

Hon George Cash; Hon Alan Cadby; Chairman; Hon Kim Chance; Deputy Chairman; Hon Norman Moore; Hon
Dee Margetts; Hon Nick Griffiths; Hon Derrick Tomlinson

LABOUR RELATIONS REFORM BILL 2002

Committee

Resumed from 8 May. The Deputy Chairman of Committees (Hon Simon O'Brien) in the Chair; Hon Kim Chance (Leader of the House) in charge of the Bill.

Clause 1: Short title -

Progress was reported after the clause had been partly considered.

Hon GEORGE CASH: The title of the Labour Relations Reform Bill 2002 suggests that it is a Bill for an Act to amend the Industrial Relations Act 1979, the Workplace Agreements Act 1993, and the Minimum Conditions of Employment Act 1993. It also suggests that it will make consequential amendments to other written laws, and for related purposes. In its present form, the Bill comprises 219 pages, 194 clauses and one schedule. After a close reading of the Labour Relations Reform Bill 2002, it becomes clear that the purpose of this Bill is to wind back the significant and positive amendments that were made by the Court Government to the aforementioned Bills to provide - it was stated at the time - a fairer and more balanced legislative framework for workers in the area of labour relations.

The DEPUTY CHAIRMAN (Hon Simon O'Brien): Order! There are too many audible conversations, particularly to my right. I ask members to lower their background conversations, because it is difficult for the Hansard reporter to hear the debate.

Hon GEORGE CASH: The significant 1993 changes and the subsequent amendments that were made by the Court Government were designed to give employees freedom of choice. That freedom of choice would allow them to enter into a workplace agreement, under agreed conditions, and to be rewarded for their individual contributions, rather than be bound by the principle of a lowest common denominator award, or an enterprise bargaining agreement that was not sufficiently flexible enough to adequately reflect an individual's unique contribution to the workplace. The Workplace Agreements Bill 1993 provided for the rights and obligations that employers and employees have to one another. That is an important point. The Bill was designed to provide greater opportunities for initiative, flexibility, cooperation and positive human relations within the workplace.

Members will recall that the Workplace Agreements Bill 1993 also established the office of the Commissioner for Workplace Agreements, whose task it is to ensure that workplace agreements are not used to exploit either employees or employers who find themselves in a weak bargaining position. There is no doubt that there are two sides to every story, every agreement and every bargain. One of the jobs of the Commissioner for Workplace Agreements was to ensure that both parties had freedom during the negotiations.

In 1993, when Hon Peter Foss introduced the Workplace Agreements Bill to this House, he stated that -

This Bill has been framed - in conjunction with the Minimum Conditions of Employment Bill and the Industrial Relations Amendment Bill - with a view to putting control of workplace relations back into the hands of those people most directly concerned with the prosperity and the efficiency of enterprise; that is, the employer and the employees. Thus the legislation is not designed to generate dissension or confrontation, or to provide opportunities for exploitation by the unscrupulous over the unwary. Rather the reforms contained in this and the associated Bills will establish a new and proper focus on the individual enterprise, and will enhance and strengthen the rights of free choice, free association and equal opportunity.

Later in his speech he stated -

This Bill provides an important opportunity for creating the focused, competitive workplace climate necessary for our industries to make their mark nationally and internationally, for encouraging greater capital investment in this State, and for creating the jobs which the people of this State deserve and need.

Before we can understand the Bill before us and the impact its amendments will have, we must first understand the Bills to which I earlier referred. Those Bills provided a more fair and balanced range of other employment opportunities and options in the industrial relations and related issues field, most of which, regrettably, the Government is now consigning to the scrap heap, even though it admits that it has not conducted any economic research on the undoubted negative impact these changes will bring, especially to employment prospects in Western Australia. We all have our views on the amendments that are before us. However, when considering and compiling significant amendments, the first step that must be taken is a cost-benefit analysis. Secondly, a social benefit analysis should also be conducted on what is the likely impact of the amendments. In the other

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House, when asked what economic impact statements had been considered in respect of these amendments, the Government indicated that it had done no economic impact statement study at all. It is very much the open field - or the blue sky - as to what will happen. Because we do not have government research on this, all we can do as members is seek the views of those who we believe know something about the likely economic impact of these amendments. For instance, we have all read the union movement's views on the proposed amendments. We have all read the Western Australian Chamber of Commerce and Industry's views. I have had discussions with a number of groups, including representatives from the mining industry, on the likely impact of these amendments. The employer organisations are extremely uncomfortable and believe the amendments will have a negative effect on employment opportunities in Western Australia. Interestingly enough, employees I have spoken to about these proposed changes are very concerned that if there are negative impacts, it will impose a burden on them. It may cost them their jobs when the full effects are felt.

There has been a lot of talk about workplace agreements. Some people say they are good but others say they are a tool used by employers to exploit workers. All sorts of slogans are being used. Since workplace agreements were introduced in Western Australia, 270 000 agreements have been signed. I acknowledge that within that figure some employees have signed for a second or a third time. The figure does not represent 270 000 individuals. Many employees have signed more than once as they are happy with what they negotiated in recognition of their unique contribution to their work force. Many employees want to share in improved productivity, improved efficiency and reduced costs with their employers. They also want to provide themselves with a flexible lifestyle so they can spend more time with their families or work certain days of the week and have greater control over their lives. That is the sort of thing that workplace agreements enable some employees to do; that is, negotiate with their employers. If I have enough time later, I will also talk about employees who had given me very negative responses about workplace agreements. If I do not have time today, I may talk about them during the committee stage. Not for one moment do I suggest that employers have never exploited workplace agreements. Equally, I am not so foolish as to suggest that employees have not, at some stage of the game, attempted to exploit their position against employers. In this game, things have to cut both ways. Regrettably, these amendments will take away the flexibility that is utilised and enjoyed by many employees. A person need only go to Kambalda and speak to the miners who work there. They have structured their lives around workplace agreements that they established with their employers. Although Kambalda is reasonably remote from the ocean, a lot of miners like fishing. Many of them structured their workplace agreements so they could enjoy a number of consecutive days of recreational leave fishing before they returned to their jobs. It was all designed to benefit employees and employers.

It is clearly evident from reading the Bill and speaking to people in Western Australia that the changes that will result from these amendments will occur because the Government is hell-bent on unionising Western Australia's work force. The Government wants to hand over industrial power to unions, which, unquestionably, have made significant financial contributions to the Labor Party over a very long period. As we read in the newspapers and hear in this House, the union movement in Western Australia has a very significant hold - a stranglehold - over the preselection process in the Labor Party. That is where the Government is coming from, even though it tries to shroud some of that by saying that it believes this legislation will create fairer and more equitable workplace arrangements in this State.

In general terms, the Bill covers very significant areas. If agreed to in its present form, it will abolish workplace agreements and pre-strike ballots, it will expand the union right of entry to workplaces, it will extend the conciliation and arbitration functions of the Western Australian Industrial Relations Commission and it will significantly change unfair dismissal laws. Indeed, it will provide the commission with the power to award the interim reinstatement of a dismissed employee even before a claim has been fully argued and determined. I will speak more about that later. The commission will have an interesting power and I believe the union movement will use it. Before an unfair dismissal claim is fully tested, the commission will be able to order reinstatement. I say it will order reinstatement notwithstanding the fact that the commission may not be fully informed of the likely effect of the reinstatement on an employer, employees or a particular enterprise. The Bill also removes time restrictions for an employee to lodge an application for unfair dismissal. That is interesting because it almost creates open slather. The current Act provides a maximum time in which an employee can lodge an application for unfair dismissal. That will be removed. If the amendments are agreed to, employees can lodge an unfair dismissal claim without the provision of time affecting the claim. In my view, that in itself will create a significant element of uncertainty because employers and other employees will be unsure whether claims will be made at a later stage.

The Bill also proposes to increase from 15 to 20 per cent the minimum casual loading rate. Because of the provisions contained in it, it will restrict the ability of an employee to take in cash more than 50 per cent of his annual leave. Perhaps the committee stage is the time to discuss fully that provision. Because of the nature of

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their work, some employees find it convenient to convert all their annual leave to cash. The circumstances of their work may enable them to do that without imposing an unreasonable burden on the employees; that is, by not having annual leave. The fact that workplace agreements could be structured in such a flexible way as to work in favour of both employees and employers enabled some employees - certainly not all - to take the monetary value of all their annual leave and still not be prejudiced in a social way or a physical way by not having annual leave.

One of the other important aspects is that the Bill intends to change the weekly divisor from 40 hours to 38 hours, which of course has the immediate effect of increasing the minimum hourly rate by five per cent. The Bill also provides the Industrial Relations Commission with the power to require employers to deduct union fees for and on behalf of the union movement. It removes the prohibition on political donations and allows unions to give political donations to a political party. Of course, the Australian Labor Party relies significantly on those donations for a large amount of its funding. I think I have read a report that says that 25 per cent of the ALP funding in Western Australia comes from the union movement. That is quoted from the secretary, Bill Johnston.

Hon Kim Chance: It should be much higher than that!

Hon GEORGE CASH: When these amendments go through, the very strong likelihood is that it will be much higher, so Hon Kim Chance will have achieved his objective in that regard.

