LABOUR RELATIONS REFORM BILL 2002

Committee

Resumed from 21 May. The Chairman of Committees (Hon George Cash) in the Chair; Hon N.D. Griffiths (Minister for Racing and Gaming) in charge of the Bill.

Clause 4: Part VID inserted -

Progress was reported after Hon Dee Margetts had moved the following amendment -

Page 30, after line 26 - To insert -

(2a) For the purposes of subsection (2) the Registrar is to have regard for any current or likely wage increases under an award or a relevant order during the term of the EEA.

Amendment put and negatived.

Hon RAY HALLIGAN: Proposed section 97VS on page 30 of the Bill is titled "No-disadvantage test defined". Proposed subsection (1) refers to "the terms and conditions of his or her employment". What would be the position if a verbal contract had been agreed? Would it have to be put in writing for transmission to the registrar?

Hon N.D. GRIFFITHS: No. It is with respect to an award.

Hon RAY HALLIGAN: There is no mention of an award that I can see. We are talking about now, not at a later stage when people are necessarily under the awards and the like.

Hon N.D. Griffiths: Proposed subclause (1) is governed by proposed subclause (2); that is, in respect of an award or relevant order.

Hon RAY HALLIGAN: Proposed subclause (2) states in part -

. . . only if its provisions result, on balance, in a reduction in the overall entitlements of the employee . . .

Does "on balance" suggest some form of flexibility?

Hon N.D. Griffiths: Yes.

Hon RAY HALLIGAN: What does the minister have in mind with that flexibility? Will cars, mobile phones and things of that nature be included in that "flexibility"?

Hon N.D. GRIFFITHS: They could be. The member has referred to flexibility. I do not seek to be prescriptive; it is flexible. It would include conditions that may include the provision of mobile phones and matters of that kind.

Hon MURRAY CRIDDLE: Proposed subsection (4) states -

Subsection (2) applies to -

(a) and award; or

(b) a relevant order,

that the Registrar determines, . . .

What is a relevant order in this case?

Hon N.D. GRIFFITHS: Proposed section 97VR contains a definition of relevant order as follows -

"relevant order" means any order under this Act that is prescribed by the regulations for the purposes of section 97VS.

Hon BARRY HOUSE: Clause 4 deals with employer-employee agreements. This is an appropriate time for me to make available to the Committee a document which I have received and which will be sent to all members. It contains a commentary on aspects of this legislation including employer-employee agreements. The document is produced by the Coalition of Business Associations, the members of which include the Australian Hotels Association, the Baking Industry Association, the Combined Small Business Alliance, the Electrical Contractor Association, the Housing Industry Association, the Liquor Stores Association, the Master Builders Association, the Motor Trade Association of Western Australia, the Property Council of Australia, the Restaurant and Catering Industry Association of WA, the Western Australian Farmers Federation, the WA Independent Grocers Association and the WA Ship Builders Association.

The document contains 10 pages. I will seek to table it at the end of my comments. It sets out in very clear terms what the Coalition of Business Associations think of this legislation, including employer-employee agreements. The document starts with an executive summary and discusses what is wrong with the Labour Relations Reform Bill and what the Government can do. It also contains an overview including a section titled "The fundamental need to make labour relations better". It states that the Government has expressed a commitment to linking the Government with the needs of business and industry and to develop the Western Australian economy to become a better economy. It discusses the need to encourage investment in the State and the fundamental need to compete effectively in the great economy. We have heard the Premier, the minister and other members of the Labor Government say that they are in the business of governing for all Western Australians, not just a particular section. I will table this document to put that assertion to the test. The Coalition of Business Associations has a lot to say, and much of it is in a negative tone when dealing with this legislation and certain clauses. All members will have a copy of this document shortly. Page 4 states, in part -

> The reasons the **Labour Relations Reform Bill 2002** will have these effects are:
>
> - Many employers will face labour cost increases;
> - Regardless of the real effect of the laws (which can be debated), the Bill sends the wrong message to business in this State, as well as potential investors.
> - Western Australia competes in the global economy, and the ability to attract and retain investment capital for the ongoing future development and growth of the State is dependant upon maintaining a positive perception regarding the business climate. The **Labour Relations Reform Bill 2002** does not assist in creating this perception, and on the contrary, sends the opposite message.

In respect of employer-employee agreements, particular concerns include -

> i. The overly bureaucratic requirements for registration of the agreements, which operate in practice as a significant deterrent and barrier to the making of agreements. As an example, the Bill requires that employers provide employees with copious documentation prior to making the agreements;
>
> ii. Lack of confidentiality of agreements. This is a particular concern in relation to the issue of privacy, including privacy for employees. The Government may consider that there is value in providing public information regarding agreements, from the point of view of allowing assessment to be made regarding the state of the labour market. However, this goal could be satisfied by alternate means, such as the publication of tabulated statistics, rather than information regarding individual agreements.
>
> iii. The time frame associated with the registration of agreements;
>
> iv. The "cooling off" period, which leads to uncertainty for employers; and
>
> v. It is not possible to make an EEA if there is an Industrial Agreement in place.

The document discusses other aspects of the legislation in broad terms, such as appeals to the court from the commission and the loss of a stable and secure business environment. It raises real concerns about enabling "safety" to be defined as an industrial matter. It raises concerns about the regulation of the right of entry, awards, and other issues. I urge all members to read the document. The information has been produced by a very solid group of business associations in this State. If the Government continues to be hell-bent on putting this legislation through the House without accepting any other view and is not prepared to make any changes, let it be under no misapprehension of what the business community of Western Australia thinks of this legislation and the fears it has about it. I seek leave to table this document.

Leave granted. [See paper No 1451.]

Hon RAY HALLIGAN: Proposed section 97VS(4) states that -

> Subsection (2) applies to -
>
> (a) an award; or
>
> (b) a relevant order,
>
> that the Register determines, whether under section 97VT or otherwise, would otherwise extend to the employee.

Proposed section 97VT is headed "Determination of an award, comparable award or relevant order by register". I was under the impression that proposed section 97VT brought all that together. What is anticipated by the words "or otherwise"?

Hon N.D. GRIFFITHS: An employer may request an assessment. If he does not, then that is the "or otherwise", and the registrar will make his assessment.

