point of order or speaking to the question?

Mrs EDWARDES: I would like to hear the point the member for Kalgoorlie is trying to make.

The ACTING SPEAKER: I have indicated three times that, like most members, I am very interested in this debate. However, the standing orders oblige us to deal with the subject at hand in the consideration in detail stage. We must discuss the operation of clause 2, which does not deal with ALP policy.

Mr Barnett: Yes it does.

The ACTING SPEAKER: I call the Leader of the Opposition to order for, I understand, the second time today. He is questioning my rulings and I will not countenance that any more. He was advised by the Speaker at the commencement of sittings this week that no member will question the ruling of the Chair unless a member wishes to move a substantive motion. I am very keen for this debate to proceed on the matters before the Chair.

Mr BIRNEY: Can I speak on a point of clarification?

The ACTING SPEAKER (Mr McRae): No. When I am finished the member for Kalgoorlie can make a point.

Mr BIRNEY: I seek your guidance on exactly what I can talk about given that we are debating clause 2(4), which refers to part 3 division 3 and indicates that sections 106 and 111 come into operation on the expiry of the Workplace Agreements Act. In the light of that, can I address my comments to the expiry of the Workplace Agreements Act?

The ACTING SPEAKER: By all means. The issue is that the member for Kalgoorlie has sought to debate the application of subclause (4) in relation to the policy or the election statement of the Labor Party in Opposition.

That has no relevance to the operation of subclause (4) of clause 2. By all means the member for Kalgoorlie can debate the operation of the clause. However, he must not digress to policy because it has no relevance to consideration in detail under the standing orders of this House.

Mr BIRNEY: Are you ruling, Mr Acting Speaker, that I cannot refer to the Labor Party's policy prior to the election, specifically the expiry of the Workplace Agreements Act?

Mr KOBELKE: The matters to which the member for Kalgoorlie is alluding -

Mr BIRNEY: I asked for clarification.

Mr KOBELKE: I am working on a point of order to assist the member. The member seems to want to refer to the expiry date, which is a very important issue. It is covered in clause 31 on pages 86 and 87. It is not appropriate to debate it under clause 2. There will be appropriate time to discuss that important matter.

Mr BIRNEY: Further to that point of order, with due respect, that may well be an opportunity for us to discuss expiry. However, as I read this clause, it specifically refers to the commencement date and the expiry of workplace agreements. The Labor Party went into the election with a policy about the expiry of workplace agreements and I wish to draw that to the attention of the House. I am not sure how it can be ruled out of order. I believe it is in order and it is exactly relevant to the clause we are dealing with. If I cannot refer to the Labor Party's policy under this clause, we may as well pack up and go home. It is completely relevant.

The ACTING SPEAKER: What is your point?

Mr BIRNEY: You are saying, Mr Acting Speaker, that I cannot refer to the Labor Party's policy on the expiry of workplace agreements in the context of debate about a subsection that says, ". . .on the expiry of the *Workplace Agreements Act 1993*". . ..

Mrs EDWARDES: I may be able to assist in some way in terms of the connectivity between the commencement date and the reason the member is raising the expiration of the Workplace Agreements Act, and the link with the policy. The policy gave one date to the business community, and the legislation gives another. Perhaps the question that needs to be asked of the minister is when, under clause 2(4), will the Bill be proclaimed in light of the dates given in the legislation. How much notice will business get of those expiration dates?

The ACTING SPEAKER: That is absolutely right, but they are matters that will be discussed when the substantive clauses are dealt with.

Mrs EDWARDES: Will the commencement date apply -

The ACTING SPEAKER: I am still taking a point of order in this general discussion about procedure. This procedural matter before me will not be resolved unless these questions are addressed to me so that I can be satisfied that the House is complying with Standing Order No 179, which is quite explicit. I am in no way attempting to stifle debate, but rather to hone the debate to clause 2 of the Bill, as printed. Unless the member can show me that she cannot proceed with that question when the substantive clauses are dealt with, then they are not matters for discussion now.

Mr BIRNEY: We are talking specifically about the commencement of this legislation.

The ACTING SPEAKER: In taking advice, I think there is some sense in what the member for Kingsley has said in her question to the minister. In order to provide some advance on this matter, if the member for Kalgoorlie will resume his seat, I will then give the call to the member for Kalgoorlie, and he can then put the question, and debate can be resumed in that way.

Debate Resumed

Mrs EDWARDES: The member for Kalgoorlie raised the expiration dates under the Labor Party policy during the last election. The Bill gives a different expiration date. The issue for business has been the question of certainty as to when the transitional provisions will apply. When is the Bill likely to receive royal assent? What other things need to be done to assent to it, so that business can have a firm understanding at the earliest possible time?

Mr BIRNEY: Perhaps I can add something to that. It is something I had hoped to raise in the first place. We are talking about the commencement of this Act, which is dealt with in clause 2. The Act cannot commence until workplace agreements are phased out. Clearly, we were told that workplace agreements would be phased out over a period of three years, but the legislation indicates that they would be phased out over 12 months. My question is very simple. This rigmarole should not be necessary. When did the minister change his mind from three years to one year, and how does he believe that will affect business?

Mr KOBELKE: We need to comply with Standing Order No 179. The standard of debate may be at primary school level, but we should stick to the standing orders.

Mr Birney interjected.

Mr KOBELKE: The second reading debate was the opportunity for that, and there will be many opportunities as consideration in detail proceeds, but that does not relate to clause 2.

Mr Birney: It talks about the commencement date.

Mr KOBELKE: The fact that the member for Kalgoorlie does not understand it is his problem.

Mr Birney: I can read. The policy says "commencement".

Mr KOBELKE: Yes; commencement.

Mr Birney: You said they would commence after three years.

Mr KOBELKE: I did not say that at all.

Mr Birney: I have your policy. Do you want me to read it out?

Mr KOBELKE: The member cannot read it out; he would have to read another section because the policy does not say that. It is not relevant to clause 2.

The member for Kingsley asked a valid question about clause 2(1). The fact that an amendment to that subclause was moved does not prohibit us from debating it. The clause indicates that the introduction of these matters has some flexibility. The issue of timeliness has two aspects. First, there are the specific dates on which some things will come into effect. At this stage I cannot give any indication about those because I do not know how long it will take for this Bill to pass through both this and the other place. I could not guess approximate dates for the specific parts of commencement. The second aspect of the question related to the time factor for matters that are dependent on other parts of the Bill coming into effect. That is something we can discuss in more detail when we debate the relevant clauses. I alluded to that in my response to the second reading debate. That is the reason subclauses (1) and (2) are in this form; however, I do not think it is appropriate to discuss a range of complex provisions and the interrelationship of those provisions at this stage. We will be happy to do so once the order in which some of those things need to happen becomes clear. That will provide some element of timeliness.

Mrs Edwardes: You will obviously move as quickly as possible after the legislation is passed through both Houses of Parliament. Will the date on which workplace agreements expire be 12 months after the assent or will you declare a set date so that proclamation becomes irrelevant?

Mr KOBELKE: The point of subclauses (1) and (2) is to allow for a range of proclamation dates for various sections. The 12-month expiry period would start after the proclamation of clause 31, which is the phase-out clause. The expiry date will be 12 months after the proclamation of that part. The part will not be proclaimed until all the mechanisms have been put in place. From our position, the worst scenario is that once this legislation passes through both Houses, it might take six months to put the apparatus in place and receive proclamation. The expiry date would be 12 months from then.

Clause put and passed.

Clause 3 put and passed.

Debate adjourned, on motion by Mr Kobelke (Minister for Consumer and Employment Protection).