Those are the various elements that go to make up the general objectives of the Bill. The bottom line is that a close reading of the Bill in reality street, not merely a close academic reading of the Bill but having regard to industrial life in Western Australia, very clearly indicates that the Bill is all about increasing the power of unions in Western Australia and providing them with the necessary muscle to be able to demand that workers join unions and that they pay the required subscription fee. As I say, and as has been confirmed by the Leader of the House, some of those fees are passed on to the Labor Party in the form of political donations.

Hon Kim Chance: They are affiliation fees.

Hon GEORGE CASH: The Leader of the House refers to them in a sanitised way as affiliation fees. I do not know what an affiliation fee is, but the Leader of the House says that is the way in which donations are received. I am prepared to accept that, because he is obviously closer to the administrative workings of the ALP than I.

It is important to have a look at current union membership in Western Australia. I was interested last night to listen to Hon Kate Doust speak on membership rates in Western Australia. She is clearly a long-time member of the union movement and also a long-time officer of the union movement in the retail trade. She is certainly very knowledgeable in that area. I was interested in how she indicated that in the retail area, because of the turnover, it was possible to sign up 9 000 new members out of a total of 25 000 union members. That is a significant number of new members. The downside is that the retail game has a significant turnover of staff, so union officials must keep signing up new members. Other areas of industry have less turnover, but the increase in membership is not as dramatic as it is in the retail area, as described by Hon Kate Doust. It seems that at the moment about 20 per cent of workers in Western Australia are members of unions. That membership is not distributed equally across all unions. However, in aggregate, about 20 per cent of workers are members of unions.

Many reasons are put forward for why that is the case. ALP members of this Chamber have said that the Kierath industrial relations legislation caused a downturn in the number of union members. That may be one contributing factor. The mere fact that workplace agreements came into being enabled workers to be able to negotiate in a more flexible way their conditions and the times that they worked. That would seem to me to be also another reason that workers did not have to rely on unions to negotiate on their behalf. Quite clearly, a significant reduction in union membership has occurred over recent years, and now only about 20 per cent of all workers are members of a union. That has for some years been a thorn in the side of the ALP. We have heard year after year in this Chamber how the ALP in government intended to change that situation. As much as we have heard that the ALP in government would want to change the situation, the real message that has come through the media is that the unions have said that they intend to exercise industrial muscle and the power that they have over the ALP to make sure that the unions have a greater say in industrial life in Western Australia.

I was here in 1993 when we debated the first three Bills to which I referred. I was also here in 1997 when amendments to a number of industrial relations-related Bills were discussed in this Chamber. I listened with interest to the speeches at the time made by Labor members. I have no doubt that the hatred that existed was illustrated through the comments of some members. The Labor Party intended to exact its revenge on its sworn enemy, who is, of course, the employer. They see most employers as capitalists who exploit downtrodden workers. I do not see things in that light at all, but I recognise that every group contains rogues, be they rogue employers or rogue employees.

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If members read the 1997 speeches, they will be aware of a golden thread that weaves its way through most of the speeches. The common thread was that the Labor Party intended to get even on behalf of the union movement no matter what the cost. It was a case of no matter what the cost to the State or an individual's employment might be, the Labor Party intended to get even and do things its way. I suggest that the 2002 Bill that we are presently considering is an ideological Bill that is born out of the hatred for those who employ others.

All members will no doubt recall the contempt of Parliament and the democratic process that unions showed in 1997. They took over this Chamber, assisted by some members of the Labor Party. What would the current Government say were that same style of activity organised today? It would say that it was an appalling attempt to break down democracy in Western Australia. Fortunately, members on this side of the Chamber do not see a need to disrupt the Parliament in that way.

Hon Ken Travers interjected.

Hon GEORGE CASH: That is an excuse Hon Ken Travers uses. Prior to 22 May 1997, members of this Chamber were the elected members. They had a constitutional right to exercise their vote. That was obviously used as a trigger to try to wind up the union movement, and it did a pretty good job. Some interesting academic articles have been written about the way it occurred and the matters that flowed from it. Hon Ken Travers might remember that someone rammed his vehicle into the doors of Parliament House in Canberra. Huge demonstrations occurred in Canberra during which considerable damage was done to Parliament House. That may be something that Hon Ken Travers condones, but it is not something that I condone. As I often say to young schoolchildren I show through Parliament House, one good thing going for us in Australia is that we can change the Government in Australia without shooting someone. A couple of thousand kilometres north of here, people who speak out against the Government are shot. That is one thing we have not resorted to in Australia. I thought we were all working towards maintaining a democratic system in which we can state our political view without the fear of being shot.

Hon Kim Chance: Hear, hear!

Hon GEORGE CASH: The other thing that concerns me about this Bill, apart from its general content, is the way in which it was presented to the people prior to the last election. At that time a very slick, high powered, high pressure advertising campaign was run by the Australian Labor Party to convince the community that it would change life for the better in Western Australia and that it had all the answers to the problems in health, education and law and order. One of its major planks - its views on the forest industry - was to save old-growth forests in Western Australia. Its campaign was obviously effective because, as many people in Western Australia tell us now, they were misled by certain promises made by the ALP. Members need only visit Pemberton and other south western towns to find out how those communities feel about this Government. An analysis of ambulance bypasses in this State will illustrate that the rate of ambulance bypasses has not improved; in fact, it is considerably worse than it was before the 2001 election.

Hon Barry House: It is 302 per cent worse. I used the figure earlier today.

Hon GEORGE CASH: Hon Barry House confirms the rate of ambulance bypasses is 302 per cent worse than it was before the election.

Hon Kim Chance: That is something that we are fixing.

Several members interjected.

Hon GEORGE CASH: The point I am making is that the Labor Party campaigned in the last election on the basis that it had the silver bullet that would fix health, education and law and order and save old-growth forests within a very short time. About 10 years ago, I was in Bangkok soon after an election there. At that time almost the entire Bangkok streets were locked into a permanent traffic jam. A gentleman who was appointed the Minister for Transport said very soon after his appointment that if he could not sort out the traffic problems in Bangkok within six months, he would resign. I felt like ringing him up and telling him that he would save himself the pain and energy if he resigned then and there. I am told that things have improved but not necessarily as a result of that transport minister's actions.

Promises were made that people believed, but 15 months after the Government was elected to office, people feel let down. They see those promises turning to nothing more than a tragedy because the promises have not materialised.

Several members interjected.

The DEPUTY CHAIRMAN (Hon Simon O'Brien): Order! If members want to have a conversation they should do it outside. Hon George Cash has the call.

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Hon Ken Travers: He is doing a damn good job.

Hon GEORGE CASH: I agree and I am most obliged that Hon Ken Travers is prepared to say in this Chamber that I am doing a good job, and I thank him. However, that would not look too good on my curriculum vitae. Many people who voted Labor fifteen months ago at the last election have seen their dreams shattered because of the Government's inaction. That is a fact that can be confirmed by the people.

Although much was said by the ALP in the election campaign about health, education, law and order, and the forests, almost nothing was said about labour relations. The ALP's labour relations policy was sought on a number of occasions prior to the election. However, the ALP did not want to release it. The labour relations policy did not get the huge fanfare afforded to other portfolios. It was put on the ALP web site only a matter of days before the election. We do not have to be geniuses to work out that members of the Labor Party recognised that they were proposing a time bomb. If the people of Western Australia knew what the ALP had intended for labour relations in Western Australia, there would have been significant anxiety about jobs in this State. However, the ALP buried that policy and believed that was the way to get elected. I suppose the ALP achieved its objective. It hid the truth and it is only now that the people of Western Australia understand what it is all about.

Hon Ken Travers: That is not accurate.

Hon GEORGE CASH: If Hon Ken Travers talks to the people in Western Australia, they will say that they did not understand the ramifications of the ALP's industrial relations policy. Even now, people still do not understand it. Not until this Bill comes into operation will we see its effect throughout the community.

I will refer to some of the employment figures in Western Australia shortly, although that might also have to be left to the committee stage. The bottom line is that the way in which the labour relations policy was hidden continued that pattern of conduct, which highlighted the highly deceptive way that the Government has operated and which underpins its approach to government in Western Australia. I need only instance that by the way in which the second reading vote was held on this Bill. In the end no-one is a winner as a result of that early vote. Twenty-four hours after the vote was held, all parties in the House agreed that members should be given the speaking rights that they would have enjoyed had the second reading vote not been put. We now have, however, a slur on members generally because the community believes that very few members are in the House at any time.

Hon Murray Criddle: I wonder if that is the way they would handle their own employees.

Hon GEORGE CASH: I do not know the answer to that. The member is right; it is a matter worth considering. This Bill is all about appeasing the union movement in Western Australia. It is all about repaying past political support and anticipating future political support. If anyone denies that, they need only refer to newspapers of recent times; for instance, *The West Australian* of 21 November 2001 under the headline "Unions hold back Labor dues". The article reads -

Liquor, Hospitals and Miscellaneous Workers Union secretary Helen Creed said yesterday the union would reconsider its position when the Gallop Government had delivered on its promise to repeal the Court government's third-wave and workplace agreements IR legislation.

She said other unions were considering withholding their fees to show the Government they were serious about the need for reform.