Hon FRANK HOUGH: Proposed section 97VS(2) states in part -

(a) an award; or

(b) a relevant order,

Proposed subsection (4) then states -

Subsection (2) applies to -

(a) an award; or

(b) a relevant order,

In the briefings I had with the Labor Party and the people who advised me, we talked about an award. The Labor Party continues to tell me that the award is archaic and will have to be upgraded. The relevant determining factor of an employer-employee agreement or an enterprise bargaining agreement is based upon the award. If the award is not up to speed with today's marketplace and we change the award rates, will the EEAs and EBAs then become obsolete?

Hon DEE MARGETTS: Last night the Greens (WA) believed that the award should reflect the potential increases, which was defeated. Unfortunately, the reality is that that is not the case and the award is taken into consideration at the time the EEA is agreed to. We would have liked the likely increases in the award to be part of the system, but that is not what was agreed to.

Hon FRANK HOUGH: Hon Dee Margetts is correct in what she said, but I asked that question because the awards are behind today's marketplace and will have to be changed. Is an EEA or EBA based upon the award rates and, if the awards are changed, will they then become obsolete?

Hon N.D. GRIFFITHS: The relevant time for the no-disadvantage test is the time of the assessment leading to the registration of the EEA. If an award is subsequently modernised, it then has no effect on the EEA because the EEA has a duration. If the application of the no-disadvantage test in the particular instance relies heavily on an award that might be behind the times, then the no-disadvantage test will not be as compelling from an employer's point of view - if he was interested in keeping the wages lower - than if the award had been modernised. I would have thought that every employer would want to pay his employees a proper amount of money so that his work force is productive rather than engaging in exploitative activities. I am sure Hon Bill Stretch agrees with me.

Hon FRANK HOUGH: There is no doubt that the awards will go up with the current economy. Therefore, if an EEA is signed for one or two years and the awards go up substantially, the employee will be grossly underpaid in the marketplace. The only way out then would be to resign and renegotiate an EEA. If the awards move substantially upwards, it makes the process a bit messy.

Hon N.D. GRIFFITHS: Yesterday or the day before we dealt with the particular circumstances in which EEAs are determined. It is always open for somebody to enter into a new EEA. An EEA could also be terminated or the person could leave the employment. The member has made observations, but we have already had the debate about the circumstance in which EEAs end.

Hon MURRAY CRIDDLE: The minister correctly said that the relative order relates to proposed section 97VR. However, that provision does not tell us anything. The definition of "relevant order" in that proposed section states -

. . . means any order under this Act that is prescribed by the regulations . . .

What does the minister think will be put into the regulations?

Hon N.D. GRIFFITHS: The honourable member is correct that the wording is not specific and leaves matters open. However, the intention was that it may apply to things like redundancy orders that are made by the commission. I am not in a position to give the Committee a list of precisely what may be contained in the regulations.

Hon MURRAY CRIDDLE: When are we likely to see the regulations?

Hon N.D. GRIFFITHS: The Act contains a number of clauses dealing with the capacity to make regulations. I am advised that we are likely to see the regulations shortly after the relative parts that give the power to make the regulations come into operation. No doubt, that will cause Hon Ray Halligan to engage in some exciting work.

Hon RAY HALLIGAN: Proposed section 97VT(1) states -

> If an employer -
>
> (a) proposes to enter into an EEA; but
>
> (b) is unsure which award, comparable award or relevant order will be relevant to the employment for the purposes of section 97VS,
>
> the employer may apply in writing to the Registrar for the making of a determination of that matter.

My understanding was that the registrar would make that determination. Does the fact that this provision contains the word "may" suggest that this information might be available elsewhere?

Hon N.D. GRIFFITHS: Proposed section 97VT(1) states in part -

> the employer may apply in writing to the Registrar. . . -

It is the choice of the employer.

Proposed section 97VT(2) states -

> Upon such an application being made the Registrar must. . .

Hon Ray Halligan: The registrar must, but the employer may.

Hon N.D. GRIFFITHS: The employer has the option whether to seek the advice of the registrar. Surely the honourable member is not suggesting that employers must take the step of engaging the bureaucracy. It is something that the employer may wish to do, if he believes it will be of benefit.

Hon RAY HALLIGAN: A small employer "may" send an EEA to the registrar - it is not obligatory - but he has to send it to the registrar for the final approval of the no-disadvantage test! This is more than a reasonable question. It is all right for the minister because he knows exactly what is in the Bill. However, other people will seek guidance from the words contained in the Bill. Does the minister suggest that employers can decide what will be included in an EEA and trust to luck that when they send it to the registrar, it will pass all the required tests?

Hon N.D. GRIFFITHS: I will take the honourable member through proposed section 97VT(1). It states -

> If an employer -
>
> (a) proposes to enter into an EEA. . .

An EEA is an agreement. An employer who is unsure of the relevant award has the option, if he so wishes, to seek advice. If such advice is given by way of a determination and is therefore stronger than advice, in the event that there is an EEA, the employer has not wasted the employee's time because the registrar cannot refuse the award by determining what the employer proposed was not the relevant award.

Hon RAY HALLIGAN: Proposed section 97VT also refers to relevant orders, so there may not be an award. This is the whole point. It will then be up to the registrar to determine the comparable award or relevant order, and this might not necessarily be an award or comparable order in Western Australia; it could be a Commonwealth award or an award from another State. I am not sure whether the minister wants to interject and change his mind about what he was going to say.

Hon N.D. Griffiths: I have not changed my mind. Like members opposite used to say when they were in government, the words speak for themselves.

Hon RAY HALLIGAN: The words do not speak for themselves. What happens if the comparable award or relevant order is taken Australia-wide? This has been mentioned in the other place. What award or comparable figure will the registrar use? Will the figure used be higher, lower or the average?

Hon N.D. GRIFFITHS: A "comparable award" is defined under proposed section 97VR. I refer Hon Ray Halligan to 97VS(5), which states -

> If the Registrar is satisfied that there is no award that would otherwise extend to the employee, subsection (2) applies to -
>
> (a) any award, including an award under the Commonwealth Act, that the Registrar determines, whether under section 97VT or otherwise, to be a comparable award. . .

I have not taken issue with the use of the word "Commonwealth".

Hon DEE MARGETTS: I move -

Page 36, line 12 - To delete the line.

The Greens (WA) believe that this measure will be useful and practical for employees who are confused about their industrial instrument. This will allow them to call on the assistance of the unions to determine with employers the nature of their industrial instrument. It is necessary for union representatives to be able to access at least the names of the people on EEAs so that they can assist their members.