I notice in this report a comment by Bill Johnston, the State Secretary of the Australian Labor Party. The article states -

Union affiliation fees make up a quarter of the ALP's budget but Mr Johnston said the party was in a sound financial position to continue its day-to-day operations.

It apparently had reduced its costs and restructured certain areas.

I have a press clipping from the *Sunday Times* of 2 December 2001. It has a banner headline "Union boss ultimatum to Premier" and states -

Union boss Kevin Reynolds has issued a blunt ultimatum to Premier Geoff Gallop: "Unless something is done soon, this Government will become terminal."

It also states -

Mr Reynolds is even angrier about the Government's new-found enthusiasm for the Royal Commission into the Building Industry, which is to probe allegations against the CFMEU of corruption.

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Again I suggest to members that this Bill is all about enhancing union power. Not all union secretaries are as powerful as Kevin Reynolds, but when someone is as powerful as he is, he is able to say "Jump" and the Government asks "How high?" There is no doubt that there is an interesting correlation between the threats that were made by the union movement to the Government and clause 193, which repeals pre-strike ballots, and clause 194, the last clause in the Bill, which repeals the prohibition on political expenditure by organisations. There is no doubt that people like Kevin Reynolds wield enormous clout over this Government, and it is demonstrated by the significant changes that are being made to industrial relations laws in Western Australia as a result of the changes in this Bill.

The 1993 Court changes offered choice and flexibility. They are the two things that will go when this Bill becomes law. That is one of the great disappointments. The Court Government was very keen to see a significant expansion in employment opportunities in Western Australia. The record of the Court Government from 1999 to 2001 shows that there was a significant increase in employment across the State. In fact, in 1997, the slogan that the Court Government went to the people on was "More Jobs and More Choices". The statistics show clearly that the Government delivered on that.

Hon Graham Giffard: 1996.

Hon GEORGE CASH: Okay - I will call it the 1996 election because it was in December 1996. The member is right; it was the 1996 election. Some of those statistics show that prior to December 1993 - that is, as at November 1993 - unemployment was nine per cent. By June 2000, it was 5.9 per cent. It was down significantly - about one-third. It was the lowest it had been for 10 years. The annual growth in productivity from 1990 to 1993 was 0.1 per cent. The average annual growth from 1993 to 1999 was a positive 3.8 per cent. That is a significant sustained growth in productivity across the State. As to agreement making, I have already said that about 270 000 workplace agreements were signed. Some of them were signed by the same people two or three times because they were happy with the situation.

My only interest is ensuring that people maintain their job or have a capacity to get another job; that is, that there be an increase in employment in Western Australia. Whether it is delivered by the white, blue or pink party does not worry me particularly. I am interested in a better quality of life for all Western Australians. When I talk to ordinary working people, those in small business and representatives of big business, they say that this Bill will have a significant negative impact on employment in Western Australia. That will not be seen for at least 12 months after this Bill is passed. However, there is no doubt that it will flow through the community and cost people their jobs. It is only then that some people will start to wake up. The good news, of course, is that that will occur prior to the next election, and at least the people will have settled in their own mind whether this current Government is a pro-job Government or a pro-union Government that does not want to do anything more than provide the union movement with a lot more industrial power.

I will obviously run out of time, but there is plenty of -

Hon Derrick Tomlinson: Can you seek an extension?

Hon GEORGE CASH: Unfortunately, the motion that was passed restricts us to 45 minutes. I am grateful that that motion was passed so that I could say something.

Hon Graham Giffard: You were going to say it anyway.

Hon GEORGE CASH: I was going to say it anyway, but within the standing orders.

Hon Kim Chance: You can stand straightaway on clause 1.

Hon GEORGE CASH: I am happy to have had an opportunity to speak for 45 minutes. I will be more than happy to exercise my rights during the committee stage. I do not want to be seen to be abusing the situation. However, I am grateful for what the leader of the Government has said, because he is extending to me - I assume he would extend it to anyone - an opportunity to speak on this Bill for as long as I wish. That is important.

Hon Ken Travers: You are the only one on that side who ever makes a contribution, George. That is why we are always happy to listen to you.

Hon GEORGE CASH: If Hon Ken Travers keeps speaking like that, he will be allowed to interject forever.

In the short time I have left, I want to mention the brethren. I will not be able to deal with their problem or position at this stage. However, at the committee stage I will strongly support the introduction of a provision into the legislation to allow conscientious objection to union membership in Western Australia. I thank members.

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Hon ALAN CADBY: In common with all members on this side, I do not support this Bill. It is not my intention today to knock unions or their members. Like every other minority group, they have the right to hold their beliefs. However, I will knock this legislation as it provides the rogue element within the union movement with the opportunity to disrupt industry, to trample on the rights of employees and employers, to engender a negative business environment and to blackmail our greatest employee group - that is, small business - into submission or possible bankruptcy. I find it unbelievable that an industrial relations Bill does not contain provisions to prevent this extremely disruptive element of the union movement from doing its worst. It was once a proud and relevant movement. I was a member for 26 years. I doubt whether any member in this House would beat that by many years.

Yesterday, Hon Kate Doust repeatedly mentioned workers' rights and how we need to protect workers. This great divide mechanism used by unions - that is, the owners or the capitalists versus the workers - is very misleading. As Hon Barbara Scott pointed out, the owners or capitalists are also the workers. They work harder than anyone else in small businesses. The division of workers and capitalists, which is rekindled in this Bill, belongs to the nineteenth and not the twenty-first century. In fact, large companies like Coles Myer, the Commonwealth Bank and Woolworths are owned by shareholders. They do not have an owner in nineteenth century terms. The shareholders are workers who have direct or indirect investment in companies through superannuation funds. The pitting of workers against owners, who are also workers, has no place in our society.

I was asked where I was during the debate on this Bill on Tuesday evening. I was sitting in the gallery. Some members opposite would have seen me there. I was sitting with some constituents who wanted to see the workings of Parliament. All members play the role of host in this Parliament from time to time. When those guests came into this House, I gave them a leaflet, entitled "The Parliament of Western Australia". One section of the leaflet refers to the procedure for Bills. It states -

Most Bills (proposed laws) deal with management of public affairs and are introduced by a Minister but any member of either House is entitled to introduce a Private Member's Bill.

To become an Act, a Bill must pass through -

(a) *The Introduction and First Reading*

The House must grant permission to a member to introduce a Bill. This is usually agreed to without debate and immediately after that, the Bill is 'read'. That is, the Clerk reads the title of the Bill.

(b) *The Second Reading*

The member/Minister in charge of the Bill starts the second reading debate by explaining the effect of the proposed legislation.

This is the important part. It continues -

All members are entitled to make one speech during that debate with the member/Minister in charge of the Bill having the right of reply.

The second reading is the most important stage through which a Bill passes because the whole principle is at issue. It is at the end of the second reading that the main vote on the Bill is taken.

That is a parliamentary document stating the importance of the second reading. However, we have witnessed an attempt to deny members on this side of the House the opportunity to make a second reading contribution. Like Hon George Cash, I am very grateful to the Leader of the Opposition, Hon Norman Moore, and the leaders of the other parties for coming to an arrangement to give me the opportunity to make this speech. I thank them.

Several members interjected.

The CHAIRMAN: Order! I am listening to Hon Alan Cadby.

Hon ALAN CADBY: Rather than talk generally about this Bill, I will refer to part 8, which deals with right of entry, record keeping and inspection of records.

A fact sheet put out by Cheryl Edwardes in March 2002 clearly explains that part. The fact sheet states -

- Unions will have a right-of-entry to any worksite during working hours, mostly without having to give notice - and with no time limit on how long they can stay.
- Unions may investigate "suspected breaches of industrial instruments and laws"
- There is no requirement for employers to be advised of the nature of the breach

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- Notice of entry must be given 24 hours in advance, unless the relevant award or agreement does not provide for any notice or specifies the period of notice (most awards do not require notice)

Once they are in, the Privacy Act does not apply to employee records. The fact sheet continues -

- The Gallop Labor Government has specifically provided for union access to employee records in its Labour Relations Reform Bill 2002.

Point of Order

Hon KIM CHANCE: I request that the member identify the document.

The CHAIRMAN: The Leader of the House has sought identification of the document.

Hon ALAN CADBY: I have identified it. It is a fact sheet released by Cheryl Edwardes and entitled "Just how private are your private employment records?".

Hon Ken Travers: Under the standing orders you have to table it.

The CHAIRMAN: The document has been identified. In due course, if a member seeks to have it tabled, it will be tabled.

Debate Resumed

Hon ALAN CADBY: It is in the public domain. I am sure the Leader of the House already has a copy. It may help him in his second reading contribution.

Hon Kim Chance: I want to look at one issue again.

Several members interjected.

Hon ALAN CADBY: I am listening to a number of conversations. I should ignore them. The document continues -

- Proposed changes will allow union representatives to inspect AND copy employment records, irrespective of whether the employees are union members.
- Labor's changes mean that health and personal details - addresses, phone numbers, garnishee or child support payments - will no longer be private . . . and could end up in the wrong hands.
- Unions will also have access to information on hiring and firing of employees, terms and conditions of employment, membership of any trade or professional association, leave details - and even taxation, banking and superannuation affairs.

On the face of it, it would appear that a union representative will have greater powers of access to the workplace and its records than the police. We might see the Police Service contracting out some of its duties to the Police Union, which will have greater access. It may even become a Police Union representative. If it did so, it would not have to bother getting a search warrant to visit a workplace. It is crazy.

I have received a number of letters about this Bill from employer groups. Strangely enough, I have not received one letter asking me to support it. The first letter I will quote is from the Master Builders Association of Western Australia and is dated 30 April 2002.

Hon Kim Chance: It starts, "Dear Alan".

Hon ALAN CADBY: No, it starts, "Dear Mr Cadby". It might have "love and best wishes" at the bottom.

Hon Kim Chance: I was going to write one myself.

Hon ALAN CADBY: I thank the Leader of the House; that is much appreciated.

This letter summaries the Bill and saves me a little work.

Hon Ken Travers: You are lazy.

Hon ALAN CADBY: That is the parliamentary secretary's opinion.

The letter states -

A close review of these changes shows them to be a backward step for Western Australia in that they are essentially based on a mind-set of industrial relations which is a throw-back to the 1990s/1980s . . .

The proposed legislation in its purest form is anti-employer, anti-employment, anti-worker and simply pro-union . . .

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Our serious concerns go to:

Union Right of Entry

The Bill intends to expand the powers of union entry to site. This is a most contentious issue for the building and construction industry in WA.

The CFMEU in WA has a significant track record in the construction industry of ignoring all state and federal entry to site provisions. Its assistant secretary Mr Joe McDonald has consistently made public comments over the years he and his union do not recognise any limitations on their entry to a work site.

Sitting suspended from 1.01 to 2.00 pm

Hon ALAN CADBY: I will now look particularly at part 8 of the Bill. To understand what this section means in practice, I will relate it to the teaching profession, which is where I have gained most, although not all, of my working experience. Part 8 deals with amendments about right of entry, record keeping and inspection of records. Clause 141 reads, in part -

“premises” includes any land, building, structure, mine, mine working, aircraft, ship or other vessel, vehicle and place, and any part of it;

In a school, that would include classrooms, assembly halls, staff rooms, school canteens, sporting ovals and, for those lucky enough to have them, swimming pools. Proposed section 49D reads, in part -

Keeping of employment records

- (1) Subsection (2) applies to an employee during any period when an industrial instrument applies to his or her employment.
- (2) . . .
 - (d) for each day -
 - (i) the time at which the employee started and finished work;
 - (ii) the period or periods for which the employee was paid; and
 - (iii) details of work breaks including meal breaks;

This means that practising teachers will need to record the time they start and finish work, as well as the time spent helping students before school, after school and during recess and lunchtime - because that is what the Bill requires - and time spent with students on cultural, sporting or co-curricular activities. Each of those activities will be particular to individual teachers, so teachers would need to record these activities for themselves, adding to the burden of teaching. I assume that, because the Bill specifies a daily basis, this information will need to be transferred by the teacher into some form of central record-keeping regime, so that it is available for inspection by union representatives. When is this to be done? Who has the responsibility to ensure that records are accurately kept by the teacher?

Hon Graham Giffard: Who does that now?

Hon ALAN CADBY: It is not done. When I was a teacher, if I helped a student at lunchtime, I simply did it. Now, I would have to record it. What will happen in reality? Of course, I must remember that Hon Graham Giffard is the parliamentary secretary to the Minister for Education, so he knows everything that goes on in schools, and I must forget my 31 years of experience.

I believe that teachers will ignore this section of the Bill, but if a teacher does not keep these accurate records, the Department of Education could be fined up to \$5 000 for the initial offence, plus \$500 a day. I can see that many teachers will make the schools bankrupt. In the case of a non-government school, the board would face the same penalties. This will have a dramatic effect on the relationship between teachers and students. Teachers will not get involved in this informal but powerful tool in their teaching. They will only see students in class time and not outside the formal classroom setting. As happened in the United Kingdom, they may also cease, with disastrous consequences, involvement in extra-curricular activities such as sport, excursions and camps. The only victims will be innocent students, at a time when education is supposedly a high priority of the Gallop Government.

I have had some personal experience of how union power - or abuse of power - can affect innocent students. As members opposite related their experiences, I want to relate a case in Victoria. It was not the only case, but it was the last experience I had with a union in my teaching profession. In Victoria, there is no external examination, like the tertiary entrance examination. The higher school certificate is based on common

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assessment tasks, which are done throughout the year. In a number of courses, it is a requirement that the common assessment tasks be completed with a computer print-out. This means that students must use Word, Excel, ANUGraph or a subject specific piece of software.

In my role as curriculum director, I thought it would be a good idea to conduct classes during the summer vacation so that the year 12 and 13 students could learn how to use the complicated pieces of software - seven years ago they were even more complicated than they are today - to give them every possible advantage. I decided that the best person to teach the students was a teacher with whom the students were familiar. I approached the computer teacher, who was part time, and asked her whether she was prepared to teach the complicated software to the students over two weeks during the summer holidays. She replied that she would be pleased to come in and help us out. Because I did not have any experience in that area, I asked her to go away and think about how much money she wanted to be paid for conducting the summer classes. She came back to me with a price that I thought was fair and within my curriculum budget.

The next step was to provide details of the summer classes to the students, and to let them know that for a two-week period, the school would do everything it could to provide them with an added advantage in their studies. On my way to do this, I ran into the head of the school - as the deputy head that was probably one of the worst things that I could have done. She asked me where I was going, so I told her I was off to inform the students about the arrangements we had made for the summer classes. I was pleased with myself that the idea had turned out so well. The head asked me whether I had phoned the union. When I asked her why, she told me that even though the school was independent, we could not do anything unless the union said yea or nay.

I rang the union. I was told that I could not go ahead with my proposition because I was not allowed to bring a teacher in during the summer vacation for a two-week period, even though the teacher wanted to do the work. I stated that I thought the union was meant to be looking after the interests of its members and that both the teacher and I were union members whose interests were not being looked after. Again, I was told that I could not go ahead with my proposition. I was told that I could bring in another teacher, but I did not like that idea because I felt that the students would get more from a teacher with whom they were familiar. Moreover, there would have to be follow-up classes during the final two years of the students' schooling. It was in the interests of the students that the computer teacher do the job. I was also hoping to conduct the classes on a regular basis with refresher programs during the other school breaks. I was told that I could employ another teacher; however, I could only do so on a 12-month contract. On hearing that, I put down the phone, and that was the end of it. I was overruled by the union bureaucracy. The union membership - the teacher and I - wanted to conduct the course. The only people who suffered from this decision were the students. Certainly, neither the teacher nor I suffered, although the teacher may have missed out on a holiday that she would have taken had she earned the extra money. The kids suffered, and it is that with which I had difficulty coping. After that incident, and after 26 years of being a union member, I resigned from the union.

Hon Kim Chance: How do other schools arrange this?

Hon ALAN CADBY: In Western Australia the situation is somewhat different. The situation to which I refer was in Victoria. In all honesty, the other teaching unions with which I have been a member have been very responsible and have listened to their members. Certainly there were conflicts; there will always be conflicts when people get together. However, they supported the teaching profession and the students' interests very well. Having been Minister for Education at a time when I was a member of the teaching profession, Hon Norman Moore may not agree. However, I will not knock the State School Teachers Union of WA.

Proposed section 49E deals with the access a union representative must have to employment records. Proposed paragraph (c) states that the duty placed on an employer by proposed subsection (1) -

includes the further duties -

- (i) to let the relevant person enter premises of the employer for the purpose of inspecting the records; and
- (ii) to let the relevant person take copies of or extracts from the records;

As I said earlier, a teacher's individual records will not be transferred on a day-to-day basis. Such records will be kept in a teacher's chronicle. A teacher's chronicle is a working document; therefore, it is likely to be found in the hands of the teacher, because he will take it from lesson to lesson. Any union representative who insists upon seeing these records can walk into the classroom and disrupt the lesson on the pretence of accessing the teacher's records. The teacher will be powerless to stop this entry. He will also be powerless to stop any union propaganda in the classroom, whether it be overt or covert. Union representatives will also be able to march on to a netball court or a football or soccer field, stop the game, and demand to see the teacher's chronicle. Of course, on a netball court or a football or soccer field, the teacher is unlikely to have his chronicle with him. The

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teacher will be forced to leave the court or field because the union representative can demand to see the chronicle immediately.

Hon Kim Chance: Did any of this happen eight years ago?

Hon ALAN CADBY: I am looking at this issue from the point of view of a teacher; other people can look at it from their point of view. What could happen in the teaching profession could happen anywhere else.

Hon Kim Chance: You are entitled to do that.

Hon ALAN CADBY: Thank you very much. Innocent students have certainly suffered. I was present when classes were disrupted when union representatives entered Victorian schools. In most cases, they rang to say that they were coming. We would ask them to come during recess but they usually came straight away. As a result, I quickly had to find ways of supervising classes while the teachers who were union members attended a meeting with the union representatives. That caused no end of chaos in the school at which I was teaching. No matter where teachers were - in the pool, on the field, in the library, or working with computers - the teachers had to meet with the union representatives as soon as they arrived. I might add, they willingly attended such meetings. I was left with many unsupervised classes and no teachers to cope with them. This is not the situation in WA - yet. However, things may move across the big plain. I suppose it depends on the leadership of the union -

Hon Ken Travers: And the membership.