Hon MURRAY CRIDDLE: Is the essence of the member's amendment to make public the information contained in EEAs, including the names?

Hon DEE MARGETTS: Yes. If unions want to represent their members, it would be difficult to do so without first knowing with whom they are dealing.

Hon MURRAY CRIDDLE: If a person wanted to seek assistance, he or she would seek out a union representative or any other representative who may provide advice. There is no need whatsoever to make employees' names public so that they can be courted by a union representative.

Hon N.D. GRIFFITHS: The provisions in the Bill exempt employees' names from public inspections. The Bill is designed to protect individual choice and freedom of association. There is no good reason for identifying an individual's name. The reason for disclosing employers' names is to ensure accountability and transparency. Unions will have adequate opportunity to identify an employee who utilises an EEA if he or she wishes to pursue collective bargaining. The Government opposes the amendment.

Hon RAY HALLIGAN: The Opposition agrees with the minister and also opposes the amendment.

Amendment put and negatived.

Hon RAY HALLIGAN: I will go back to page 33 and to the last part of proposed section 97VU, which states that the registrar must take into account all relevant benefits whether in the form of money or otherwise. Is it the Government's intention to provide some guidelines for what those relevant benefits might include?

Hon N.D. GRIFFITHS: A relevant benefit will vary according to the circumstances of the relationship. Reference is made earlier to mobile phones, motor vehicles, accommodation, meals, medical insurance and a number of things. The list could be endless and vary from circumstance to circumstance.

Hon DERRICK TOMLINSON: Does the minister anticipate that in establishing comparability, each of those variables which he has recently used as an example will be reduced to a monetary value?

Hon N.D. GRIFFITHS: The registrar can take into account benefits, whether monetary or otherwise. How he or she assesses a non-monetary benefit is a matter for the registrar. Certainly one option may be to seek to apply a monetary value, but it is a matter for the registrar.

Hon DERRICK TOMLINSON: Probably one of the most important issues is the question of no disadvantage, which gets to the heart of industrial relations. Value for work and value of pay for work have been central to industrial relations in Australia for more than a century. The question of no disadvantage depends upon one being able to reduce a disparate set of conditions of employment to some comparable value. The obvious way of doing that is to reduce all benefits or conditions of employment to some financial value. The minister has indicated, and the Bill is quite clear, that it is a decision for the registrar to make according to the instrument that has been established and agreed to for establishing comparability. If the comparability is not a monetary value, how else might comparability of disparate conditions of employment be established to determine that there is no disadvantage?

Hon N.D. GRIFFITHS: It is an interesting question. I do not think there is a simple answer to it. I will not attempt to give a simple or convenient answer. Leading on from the point the member has made, it is more likely than not that matters may be reduced to a monetary value, but that is not what the proposed section says. The commission, however, will be responsible for establishing principles and guidelines for the no-disadvantage test. The commission will grapple with that matter. It will be very interesting to see how outcomes dealing with non-monetary matters are arrived at. There are, of course, conditions of employment which are not monetary in nature but which affect people's general circumstances, such as matters of quality of life and how much time somebody has off in some workplaces for afternoon tea. The late Mr James' workplace comes to mind. That is something that probably in the end will be left to the commission when utilising those guidelines. It is appropriate, because it is something over which the commission would have expertise insofar as expertise in those areas is able to exist.

Hon DERRICK TOMLINSON: I certainly agree that some conditions of employment do not have a monetary value at the time of entering into an employer-employee agreement. They can be about job satisfaction or quality of life. Those are the sorts of things that I describe as disparate conditions of employment. However, the proposed section of the Bill that we are discussing is about no disadvantage. The principle of no disadvantage is that an award appropriate to the type of work in which the employee is to be engaged is to be decided. Then the conditions of that award, which will include such things as rates of pay, holidays, long-service leave entitlements etc, will be compared with the terms and conditions of the EEA. Eventually two sets of disparate conditions of employment, one in the award and one in the EEA, must be compared and a determination must be arrived at that one, the EEA, does not disadvantage the employee in comparison with the other. I think that is a fair principle to follow.

However, in answer to the question, how will these be compared, the minister gave an answer to the effect that it is up to somebody else to decide. That somebody else is the commissioner. I am sure that the commissioner will have expertise in this matter, but if the Government has not given thought to how the commissioner might establish this - other than to say that the job is the commissioner's, the commissioner should go ahead and determine the guidelines and the commissioner's decision will be final - the Government might have been a little bit careless in drafting this legislation. I do not believe that the Government has been careless in drafting the legislation. I have been watching very carefully the conduct of the people around the minister. They have obviously given considerable thought to the legislation. What sort of things has this Government considered to assist and to guide the establishment of comparability on the part of the commissioner?

Hon N.D. GRIFFITHS: The Government's view is that the development of this will be left to the commission. The commission will not be looking at it in a piecemeal or line-by-line manner, saying that something is worth X, something else is worth Y and that X plus Y equals Z, as the case may be, but will look at it overall. The position of the Government is that this is best left to the commission. The Government has faith in the position, although this faith is not necessarily shared by members opposite. It is the view of the Government that it is appropriate to rely on the judgment of the commission in dealing with a very general principle.

Hon DERRICK TOMLINSON: In determining the comparability, the commissioner is required to establish an instrument. At any time a request may be lodged for a variation of that instrument. That request may be lodged by a peak body of employers or employees. This suggests to me that it eventually gets down to a dispute resolution within the commission between the employer's peak body and the employee's peak body. In other words, this whole process is reduced to nothing other than the dispute resolution and centralised industrial relations system that we have known in this country for the better part of a century.

Hon N.D. GRIFFITHS: I note the view expressed by the member, which is not shared by the Government. The commission is used to dealing with general principles. This is a matter of establishing principles and guidelines. Peak bodies can be involved, as can the minister.

Hon RAY HALLIGAN: Proposed section 97VX(3) reads -

> Section 43(7), (8) and (9) of the *Interpretation Act 1984* apply to the instrument as if it were subsidiary legislation.

That, to me, suggests that it will be disallowable. Can the minister tell me whether that is his understanding of the situation?

Hon N.D. GRIFFITHS: The reference is to sections 43(7), (8) and (9) of the Interpretation Act 1984. Section 43 of that Act deals with general provisions for the power to make subsidiary legislation. A matter is not disallowable by virtue of subsections (7), (8) and (9).