Hon ALAN CADBY: That is true. Proposed section 49H(1) states -

An authorised representative of an organization may enter, during working hours, any premises where relevant employees work, for the purpose of holding discussions at the premises with any of the relevant employees who wish to participate in those discussions.

It goes on to state in proposed subsection (2) that if an authorised representative has a right of entry which -

- (a) does not require notice to be given by the representative;
- ... the authorised representative is not required to give notice under this section.
- (3) If subsection (2) does not apply, the authorised representative is not entitled to exercise a power conferred by this section unless the authorised representative has given the employer of the employees concerned at least 24 hours' written notice.

That means that a union member can walk into a school and say that he wants to hold a meeting. Certainly, all union members would go to the meeting, but anyone else can go too. There are some teachers - although very few - who, even if they are not union members, may wish to go to a meeting because there may be a cup of coffee, a couple of cakes and a sandwich available. How long can this meeting go on for and what will happen to the students during this meeting time, as I explained before? How can students as young as five understand what is going on with a teacher's duty of care? When the teacher leaves the classroom, the students are left on their own. Even if 24 hours notice is given, how can a school contact all the parents in the school to inform them that teaching will not take place on the following day? What about planned excursions, interschool sports competitions and other school activities such as music recitals and gym performances? What about a child's education? The union has the capacity to bring a child's education to a halt and, even worse, endanger the safety of a child.

That brings me to an important matter: the safety of children. A union can select whomever it likes to be its representative, but there is no mention in this Bill of the people who would be deemed suitable to be a union representative. I am not suggesting that any teachers union would knowingly nominate a paedophile as its representative. However, it could occur. We know how clever and devious these people can be. If I want to work in a school as a teacher, I must get police clearance. The union representatives will not have to get police clearance. However, they will be in contact with the teachers and the students. Where are the safeguards for our children? This is a second Bill that has passed through this House that has no safeguards in it for children.

On a personal level, a union representative can bring a member's office to a halt by demanding to talk to electorate staff or visit on the pretence of matters relating to the Occupational Safety and Health Act. The excuse could be that the employees are using an unguarded stapler, are sitting too long in front of a computer or are working longer hours than they should, and all those sorts of things. I do not know whether electorate officers are exempt from this legislation, but I would not have thought so. There are no exemptions in this legislation; not even for brethren. Is Parliament House likely to be stalled through legal union activity? I am not referring to the events in the public gallery earlier in this session, which I was not part of. Can the unions come into Parliament House and speak to all the Hansard staff? All the staff might leave and the union could bring

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this place to a standstill. This legislation does not say that they are exempt. We must consider some of the consequences of these provisions.

Proposed section 49I deals with the right of entry to investigate breaches, and states -

- (1) an authorised representative of an organization may enter, during working hours, any premises where relevant employees work, for the purpose of investigating any suspected breach . . .

What does “suspected breach” mean? In reality it can mean anything. It just gives the representative the right of entry to a place.

Hon Graham Giffard: It means a reasonable apprehension.

Hon ALAN CADBY: It does not say that at all.

Hon Graham Giffard: That is what it means. Read the law on it because that is what it means.

Hon ALAN CADBY: The member is putting a good light on it. It does not mean that at all, and he knows it.

Proposed section 49I(2) states that the authorised representative may -

- (a) subject to subsections (3) and (6), require the employer to produce for the representative’s inspection, during working hours at the employer’s premises or at any mutually convenient time and place, any employment records of employees or other documents, other than workplace agreements, kept by the employer that are related to the suspected breach;
- (b) make copies of the entries in the employment records or documents related to the suspected breach; and
- (c) during working hours, inspect or view any work, material, machinery, or appliance, that is relevant to the suspected breach.

What are the working hours of a school? Is it the time the students are at school for the formal curriculum? Is it before these hours or after school? Is it Saturdays and some Sundays when co-curricular activities are taking place? Is it during vacations when camps may be in progress? Schools may technically be in progress but office staff, who normally have access to many of those records, will not be in the school. Office staff are not in the school on Saturdays and Sundays when school activities may be taking place. They are not there at 7.00 pm when there are parent evenings and the teachers are working. To comply with this proposed section, must there be a records person at school at all times when activities are taking place, including weekends? Who will pay for this? With 700-plus government schools, how much will this cost the Government? We know the Government has no money of its own so that cost will be passed on to the taxpayers. How much extra will taxpayers have to pay to satisfy the requirements of this Bill?

Proposed section 49M will take from teachers any duty of care. It states, in part -

- (1) The occupier of premises must not refuse, or intentionally and unduly delay, entry to the premises by a person entitled to enter the premises under section 49H or 49I.
- (2) A person must not intentionally and unduly hinder or obstruct an authorised representative in the exercise of the powers conferred by this Division.

That means a teacher cannot say that he has a class and ask the representative to come back in 35 minutes when it is finished, or when he has finished teaching for six or seven periods in a row. The teacher will not be able to do that. He will have to leave the class unsupervised; that means six and seven-year-olds or, even worse, 17-year-olds, will be left unsupervised for that period. If the teachers do not do that, then according to this documentation they will be liable to a civil penalty.

The information collected in the workplace may include an employee’s name, address, telephone number, pay details, leave entitlements, tax file number and any payments made to third parties. In most schools, that detail is usually on the same document, whether it be in written form or on screen. These records must be kept for seven years. That may not be a problem for big employers; however, it could be a big burden for some of the smaller schools, perhaps a small catholic primary school with only seven or eight classes. Employees would wish to keep this type of personal information out of the public domain. This type of information would have commercial value and some people would pay big money to get hold of these types of personal profiles. Therefore, are there security arrangements to guarantee that this type of information will not be passed on by unions or their representatives?

Throughout this Bill statements are made about penalties to the employers, but nowhere can I find reciprocal fines for the misuse of this personal, but commercially valuable, information. Of course, some teachers and

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employers might be able to prevent this sort of disruption to their working lives and allay privacy concerns if they had an employer-employee agreement. That is contained in proposed section 49I(3), which states -

The authorised representative is not entitled to require an employer to produce an employment record of an employee if the employee -

- (a) is a party to an employer-employee agreement;
and
- (b) has made a written request to the employer that the record not be available for inspection by an authorised representative.

I encourage all employees who will be on an EEA to start writing letters to their employers clearly stating that their personal records are not to be made available to a union representative for inspection. Maybe the same exemption can be written into the award. If a union is really representing its members and not just satisfying its lust for absolute power, employees could insist that such a letter be written into the award.

I will make some general remarks about this Bill. If the number 38 will be the divisor used in award determinations, what will be the total effect on added costs to employers, including the Government? Has a cost analysis been completed? If so, what did it find? How much will it cost us? With the increase in the wages bill for all employers, some jobs will be cut. The Government has already stated that it will start cutting jobs now. What are the projected job losses, especially for the most vulnerable - the young and the unskilled?

Clause 190(1) states -

Section 7(1) is amended in the definition of “industrial matter” by inserting after paragraph (f) the following paragraph -

- (g) any matter relating to the collection of subscriptions to an organisation of employees with the agreement of the employee from whom the subscriptions are collected including -

It includes union fees. What is the expected additional cost to employers by this change? Once again, it seems to me that employees are taking the responsibility from employers in respect of union membership.

I move to clause 194. This is where the Labor Party and the Greens (WA) get their reward for being the puppets of the union movement. To use a phrase from Hon Kate Doust, the unions will, once again, be on the “workers” gravy train. The unions will pay to the ALP money to fight an election. Members on the other side of the House, apart from the Greens at this stage, should declare a pecuniary interest in this Bill and remove themselves from the House when the Bill is voted on. Obviously, the House has voted once but it may get another bite at the cherry. If members opposite have any integrity, they will leave the House during the vote. A number of members are members of a union. Hon Jon Ford is a member of the Australian Manufacturing Workers Union; Hon Kim Chance is a member of the Transport Workers Union of Australia; Hon Sue Ellery is a member of the Australian Liquor, Hospitality and Miscellaneous Workers Union; Hon Robin Chapple is a member of the Community and Public Sector Union; and Hon Kate Doust has a long list of union membership. She is a member and treasurer of the Shop Distributive and Allied Employees Association of WA; a vice president of the Trades and Labor Council of WA; a board member of the College of Retail Training and a board member of the Wholesale Retail and Personal Services Industry Training Council of WA Inc. I am not sure whether the last two bodies are union organisations, but I believe they could be.

Every cloud - even the darkest cloud - has a silver lining, although this is the darkest cloud on employment I have ever seen. Each union is also an employer. Their employment records are also open to scrutiny; they can be inspected by union representatives. A clerk in the Construction, Forestry, Mining and Energy Union will be a member of whatever union clerks belong to. I would like to offer my services to unions to occasionally be their representative and go to the establishments of the more contentious unions and look at, and photocopy, some of their records. We have some interesting times ahead. The only people who will pay will be the taxpayers of Western Australia. Earlier, I was reading from a letter that I received from the Master Builders Association of Western Australia.

I do not know what conversations are going on in other parts of the Chamber, but Madam Deputy Chairman may wish to remind other members that I am on my feet and have the call.

The DEPUTY CHAIRMAN (Hon Kate Doust): Order, members! Hon Alan Cadby has the call. He has only one minute left in which to speak.

Hon ALAN CADBY: I wish to quote further from the letter, which is dated 30 April 2002. One section of the letter is titled “Union Access to Non-Union Workers Time and Wages Records” and states -

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The MBA asserts this is a clumsy attempt by the Gallop government to shore up the declining relevance of the union movement in WA.

As the WA union movement has not been able to retain a relevance with the state's workforce, it has to rely on the Gallop government to save it. The Gallop government is doing this by allowing state unions access to non-union workers time and wages records.

Before I run out of time, I understand that the agreement is that I am speaking to clause 1 of the Bill and that I can have an additional 10 minutes in which to speak under standing orders.

Hon Dee Margetts interjected.

Hon ALAN CADBY: Shush! I know the member would like to run the House, but I am asking for a ruling from the Deputy Chairman.

The DEPUTY CHAIRMAN: My understanding of the agreement reached yesterday is that until all members have spoken to clause 1 members will not avail themselves of the normal 10 minutes in which to speak. A number of members have yet to exercise their right to speak.

Points of Order

Hon NORMAN MOORE: Earlier today, Hon George Cash spoke about using his additional 10 minutes to finish his speech. On this occasion it would be appropriate, as the member has not finished his speech, that he be given an additional 10 minutes. That way, the member and others could finish their speeches without having to speak again next week.

Hon DEE MARGETTS: I recollect it was said that it was possible for Hon George Cash to finish his time and stand up again to finish his speech. Admirably, he said he would not create a precedent.

Hon NORMAN MOORE: That is Hon George Cash's opinion, but it is not what the Leader of the House said.

Hon DEE MARGETTS: Some cooperation would be nice so that all members get a fair go.

Hon N.D. GRIFFITHS: I am concerned for the community of Western Australia that members are able to say what they want to say. However, I do not want members carrying on forever and a day. My understanding is that Hon Alan Cadby will finish his comments very soon. It is not inappropriate for him to continue.

The DEPUTY CHAIRMAN: It is acceptable for Hon Alan Cadby to seek a further 10 minutes in which to speak.

Committee Resumed

Hon ALAN CADBY: I will continue to quote from the letter -

Our experience in the building industry has been that the CFMEU, and its predecessors, have used this approach to search out non-union members and apply pressure on them to join the union.

I will go to the end of the letter, because I am conscious of the time. It states -

The MBA calls on the Gallop government to amend its Labour Relations Bill to reflect the best interests of Western Australia. Should it fail to do so, the MBA foreshadows a loss of jobs, particularly in the service sector and increasing disaffection of the WA public as these service industries which have expanded their services to the public over the past 7-8 years are wound back due to unsustainable wages costs.

Any government which ignores the wishes of the public and oversees a decline in service standards which the public have become accustomed to does so at its own peril.

To show that I have integrity, I will mention clause 1, which is the short title. I am not sure whether the short title actually reflects the nature of the Bill, so I have 19 suggestions that could be included in the short title. I have tried to retain the flavour of the short title by using the same first letters of the Act name that is currently provided - L, R, R and A. The Gallop Government may wish to take on some of these suggestions, so that there can be some honesty in the short title at least. The short title could be changed to read "Labor's Retaliatory Revenge Act", "Labor's Rampaging Ridiculed Act", "Labor's Ramshackle Rancid Act", "Labor's Ratchet Reform Act" or "Labor's Rabble Rabid Bill", with "rabid" meaning unreasoning and furious. It could also be changed to read "Labor's Radical Racket Act" or "Labor's Rafferty's Rules Act" -

Hon Kim Chance: This is alliteration. Isn't that against the standing orders?

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Hon ALAN CADBY: If the Leader of the House realised how long it took me to do this, he would appreciate my hard work, even though Hon Ken Travers said that I had not done any other work.

Hon Kim Chance: I thought you were a maths teacher, not an English teacher.

Hon ALAN CADBY: That is why it was so difficult for me. I further suggest that the short title could be changed to read "Labor's Ragged Railroad Act", "Labor's Rambling Ram Act", "Little Rats Renege Act", "Labor's Repay Reprisal Act", "Labor's Rash Reactionary Act" or "Labor's Recreant Rectum Act", with "recreant" meaning cowardly. My suggestions continue with "Labor's Rancour Retaliatory Act", with "rancour" meaning malignant hate, or "Labor's Recusant Redeploy Act", with "recusant" meaning to refuse to submit or comply.

Hon E.R.J. Dermer: Can we have the extension of time back?

Hon ALAN CADBY: I know that I should stick to numbers! I continue with "Labor's Reincarnation Religion Act", "Labor's Relinquish Responsibility Act" - where the Government wants to give all the responsibility to the unions - or "Labor's Rumbling Rubbish Act". The one that might have to be put in place now that we have an opportunity to speak on the second reading is "Liberal's Rallentando Rectify Act", with "rallentando" meaning to gradually slow down.

I have shown that this Bill will have a dramatic effect on the daily routine of workers in the teaching profession and will affect the education of our students. The Gallop Government has stated that education is one of its priorities. I do not believe that it is, because the unions will make it very difficult for the teaching profession to comply with every Act covered by this Bill.

Hon DERRICK TOMLINSON: Madam Deputy Chairman, I listened with considerable interest to your presentation in this debate, particularly when you recounted your experiences as an organiser, if that is the correct title of the position you held, with the Shop Distributive and Allied Employees Association of Western Australia.

Point of Order

Hon KIM CHANCE: I believe that Hon Derrick Tomlinson has referred to a contribution made to this debate by Madam Deputy Chairman. It believe that is out of order.

Committee Resumed

Hon DERRICK TOMLINSON: I thank the Leader of the House. I apologise to the Chamber for that breach of the niceties and conventions of this place. I am pleased that the conventions of this place are to be observed once more. I will start again, having made that grievous error of decorum. I listened with considerable interest to the contribution of Hon Kate Doust to this -

Hon Kim Chance interjected.

Hon DERRICK TOMLINSON: I thank the Leader of the House. I do learn. All that members opposite need do is give me a chance.

I will start again. I listened with interest to Hon Kate Doust, particularly when she spoke about her experiences as an organiser. I am sure Hon Kate Doust will correct me if that is the wrong title to use. I will use the title of organiser until such time as Hon Kate Doust corrects me.

Hon Kim Chance: I do not think that she can correct you, but Madam Deputy Chairman may be able to.

Hon DERRICK TOMLINSON: Hon Kate Doust will do so when she returns to her place and takes up her accustomed role as member for the South Metropolitan Region, as opposed to her position as Deputy Chairman of Committees. May I start again?

Hon Kim Chance: You might get it right the fourth time.

Hon DERRICK TOMLINSON: The honourable member recounted her experience as an organiser with the shop assistants union. Her contribution demonstrated what should be a self-evident truth: there are reasonable and responsible unions. It is quite irresponsible to generalise and say that all unions are irresponsible. For some considerable time, and certainly in my conscious memory, the shop assistants union has been a responsible union. Perhaps that has something to do with gender, but it would not be politically correct for me to suggest that just because some unions have organisers who have nothing but testosterone between their ears, they are less responsible than other unions. It is irresponsible to suggest that all unions engage in unfair or bullying tactics.

Hon Barbara Scott interjected.

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Hon DERRICK TOMLINSON: As Hon Barbara Scott just silently interjected, “TLC” means tender loving care.

Hon Kim Chance: That is why we now call it Unions WA.

Hon DERRICK TOMLINSON: Just as unions such as the shop assistants union have been responsible unions, others, such as the Federated Ship Painters and Dockers Union, could not be described as having a similar reputation.

Hon Kim Chance: That union has not been around for a long time.

Hon DERRICK TOMLINSON: No, it has not been around for a long time. That is a credit to our industrial and legal systems. Members opposite would have to concede that that union could hardly have been described as a responsible union. Neither could the Seamen’s Union of Australia. That union has not been around for a long time because it is now part of the maritime workers union.

Hon Sue Ellery: No, the Maritime Union of Australia. It is here to stay.

Hon DERRICK TOMLINSON: I thank Hon Sue Ellery; I am learning so much. There were times, however, when those unions did not act responsibly.

Hon Kim Chance: Did you know that more members of the Seamen’s Union than soldiers lost their lives in the Second World War?

Hon DERRICK TOMLINSON: The Government has allowed members 45 minutes to debate this Bill. I will accept an extension of time while the minister interjects but, please, otherwise let us continue the debate according to the decorum of the House which has just been returned.

Some unions, if not all, at least for part of their history have not acted responsibly. The Waterside Workers Federation at times in its history and under some of its leaders was an irresponsible union. It was also one of the most responsible unions under some of its leaders, although very militant. It achieved a great deal to guarantee a fair and reasonable wage, fair and reasonable work conditions and the protection of health, safety and welfare of its members. However, it was at one stage a monopoly employer when there were abuses of power within the Waterside Workers Federation. I do not believe that can be refuted. There are times when unions have acted irresponsibly. However, it is incorrect to say that by virtue of being unions they are irresponsible. By the same token, some employers can be characterised as responsible employers. I listened with interest to Hon Kate Doust’s description of two supermarket chains. I will not give them a free plug but one was a responsible employer which looked after the financial and physical welfare of its employees, even offering above-award rates as wages to its employees. She contrasted that employer with an employer of a different kind. Hon Simon O’Brien gave a graphic account of an employer whom he described as a “mongrel”. I do not know why he was not challenged for unparliamentary language.