Hon RAY HALLIGAN: That is most unfortunate, because it means that the principles and guidelines will not be reviewed by Parliament. Parliament will not be in a position to scrutinise those very things Hon Derrick Tomlinson mentioned.

Hon N.D. GRIFFITHS: That is so. It is not a matter that can be the subject of a disallowance motion. Matters can always be the subject of parliamentary scrutiny by way of debate on legislation which may follow down the track, if a majority of members in both Houses of the Parliament agree. Save for that, this is not a disallowable instrument.

Hon RAY HALLIGAN: It was not so much the disallowable part as the subsidiary legislation going through the process of scrutiny by the Parliament, as most subsidiary legislation does.

I refer the minister to proposed section 97VX(5), which reads -

> The Commission must cause the instrument, and any amendment or substituted instrument, to be published in the *Industrial Gazette* and -
>
> (a) in a newspaper circulating throughout the State;
>
> or
>
> (b) on an internet website maintained by the Commission.

Why is the word "or" used rather than "and", so that both would apply rather than either?

Hon N.D. GRIFFITHS: It is a matter of judgment for the commission. The member should note that the proposed section requires publication in the *Industrial Gazette* as well as in either of the other two media. The inclusion of the Internet web site brings the matter up to date. Why should both be done? Years ago, people would not have used the Internet web site.

Hon Ray Halligan: In this day and age, everyone seems to. Could the commissioner get away with just putting it in the newspaper?

Hon N.D. GRIFFITHS: It is probably better to have it on a web site than in a newspaper.

Hon RAY HALLIGAN: I refer the minister to proposed section 97VZ(2), which reads -

> If an application is so made the Commission may -
>
> (a) exercise its powers under section 97VX(4); or
>
> (b) decline to do so.

Is it a requirement that the commission give reasons for declining?

Hon N.D. GRIFFITHS: As a general principle, it is my understanding that such reasons would be given. That is not prescribed in this Bill, but if the Industrial Relations Act provides that decisions must be given in writing, with reasons, that would be the case with this proposed section. The matter may arguably be governed by the provisions in sections 34 and 35 of the Industrial Relations Act 1979. I am putting my mind to that now. Section 35(1) of the Act states that certain matters shall be drawn up in the form of minutes which shall be handed down to the parties concerned and, unless in any particular case the commission otherwise determines, its reasons for the decision shall be published at the same time.

Even though the commission must put the decision in writing and give reasons for various categories of matters, the commission has the power to determine not to do so. The strict answer to the member's question is that the commission does not have to give reasons. However, the general principle is that it does. On the specific application of sections 34 and 35, I cannot give the member a definitive answer. However, I note the wording of section 35 of the Act, which is an out for the commission, and the answer is that clearly it does not have to.

Hon RAY HALLIGAN: Proposed section 97WA(2)(b)(ii) states -

> a statement that written submissions on the exposure draft may be made to the Commission by any person within a specified period . . .

Proposed subsection (3) states -

> The period specified under subsection (2)(b)(ii) must be not less than 30 days after notice has been published under subsection (2)(a).

That provides that it must be not less than 30 days. However, it does not stipulate any period in which it must be available. Although it must be not less than 30 days, one might assume that it could go on for some considerable time.

Hon N.D. GRIFFITHS: The commission is a public body and carries out public duties. It is proper to expect that public bodies carrying out public duties will do their duty. One would expect a body to do that in a reasonable time, and that would be a matter for its determination. Our society operates on the basis that people who have duties to perform actually carry out their duties in a proper way. If we did not work on that basis, we would not function. That applies to our behaviour in this Chamber as well.

Hon Ray Halligan: We would normally put a time period on it, requiring that it be available by a date. This is the other way around. I have heard what the minister said.

Hon N.D. GRIFFITHS: It is like having the Full Court of the Supreme Court hear a matter. We all have an expectation that a matter may be decided within a reasonable time. However, nothing tells the Full Court of the Supreme Court when it is to hand down its decision.

Hon MURRAY CRIDDLE: The definition of peak industrial body refers to "the Council, the Chamber and the Mines and Metals Association". Can the minister clarify for the record what those are?

Hon N.D. GRIFFITHS: This relates to bodies set out in section 50 of the Industrial Relations Act; that is, the former Trades and Labor Council, now UnionsWA; the Chamber of Commerce and Industry of Western Australia; the Australian Mines and Metals Association; the minister; and any other person who, in the opinion of the commission, has sufficient interests. We are talking about the peak bodies relating to the significant areas in employment in the community.

Hon Murray Criddle: I just wanted to clearly define them.

Hon N.D. GRIFFITHS: The names of the bodies to which I have referred are set out in greater detail in the interpretation section of the Industrial Relations Act. However, they are also referred to in section 50.

Hon DERRICK TOMLINSON: In light of that, proposed section 97VZ provides that the minister or a peak ministerial body may at any time apply to the commission to have the instrument under proposed section 97VX changed. The peak industrial bodies to which the minister has just referred are in section 7, the interpretation section, of the Industrial Relations Act 1979; that is, the former Trades and Labor Council, the Chamber of Commerce and Industry of Western Australia and the Australian Mines and Metals Association. Does that mean that only those peak bodies have standing to make such an application to the commission?

Hon N.D. GRIFFITHS: As I read proposed section 97VZ, there are three peak industrial bodies plus the minister.

Hon DERRICK TOMLINSON: If only those peak industrial bodies have standing to make an application to the commission, any person, whether that person be an employer or an employee, who seeks to have a change made can do so only if that person is represented by one of the three peak bodies, and one of those three peak bodies or the minister takes the application to the commission.

Hon N.D. GRIFFITHS: This issue relates to the principles and guidelines to be determined by the commission under proposed section 97VX. It is in the nature of the general public interest, as distinct from a particular agreement.

Hon DERRICK TOMLINSON: I understand that; it would be hard not to. However, to have standing in an application for a change to that instrument - which is all of those things to which the minister referred - can an applicant make an application only when one of those bodies or the minister takes the application to the commission?

Hon N.D. GRIFFITHS: That is what the section says. The provision provides for only the minister or a peak industrial body, as defined, to do that. It does not provide for anyone else to do that. I read out the words a few moments ago and I am well aware of the member's capacity to understand them.

Hon DERRICK TOMLINSON: It is necessary to tediously dredge through the obvious to get to the point. Does it therefore follow that an employer and an employee who do not have the support of the minister in seeking an amendment to the instrument must, as a consequence, be a member of that association or peak industrial body to gain representation by the former Trades and Labor Council of Western Australia and now UnionsWA, the Chamber of Commerce and Industry WA and the Australian Mines and Metals Association?

Hon N.D. GRIFFITHS: I hope the member will not be too tedious in pointing out the obvious. It is not a matter of an employer or an employee making application to the commission; it is a matter of the minister or a peak industrial body making that application. What may motivate the minister or a peak industrial body is another matter.

Hon DERRICK TOMLINSON: Precisely. One such motivation might be the desire of a single person or a single class of persons or a body corporate, none of whom have standing, to amend the instrument. Is this proposed section not tantamount to a requirement of compulsory membership?

Hon N.D. GRIFFITHS: No.

Hon DERRICK TOMLINSON: I thank the minister for that, as it is a most important point to establish.

I now refer to proposed section 97VX(3), which reads -

> Section 43(7), (8) and (9) of the *Interpretation Act 1984* apply to the instrument as if it were subsidiary legislation.

I apologise for not giving my full attention to the minister. Did I correctly hear the minister say that although the Interpretation Act applies for the purpose of establishing the instrument as if it were subsidiary legislation, it will not be subsidiary legislation to the extent of requiring the consent of Parliament?

Hon N.D. GRIFFITHS: It is subsidiary legislation but it is not disallowable subsidiary legislation and does not require the consent of Parliament. The regulations we dealt with earlier tonight do not require the consent of Parliament; they merely give the Parliament a capacity to veto them at the point that the Parliament makes the decision by virtue of its being a disallowable instrument. The disallowance of a regulation does not have a retrospective effect.

Hon DERRICK TOMLINSON: Perhaps I used the word "consent" loosely in the sense that if it is not disallowed, it is allowed. If it is allowed, it is consented to. However, I will not quibble over that. Section 43(8)(b) of the Interpretation Act states -

> Subsidiary legislation may be made . . . so as to require a matter affected by the legislation to be -
>
> (i) in accordance with a specified standard or specified requirement;
>
> (ii) approved by or to the satisfaction of a specified person or body or a specified class of person or body;

Since the commission, meaning the commission in court session, is the body to establish the principles and guidelines, is the commission also the body that satisfies the requirement of section 43(8)(b) of the Interpretation Act?

Hon N.D. GRIFFITHS: That is my understanding.

Hon DERRICK TOMLINSON: Therefore, the commission is the body that establishes the principles and guidelines and approves them to its satisfaction?

Hon N.D. GRIFFITHS: Yes, that is right.

Hon MURRAY CRIDDLE: I want to follow up on a question I started to ask about membership of a peak body but did not finish my line of questioning. The Western Australian Farmers Federation has an industrial arm and I ask how it would make an application to the commission. If the three peak bodies referred to in proposed section 97VZ(3) are the only ones allowed to make an application, how would the Farmers Federation get an avenue into that commission?

Hon N.D. GRIFFITHS: It is not provided for with respect to this matter.

Hon MURRAY CRIDDLE: That does not answer the question. How does it get into that arena? Is it just excluded?

Hon N.D. GRIFFITHS: It can enter the arena but not by making an application. It would have the potential to have a say by virtue of proposed section 97WA.

The DEPUTY CHAIRMAN (Hon Simon O'Brien): Before I call Hon Dee Margetts, does any member wish to address any of the proposed new sections before proposed section 97WF?

Hon RAY HALLIGAN: I refer to proposed section 97WD relating to the inspection of the register. Are the provisions in that proposed new section consistent with the Privacy Act?

Hon N.D. Griffiths: I am advised that they are.

Hon DEE MARGETTS: I move -

> Page 37, lines 4 and 5 - To delete -
>
> , on payment of the fee (if any) prescribed by the regulations,

This information will exist . By the will of the Chamber, no names or personal details will attach to those agreements. There are a number of public interest reasons for people being able to view those documents. It will be like a library; the employer-employee agreements will be filed. The Greens (WA) members do not believe that a fee should be payable merely to inspect the records if the records are already available. I can envisage this type of information being part of social research from time to time. Members can imagine that if a fee were set by regulation, it might be difficult for people, such as those undertaking a PhD, to find out the range of these agreements or the types of arrangements that are made in the agreements. It would be useful if this information were to be available on the public record. If a fee were to attach to the inspection of a record that already exists, it would be like telling people that a library exists, that it is required to exist by law, but that if they want to look at any of the books in the library, they must pay to do so, and the fee is set by regulation.

Hon N.D. GRIFFITHS: The amendment is opposed. It is necessary that the registrar have the capacity to reasonably recover transaction costs. The analogy to the library is interesting, but this is not a matter of someone walking into a deserted room and checking out EEAs; it is a resourcing matter on the part of government. It is

perfectly reasonable for Governments to be in a position to cause reasonable costs to be recovered. If it were otherwise, I suppose we would need to start drawing lines about class sizes or other matters of government expenditure.

Hon Graham Giffard interjected.

Hon N.D. GRIFFITHS: As Hon Graham Giffard has properly pointed out, charges are often placed on a variety of matters by the commission. People wish to get copies of documents such as those to do with the registrar general, land titles and matters of that kind. Open-ended expenses cannot be levied on the community as a whole just because an issue is in a particular category of public policy such as this.

Hon RAY HALLIGAN: The Opposition will oppose this amendment. As the minister has said, there is a need for the Government to recoup some of its costs in this area. One would hope that should a circumstance arise similar to the one suggested by Hon Dee Margetts, some arrangement could be made to provide the documents at a reduced cost. Members should not forget that this matter will go through the regulations, so I am sure that some flexibility could be provided.

Amendment put and negatived.

Hon RAY HALLIGAN: I ask for some clarification on proposed section 97WE(1), which states -

> The Commission may, by order -
>
> (a) exempt the provisions of an EEA, or any particular provision . . .

Am I right in assuming that dispute provisions are included in that?

Hon N.D. GRIFFITHS: As a public interest test, I note the wording of proposed section 97WE(1), which states -

> The Commission may . . .
>
> (a) exempt the provisions of an EEA, or any particular provision, from the operation of section 97WD(1);

Proposed section 97WD(1) deals with an inspection of an EEA. That is a matter for the commission. I note that the commission has discretion about whether it is in the public interest to disclose that information. The honourable member has put forward a hypothetical clause in a hypothetical EEA, and that may or may not be the case. That matter would need to be determined in the public interest and, no doubt, it would vary.