Hon Barry House: It was obviously true.

Hon DERRICK TOMLINSON: It may well have been, I do not know. I cannot say whether Hon Simon O’Brien’s description was appropriate for that employer but it illustrated the general reality that there are irresponsible and responsible employers, just as there are responsible and irresponsible unions. One way of characterising industrial relations is in the Australian vernacular: it is about giving people a fair go, whether that is a fair go given by an employer or an employee. My concern is that this Bill is not necessarily a balanced Bill that will give a fair go to the major players in industrial relations; that is, the employer and the employee.

The explanatory memorandum to this Bill characterised the objectives of the Bill as -

- a) to amend the *Workplace Agreements Act 1993* to provide for the phasing out and expiry of that Act.
- b) to introduce Employer Employee Agreements (EEAs). (See table below for differences between workplace agreements and EEAs).
- c) to repeal the Court Government’s “third wave” (eg provisions on pre strike ballots, restrictions on union political expenditure, federal award coverage, compulsory resume work orders, restrictions on right of entry, and inspection of time and wages records).

I am not sure what is meant by the “third wave”. My recollection is that the Court Government introduced three industrial relations Bills in 1995, 1996 and 1997.

Does Hon Louise Pratt want to interject or is she just mouthing?

Hon Louise Pratt: I would like the Bill to progress. I will try to limit my interjections.

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Hon DERRICK TOMLINSON: The 1995 and 1996 Bills contained different provisions but they also contained some common provisions. The 1997 Bill contained provisions that were resurrected from the 1995 and 1996 Bills, but not proceeded with. An analysis would show that the provisions for pre-strike ballots in the 1997 Bill were essentially the same as those in the 1995 Bill No 2, but not proceeded with. Significant changes were made in the 1997 Bill, which extended liability for breaches by organisations to their officers and employees. That was one matter that the Trades and Labor Council of WA found particularly offensive and the reason for the strong support for the rescission of the legislation, which is a way of describing the intention of this Bill. The 1997 Bill extended the provisions of the 1995 Bill No 2 and the 1996 Bill to make organisations liable for acts or omissions of their officers and/or employees. Again, that was offensive to the union movement. The 1997 Bill extended the power to employers to apply for pre-strike ballots and to be informed of their outcome. These provisions in 1995 and 1996 were reinstated and extended in 1997. Likewise, the political expenditure provisions reinstated in the 1997 Bill were contained in the 1995 and 1996 Bills, but not proceeded with. The provisions in the 1997 Bill relating to federal award coverage in 1997 were the same as those in the 1995 Bill and were reinstated without substantial change. The power of entry clauses, not proceeded with in 1995 and 1996, were reinstated in 1997 and not substantially changed.

I have always had difficulty with the phrase “the third wave”. I thought of it as the second and a half wave because it reinstated provisions that had been in the two previous Bills, but not proceeded with. I will not go into the history of the reasons those provisions were not proceeded with in 1995 and 1996.

Hon Kim Chance: Probably because they were pointless. The 1997 legislation was totally pointless.

Hon DERRICK TOMLINSON: I cannot claim to know all the reasons for the history of those provisions.

Hon Kim Chance: The provisions were never used.

Hon DERRICK TOMLINSON: I know some of the history and that will be in my second book. That will be written and published posthumously because one cannot be sued for that which is published after death.

Hon Kim Chance: We can always change that law if you like!

Hon Simon O’Brien: What will you do - dig him up and jail him?

Hon Kim Chance: I was once a member of an organisation that introduced posthumous life membership. I was dying to get it!

Hon DERRICK TOMLINSON: I know of an organisation that awards life membership while people are alive, and arranges for the posthumous!

In dealing with the history of industrial relations over the past six or seven years with those three Bills and the current Bill, I want to concentrate on the question that has been most contentious on both sides of the political spectrum; namely, right of entry. I am sure the minister has received the same submissions that I have received about right of entry. Employers argue that unions will abuse the opportunity to have access to employment records by doing things like coercing non-union workers into becoming union members, and accessing confidential information on employment records, such as garnisheed child support payments. Those sorts of concerns have been raised with all of us. The unions, on the other hand, say they cannot properly protect the interests of their members if they cannot have access to the workplace to inspect employment records, work conditions and so on. The argument is about one or the other not being treated fairly. I come back to my aphorism that what this provision is all about is giving both employers and employees a fair go.

Proposed section 49D deals with the keeping of employment records. It is not an odious requirement that employers must maintain specified information about their employees. Employers must ensure that the employment records are kept in accordance with regulations made by the Governor; and each entry is to be retained for not less than seven years after the employment has terminated. When my wife was seeking recently to engage a house cleaner, I strongly recommended that she do that through an agency so that the agency could be the employer rather than our having to keep the employment records of that house cleaner for the next seven years. However, I think we may be exempt from that provision. The reason for that seven-year period is that under the statute of limitations, civil litigation may be initiated at any time within that seven-year period. Therefore, although it may be inconvenient, it is sensible that employers maintain those records.

Proposed section 49E deals with access to employment records. Again, this is unexceptionable. An employer, on written request by a relevant person, must produce to that relevant person the employment records relating to an employee and let that person inspect those employment records. A “relevant person” means the employee, the employee’s representative, a person authorised in writing by the employee, or an officer of the Industrial Relations Commission. It is reasonable that such persons should have access to the records, and it is reasonable that the request be in writing. A duty is placed on the employer to comply with a written request not later than

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the end of the next pay period after the request is received; or the seventh day after the day on which the request was made to the employer. A reasonable length of time is provided in which an employer must respond to a reasonable written request about an employee's employment records. That provision also is unexceptionable.

I turn now to right of entry and inspection by the authorised representative. Proposed section 49H states that an authorised representative may enter, during working hours, any premises where relevant employees work, for the purpose of holding discussions at the premises with any of the relevant employees who wish to participate in those discussions. A stop-work meeting may be characterised as a right of entry for discussion. We all recall what took place on building sites along St Georges Terrace in the bad old days of the former Builders Labourers Federation in the 1970s, when the right of entry for discussions with employees was demanded in the middle of a concrete pour.

Hon N.D. Griffiths: Under Sir Charles Court.

Hon DERRICK TOMLINSON: Charles Court was not a member of the BLF at that time. That was done to cause maximum inconvenience to the construction. It meant that because the pour had been stopped halfway through, the pour could not be continued and the concrete had to be allowed to cure and would then have to be jackhammered out. Under what circumstances could we argue that that is a reasonable right of entry for discussions with employees? It is interesting that proposed section 49H(3) states -

... the authorised representative is not entitled to exercise a power conferred by this section unless the authorised representative has given the employer of the employees concerned at least 24 hours' written notice.

Therefore, the excessive abuse of the right of entry that was exercised by the BLF is avoided by this provision.

Proposed section 48(H)(2) states that if an award, order or industrial agreement that extends to the relevant employees makes provision as to entry onto premises by an authorised representative, the authorised representative is not required to give notice. Hon Alan Cadby made the point that not many awards waive the right of entry. However, it is not merely an award but also an order or industrial agreement. My concern is the order. We have an attempt to be reasonable by saying that an authorised representative may have right of entry for discussions with employees but must give 24-hours notice. However, that requirement can be waived. Why do we go to the extent of being fair to both the employer and the employee and then include the "but"? Perhaps when the minister returns to the Chamber - I know he is elsewhere on parliamentary business - he will be able to respond to that. I now refer to the right of entry to investigate breaches.

Hon N.D. Griffiths: You will have a response from me next week. I do not want to eat into your limited time.

Hon DERRICK TOMLINSON: That is what I anticipated. Are you the minister handling the Bill?

Hon N.D. Griffiths: Yes, I am. The member is aware that I am not in the position to speak at length this week.

Hon DERRICK TOMLINSON: I did not realise that the minister's voice was still being protected. Perhaps at the appropriate time the minister will respond to that point because it is very important. I also hope he will respond to proposed section 49I(1), the right of entry to investigate breaches, which states -

An authorised representative of an organization may enter, during working hours, any premises where relevant employees work, for the purpose of investigating any suspected breach ...

That is an unexceptionable provision. If there is a reasonable expectation of a breach, an authorised representative should have the right to enter a workplace to check the facts. I now refer to proposed section 49I(3), which states -

The authorised representative is not entitled to require an employer to produce an employment record of an employee if the employee -

It further states that otherwise, under proposed section 49I(2), the employee may -

... require the employer to produce for the representative's inspection, during working hours at the employer's premises or at any mutually convenient time and place, any employment records of employees or other documents, other than workplace agreements, kept by the employer that are related to the suspected breach;

The authorised representative may demand documents. However, earlier the Bill states that 24 hours notice must be given and there is a period of up to seven days or the next pay period after the request is received to conform. If a breach is suspected, the authorised person may not only enter the premises to gather the facts of the breach, but also demand to see the employment records. Employment records can be demanded for a suspected breach if they relate to those things contained in the employment records. If the breach is contained in the employment

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record documents, why is the provision in proposed section 49H needed when a much more reasonable provision is provided for in proposed section 49E? Why is the Government loading the right of entry in favour of the employee or the employee's representative - that is, the union - when other provisions of the Bill are responsible?