Hon RAY HALLIGAN: I understand that point, minister, but the only time that the word "provisions" has been used has been in conjunction with the word "dispute". As we have not seen a draft EEA, I was wondering what was likely to be involved. If the minister is saying that every clause within an EEA will be called a provision, I would like that placed on record.

Hon N.D. GRIFFITHS: I place it on the record.

Hon RAY HALLIGAN: Proposed section 97WE(3) states -

> The powers of the Commission under this section are exercisable on application made by a party to the EEA concerned.

I have no argument with that. However, looking back at what this proposed section allows the commission to do - to provide the exemption - I cannot think of any situation, at this point, in which that might apply. Will an appeal process be involved if one of the parties concerned is not happy with the exemption made by the commission?

Hon N.D. GRIFFITHS: The provisions covering appeals are set out in section 49(2b) of the Industrial Relations Act as it will be if this Bill is enacted. It makes specific reference to aspects of the EEAs. Areas exempted do not include this area. I am advised that there would be an appeal.

Hon RAY HALLIGAN: Proposed section 97WF is titled "Protected information not to be disclosed". Proposes subsection (1)(d) states -

> with the written authority of the employer or employee to whom the protected information relates;. . .

Would an EEA contain information about both the employer and the employee in detail? The phrase "employer or employee" is again used. Did the minister consider using the phrase "employer and employee" to include both parties?

Hon N.D. GRIFFITHS: It is with respect to the person to whom it relates. If it does not relate to a person there is no difficulty.

Hon RAY HALLIGAN: The minister is suggesting that an EEA can be split in some way to protect one of the parties, whether it is the employer or the employee.

Hon N.D. GRIFFITHS: Information will be protected. A person is not to disclose protected information except in certain circumstances. Information can be disclosed with the written authority of the employer if the protected information relates to the employer or the employee. If the protected information is so bound up that it relates to both, it follows that both parties must provide written authority.

Hon RAY HALLIGAN: Proposed section 97WH contains a definition of an arbitrator. Will the minister place on record who can be an arbitrator?

Hon N.D. GRIFFITHS: There is no limitation. It can be anyone or the commission.

Hon RAY HALLIGAN: Proposed section 97WI is titled "Arbitration jurisdiction of relevant industrial authority". Proposed subsection (1) states -

> A relevant industrial authority has jurisdiction to deal with and determine any dispute that is referred to the authority . . .

That means it can deal with anything. It includes EEA dispute provisions. Does the minister have anything particular in mind or does this provision just reinforce the situation?

Hon N.D. GRIFFITHS: It just confirms the jurisdiction of the relevant industrial authority, which is defined on page 5 of the Bill.

Hon RAY HALLIGAN: Proposed section 97WI(2) states -

> In conducting an arbitration the relevant industrial authority -
>
> (a) must comply with the provisions of the EEA concerned;. . .

It is unclear what an EEA will contain. It will have to be complied with but people will not know what is in it. Does the minister have anything in mind?

Hon Graham Giffard: What do you have in mind?

Hon RAY HALLIGAN: I will talk to the butcher and not the block! I am talking to the minister. These are points of clarification; I do not want to assume anything.

Hon Graham Giffard: I am listening.

Hon RAY HALLIGAN: The member does not have to.

Proposed subsection (2)(b) states -

> may exercise powers under this Act, other than this Division, only to the extent that the authority is empowered by the provisions of the EEA to do so.

Will the minister say what is intended?

Hon N.D. GRIFFITHS: The EEA will provide for the dispute provisions. It is an agreement; what is contained in an EEA will be decided by the parties. If an arbitrator is used - pursuant to the EEA - it is clear that the arbitrator will not fly off in a frolic of its own and will have to comply with the provisions of the EEA in dealing with the dispute.

Hon RAY HALLIGAN: I can only say that we should be provided with a draft EEA as soon as possible.

Proposed section 97WL(4) states -

> Subject to the approval mentioned in subsection (2), the employer must ensure that effect is given to the agreement, so long as it remains in force.

Will the minister explain this?

Hon N.D. GRIFFITHS: Proposed section 97WL(2) gives employees the capacity, subject to the approval of an arbitrator, to have matters heard and determined in the one arbitration proceeding. If an employee wants that, then subject to the view of the arbitrator, the employer cannot prevent it happening. It is a reasonable provision to enable an arbitrator, if appropriate, to deal with the circumstance whereby employees of the one employer have disputes with that employer. Presumably an arbitrator would not have matters that were so different from each other in one arbitration; that would be a nonsense. That would, in effect, be two arbitrations in one. It is a commonsense provision. There is nothing sinister about it and it facilitates a proper process.

Hon MURRAY CRIDDLE: Is there a provision for costs when referring these issues to an arbitrator or does it go back to the earlier resolution in which we distributed the cost as a percentage between the employee and the employer?

Hon N.D. GRIFFITHS: The honourable member is correct. This matter goes back to the discussion we had earlier on the issue of cost. I forget when we had that discussion -

Hon Murray Criddle: It was yesterday.

Hon N.D. GRIFFITHS: It feels like last year.

Hon RAY HALLIGAN: Proposed section 97WN deals with the orders and determinations of arbitrators. Proposed subsection (4) states in part that -

> An arbitrator may -
>
> (a) determine the meaning or effect of the EEA concerned;
>
> (b) order a party -
>
> (i) to do a specified thing; or
>
> (ii) cease any specified activity;

The suggestion there is not to alter the employer-employee agreement, which can be altered. Therefore, is it an interpretation?

Hon N.D. GRIFFITHS: Yes. The process is no different from a simple contractual dispute in which a court is asked to determine what the contract means and what its application is to the circumstances that are the subject of the dispute.

Hon Ray Halligan: The legislation is being very prescriptive in this provision.

Hon N.D. GRIFFITHS: It is there to assist people carry out their affairs in a reasonable way.

Hon RAY HALLIGAN: I am getting there, Mr Deputy Chair - I mean Mr Deputy Chairman.

The DEPUTY CHAIRMAN: Thank you, member.

Hon Dee Margetts: You were doing so well.

The CHAIRMAN: Order, members! The member who has the call does not need to be exposed to negative influences.

Hon RAY HALLIGAN: Proposed section 97WO deals with further provisions about orders and determinations and relates to proposed section 97WN, which deals with orders and determinations of arbitrators. Proposed section 97WO states -

> An order or determination of an arbitrator -
>
> (a) must be in writing and accompanied by the reasons for its making;
>
> (b) is final and not subject to appeal; and
>
> (c) must be complied with by the employer and the employee unless they agree in writing not to give effect to it.

If the employer and employee are not in agreement, does the minister envisage that they can, as already determined, agree to tear up the EEA metaphorically speaking, if not literally, and then re-enter into negotiations for an EEA?

Hon N.D. GRIFFITHS: It is always open for people to agree to enter into a new EEA, if they so desire.

Hon MURRAY CRIDDLE: I refer to proposed section 97WY(1)(c) and would like clarification on who will be deemed "a class of persons" and - just for the record - what will be prescribed in the regulations as to the type of person who is relevant in that circumstance?

Hon N.D. GRIFFITHS: The potential exists that no person will fit the category of proposed section 97WY(1)(a) or (b). There may be argument about whether somebody is closely associated, notwithstanding the provisions of proposed section 97WY(2)(a) and (b). To avoid that happening, flexibility has been provided by inserting proposed section 97WY(1)(c). The person envisaged may be a public advocate, although that is probably an extreme example. It may be someone on the verge of fitting within paragraph (b), but there may be some argument. The person may be a carer, although a carer is someone who is closely associated. It is difficult to prescribe the person who would fit into this category, although the public advocate comes to mind. This

provision provides flexibility, and this is something to which Hon Ray Halligan will pay close attention in the event that such a regulation becomes law.

Hon MURRAY CRIDDLE: In part 8, proposed section 49G refers to an "authorised representative". We would not be going to the extent of having a person of that ilk. Will the minister assure the Committee that the regulations will not specify an authorised representative?

Hon N.D. GRIFFITHS: I am advised that that is certainly not the intention. I appreciate that some members are being unruly by having a discussion in the Chamber, and I have to raise my voice.

Hon MURRAY CRIDDLE: Is the minister saying that there would not be a union representative or an authorised representative?

Hon N.D. GRIFFITHS: No, not as a general proposition. Proposed section 97WY deals with a person who has a mental disability and the provisions are designed to deal with the needs of that person, not to enhance what some may see as the role of authorised representatives. It is designed to provide for a degree of flexibility. Other than the example of a public advocate, it is difficult to prescribe by way of example. The provision provides for flexibility and attempts to avoid argument about close associates.

Hon RAY HALLIGAN: Was it anticipated that bargaining agents may be included in a class of persons who can be representatives?

Hon N.D. GRIFFITHS: I earlier mentioned a carer. A carer who has limited contact may be an example of that type of person. For example, a carer who spends most of the week with a person who has a mental disability would be considered to be closely associated. However, there may be argument if a carer spends only one day a week or every second weekend with a person who has a mental disability, and that is the issue the Government has sought to address.

Hon RAY HALLIGAN: Proposed section 97XG refers to the duration of the order approving a representative. What happens during the time between resignation and a new appointment?

Hon N.D. GRIFFITHS: It is not a matter of forcing people into situations. There will be delay.

Hon MURRAY CRIDDLE: In relation to proposed section 97XJ, will the minister give the Committee an idea of what he considers a reasonable opportunity to be heard?

Hon N.D. GRIFFITHS: The word reasonable gives bias to the motion of variation, depending on the circumstances of a case. In one situation I may find one thing to be reasonable, but in another I may find something else.

Hon Murray Criddle: Who will make that judgment?

Hon N.D. GRIFFITHS: The Guardianship and Administration Board is mindful of people's rights and obligations in these matters. I suppose it goes back to the general point I made earlier about people who exercise a public duty. The community should expect them to act in a proper way, and for the most part they do.

Hon DEE MARGETTS: I move -

Page 62, after line 28 - To insert -

(iii) an increase in remuneration or an improvement in conditions of employment; or

This amendment is pretty much repeated in the next three amendments. Members will be pleased to know that I will take this opportunity to debate all four. The issue for the Greens is what kind of pressure is used to encourage, compel or push persons to sign an employer-employee agreement. Some employers may avoid reaching a collective bargaining agreement or may be somewhat recalcitrant in reaching an agreement. By leaving employees without an agreement, some employers will offer an increase in remuneration only if an employee signs an EEA, when a collective bargaining agreement that was being negotiated might have been better or more attractive. Proposed section 97XZ provides that except as provided, a person must not offer a person employment or a promotion or transfer in employment. It is saying that people are not required to sign an EEA before they get employment or a promotion or transfer in employment. The Greens think it reasonable that when an employer may be delaying signing a collective bargaining agreement, the only way in which a person can get fair wages and conditions should not be to sign an EEA. Leaving out the words "an increase in remuneration or an improvement in conditions of employment" if employees sign an EEA, even if the employer may be avoiding signing a collective bargaining agreement, undermines the collective agreement process.

Hon N.D. GRIFFITHS: The Government opposes the proposed amendment because, if carried, the amendment would prevent genuine competition between EEAs and industrial agreements. Employers should have the opportunity to improve an employee's remuneration or employment conditions. If the amendment were carried,

it would perhaps make it difficult for EEAs to meet the no-disadvantage test. This is capable of being particularly relevant to employers coming off workplace agreements who are required to increase the employee's employment conditions up to award standards under the EEA. The amendment, if carried, would practically prevent that from occurring. It would detract from the capacity to engage in individual bargaining, when the employee or the bargaining agent should reasonably have the opportunity to improve employment conditions.

This position is different from the issue of promotion. Although promotion often involves a wage increase, it is central to an employee's career movement and progression. Career movement and progression, presumably upwards, should not be conditional on entering into an EEA. The amendment, if carried, would undermine the attractiveness of EEAs and would make their operation unnecessarily restricted. The amendment is undesirable. I am not saying that it is designed to attack EEAs, but it would be an attack on the viability of EEAs in many circumstances.

Hon DEE MARGETTS: If I had closed my eyes and the accent was a little different, I could have thought that I was listening to Tony Blair. I heard the minister say that the amendment would detract from genuine competition between EEAs and industrial agreements. Funnily enough, from the objects of the Bill I believe that the general view is that the Bill is to give primacy to collective bargaining. The minister referred to collective bargaining undermining EEAs. In order for something to undermine, something else must be above it. It would mean that EEAs are on a higher level and that collective bargaining would undermine them. I think we have hit the nub of the difference between the minister and I on this issue. Although the minister has said that he believes in the primacy of collective bargaining, he is talking about allowing EEAs to undermine collective bargaining and basically leaving people on their own. I am therefore very disappointed with the minister. There is not much point in my saying that I hope the Chamber supports this amendment, but I guess it is fairly fundamental.

Hon RAY HALLIGAN: We will not be supporting this amendment.

Amendment put and a division taken with the following result -

Ayes (5)

Hon Dee Margetts	Hon Christine Sharp	Hon Giz Watson	Hon Robin Chapple *(Teller)*
Hon J.A. Scott			

Noes (27)

Hon Alan Cadby	Hon Paddy Embry	Hon Frank Hough	Hon Barbara Scott
Hon George Cash	Hon Adele Farina	Hon Barry House	Hon Tom Stephens
Hon Kim Chance	Hon John Fischer	Hon Robyn McSweeney	Hon Bill Stretch
Hon Murray Criddle	Hon Jon Ford	Hon Norman Moore	Hon Derrick Tomlinson
Hon Bruce Donaldson	Hon Graham Giffard	Hon Simon O'Brien	Hon Ken Travers
Hon Kate Doust	Hon N.D. Griffiths	Hon Louise Pratt	Hon E.R.J. Dermer *(Teller)*
Hon Sue Ellery	Hon Ray Halligan	Hon Ljiljanna Ravlich	

Amendment thus negatived.

Hon DEE MARGETTS: The reason I called a division was to make sure that the view of the Government was on the record. Given that the next three amendments standing in my name on the supplementary notice paper have exactly the same implication, and given that I could count in the division, I will not delay the Chamber by asking the same question three more times. It is a sad day. These are the last amendments I have for this clause, and I will not be moving them. Given all the Greens (WA) have tried to do, and given the statements I made in both the second reading and committee stages, the Greens will be opposing clause 4 in general, because that is the clause that inserts individual agreements into this Bill. Our preferred position is to oppose individual contracts, and the only way we can do that is to oppose the clause.

The DEPUTY CHAIRMAN: There being no further speakers on clause 4, there is one outstanding matter to be dealt with. An amendment to page 24 of the Bill, proposed by Hon Dee Margetts, was deferred. The amendment proposed the insertion of a new section after line 17.

Hon DEE MARGETTS: I move -

Page 24 - To insert after line 17 the following section -

97VFA. Employee may withdraw before registration

(1) An employee party may withdraw from an EEA at any time within 28 days of the day it is submitted for registration by giving written notice to the

employer party and the Registrar and a withdrawal has effect on the day following that on which the notice was given.

(2) Section 97UV applies as if a withdrawal under subsection (1) was a cancellation of the EEA.

The Chamber kindly enabled me to defer this amendment at the time because the previous amendment, to extend the cooling off time to 28 days, was defeated. The wording in the amendment therefore did not actually fit with the fact that the previous amendment had been defeated. The wording has now been adjusted to its present form. This proposed section grants the ability to withdraw from the EEA within 28 days. I was given a draft of the new amendment on the night that the change was made. In fact, the subsequent issues of the supplementary notice paper appear not to have included the new wording. I commend this fine amendment to the Committee.

Hon N.D. GRIFFITHS: The amendment is opposed. The Bill seeks to provide for a circumstance prior to registration in which a party is required to genuinely wish to have the employer-employee agreement registered. If a party were to notify the registrar prior to registration that he or she did not wish to have it registered, it follows that the party did not genuinely wish to have it registered. This amendment is superfluous and unnecessary.

Hon MURRAY CRIDDLE: I understand that we have already defeated a previous amendment that would have changed the period to 28 days.

Hon Dee Margetts: It related to registration.

Hon MURRAY CRIDDLE: I am saying that I do not see any justification for an extension in the amendment moved by Hon Dee Margetts.

Hon RAY HALLIGAN: The Opposition agrees with Hon Murray Criddle on this amendment. The period of 28 days is a little too long. We have been told previously that this legislation had to go through the Parliament to create some certainty. I do not believe that this amendment does that for either the employee or the employer.

Amendment put and negatived.

Clause put and a division taken with the following result -

Ayes (16)

Hon Kim Chance	Hon Adele Farina	Hon Louise Pratt	Hon Tom Stephens
Hon Robin Chapple	Hon Jon Ford	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon Kate Doust	Hon Graham Giffard	Hon J.A. Scott	Hon Giz Watson
Hon Sue Ellery	Hon N.D. Griffiths	Hon Christine Sharp	Hon E.R.J. Dermer *(Teller)*

Noes (16)

Hon Alan Cadby	Hon John Fischer	Hon Robyn McSweeney	Hon Barbara Scott
Hon George Cash	Hon Ray Halligan	Hon Dee Margetts	Hon Bill Stretch
Hon Murray Criddle	Hon Frank Hough	Hon Norman Moore	Hon Derrick Tomlinson
Hon Paddy Embry	Hon Barry House	Hon Simon O'Brien	Hon Bruce Donaldson *(Teller)*

The DEPUTY CHAIRMAN (Hon Simon O'Brien): Members, the result of the division being tied, the vote is resolved in the negative.

Clause thus negatived.

Clause 5: Schedules 4 and 5 inserted -

The DEPUTY CHAIRMAN: Clause 5 seeks to insert two schedules into the principal Act. Although the Committee of the Whole House will consider the two schedules in the one clause, for the ease of consideration by the Committee, I ask whether any member wishes to address that part of clause 5 that relates to schedule 4.

Hon N.D. GRIFFITHS: Clause 5 deals with registration requirements for EEAs. The Committee has just defeated the proposition contained in clause 4, which provides that there be EEAs and what may be contained in them. Therefore, it follows that schedule 4 in clause 5 falls by the wayside. Given the decision of the Committee on clause 4, as clauses 5 to 27 inclusive relate to employer-employee agreements, they therefore appear to fall by the wayside.

The DEPUTY CHAIRMAN (Hon Simon O'Brien): Members, I have sought advice. Clauses 5 to 27 rely on the passing of clause 4. With the resolution of the Committee in the negative on the question of clause 4, clauses 5 to 27 will not now be considered.

Hon N.D. GRIFFITHS: Before further consideration is given to other consequential matters that may fall by the wayside as a result of that decision, there are some clauses to be debated that do not relate to that decision.

Progress reported and leave granted to sit again.