I go back to the proposition Hon Kate Doust reminded us of in her presentation that there are responsible unions and employers. She said that employers and unions would cooperate when providing right of entry and access to relevant information. However, there are also irresponsible employees and there are irresponsible employer and employee representatives. We know that from information that has come out of the Cole royal commission. I refer to an article in *The West Australian* on Friday, 22 February 2000 written by Garreth Malpell that reported on the proceedings of the royal commission in Melbourne entitled "I used death threats", with the subheading "Secret witness tells building probe he was union enforcer". The article states -

A former WA Builders Labourers Federation shop steward used violence and death threats to intimidate workers and employers to ensure Victorian building sites were unionised, the building industry royal commission was told yesterday.

In explosive testimony to Commissioner Terence Cole, Gary John Carter, 43, a former BLF shop steward under controversial WA building union leader Kevin Reynolds, said he would routinely use violence, threats and industrial chaos to pressure employers, subcontractors and workers.

A union that is supposed to protect the rights and privileges of workers routinely uses violence, threats and industrial chaos against workers. How could members say that is a responsible union? How could it be said that that is the responsible use of the right of entry to discuss matters with employees?

[Quorum formed.]

Hon DERRICK TOMLINSON: The article further states -

Mr Carter, who is 198cm tall and weighed up to 140kg during his time with the Victorian branch of the CFMEU, said he had been unemployed and living in Geelong before he was hired by union organiser Brendan Murphy in 1996 as a local enforcer who would be asked to "do the nasty little jobs".

"I used to be the person who would go and crack their heads," Mr Carter said.

He had been recommended to Mr Murphy by national building union heavyweight John Cummins, he said.

In one instance during his first week as a CFMEU shop steward, he assaulted a building contractor who had been using non-union labour.

"After I hurt him, I pointed to the sewage pit and I said 'That pit is only half full'," Mr Carter said. "By this, I conveyed that there was something worse in store for him if he didn't fall into line."

That is very irresponsible, is it not? The article proceeds -

On another occasion at a Deakin University campus in Melbourne's eastern suburbs, Mr Carter interrupted a meeting between university staff and building contractor Derrick McNab, who he believed was not paying attention to site safety, by kicking the door to his office off its hinges.

That is familiar treatment. We have heard evidence of that in another context. The article continues -

"I then said to McNab that I would give him three warnings," Mr Carter said. "He sat down and I said, 'Right, that's your first warning. Your next warning won't be so polite'. "He said, 'What's that mean?' I said, 'I'll break your arms and legs and you won't come back from the third warning. You don't even want to know about it'.

"After that, no more problems."

That is not an example of a responsible union. That contrasts with the presentation by Hon Kate Doust of the responsible versus the irresponsible. According to an article in *The West Australian* on Saturday, 23 February, outside the inquiry Mr Reynolds said that he had never heard of Mr Carter. Mr Reynolds was reported to have said -

"I'm certain I'll be questioned in the royal commission about him," he said. "I don't know him and I don't want to know him."

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I remind Mr Reynolds of an incident in which a senior Western Australian union official was bashed in a dunny in the centre of Perth. He was bashed to the extent that he was hospitalised. I remind Mr Reynolds of that and I suggest he look at his relationship with Mr Gary John Carter.

I will now read an article that illustrates that irresponsibility does not exist only on the employees' side. It is from *The West Australian* of 26 February 2002, headed "Building Site Chief Struck \$275 000 Bargain". Again it refers to evidence from the royal commission in Melbourne, and states -

The site manager of a \$95 million construction project paid \$275,000 to help strike a union deal, the royal commission into the building and construction industry was told.

Most of the money went to Melbourne underworld figures.

...

Company officials initially had been prepared to pay up to \$30,000 to mediate the dispute, in which the electrical division of the Victorian branch of the Communication, Electrical and Plumbing Union, known as the Electrical Trades Union, had refused to sign a site agreement unless its choice of shop steward was employed on the site.

Boulderstone Hornibrook officials asked electrical subcontractor Peter Barker to use his industry contacts to find a solution to the impasse and he enlisted the services of Melbourne underworld figure Domenic "Mick" Gatto and his associate David Hedgcock.

After the pair agreed to act as industrial troubleshooters, the price of the mediation grew to \$275,000 - \$25,000 of which was to satisfy GST requirements - with \$189,750 eventually being transferred to Mr Hedgcock's company, Pro-Tect Securities, which provides guards and bouncers to Melbourne nightclubs.

This proves that there is honour among thieves. They do meet their lawful taxation obligations! It goes on and on. *The West Australian* of 12 April 2002 reported -

Big construction companies have admitted paying almost \$1 million in illegal strike wages, training donations and casual union tickets to the Construction, Forestry, Mining and Energy Union.

In evidence to the Cole royal commission over the past week, big builders admitted making payments to the powerful CFMEU in an attempt to win industrial peace.

If employers want the protection of industrial law, they must act lawfully. They are able to pay the unions because they simply pass on the cost. Building contractors build into their contracts a provision for graft. I would like to know what that provision is. The World Bank estimates that an average of 15 per cent of its grants to developing countries is creamed off in graft. The figure creamed off can be as high as 60 per cent. Western Australia is not regarded as a developing country, but the question must be asked: If those employers, who are avoiding giving evidence to the royal commission, are prepared to act unlawfully to aid and abet the unlawful actions of irresponsible thugs from the unions, who is the least reprehensible?

Industrial relations legislation must contain the simple principle of fairness on both sides. If one or the other breaches the provisions of the law, there must be appropriate penalties. According to proposed section 83E, the maximum penalty for the failure to keep records, in the case of an employer, organisation or association, is a fine of \$5 000. This is a penalty for a breach by an organisation that may be prepared to pay up to \$250 000 for industrial peace! It is lunacy. A reasonable penalty would be \$50 000 or \$250 000. With that sort of penalty, there would be no need for the specious argument that right of entry without notice must be given because unions fear that employers might destroy the records. If an employer faced a penalty of \$50 000 to \$500 000 for destroying records, the right of entry without notice provision would not be necessary. There would be no need for any provision other than that in proposed section 49E, which is a very reasonable provision.

Hon Kim Chance: That applies after application to the Industrial Relations Commission.

Hon DERRICK TOMLINSON: If that is so, some other safeguard could be built in. A reasonable provision for a penalty is a far better way to go than proceeding with a right of entry, on the specious argument that employment records might be destroyed.

Likewise, if a representative entering a work site abuses his or her authority, and engages in extortion, threats and abuse, what is the penalty? The Industrial Relations Commission may withdraw his or her permit! Joe McDonald would be so frightened! He would be trembling in his boots because his ticket to enter a site could be taken away! He has entered union sites without a ticket. He does not regard the law as anything to frighten him. With that sort of penalty, it is no wonder that Joe McDonald can thumb his nose at the industrial law in this State. I have listened to the rhetoric about this Bill reintroducing fairness to the system. I accept that there is an

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argument that unfairness exists in the system, but this Bill loads the system in favour of the unions, not in favour of the worker - whom the industrial relations system is supposed to protect - and a fair day's pay for a fair day's work, fair working conditions, and health and safety in the workplace. Unions are given right of entry, which they can exercise with no greater penalty than a slap on the wrist if they abuse it.

Fairness in the workplace is a most important principle. Unions in Australia have a proud history of establishing fair conditions for Australian workers. Any reading of the history of William Guthrie Spence and the Australian Workers Union will illustrate what was achieved in the nineteenth century. Some may call W.G. Spence a rogue and a vagabond, or even an industrial relations harlot, but the history demonstrates a very proud record. Therefore, I will not be one of those who castigates the unions by virtue of the fact that they are unions. Unions have an important part to play in our industrial relations system. However, they are supposed to stand for fairness in the workplace. Industrial relations laws must reflect that fairness, and must be fair to both the employee and the employer. If there is a breach, an appropriate penalty must also be applicable to both. This Bill gives unions an unfair go.

Hon KIM CHANCE: Hon Derrick Tomlinson has powerfully stated his case; however, some will have been misled by the belief that he was telling the facts of the case.

I note the honourable member's view about the adequacy of a \$5 000 fine as a maximum fine for an employer who fails to maintain adequate time and wages records. I am not entirely sure why the fine was set at that level; I imagine this figure would probably reflect past practice, and that it would have been affected by decisions previously handed down by the Western Australian Industrial Relations Commission for offences of that nature. This is something of which the Government will take note.

Hon Derrick Tomlinson also referred to a range of offences that may be committed by an authorised union officer who has entered premises and is acting under the authority of a permit. Hon Derrick Tomlinson mentioned a number of offences including threats and extortion. The Industrial Relations Act 1993 is not an Act that includes penalties for offences such as threats, in some circumstances, and extortion. These are clearly offences under the Criminal Code, and they are dealt with in the same way as other offences that fall under the Criminal Code, such as murder, drink-driving or behaviour that endangers the safety or life of a person. It is not appropriate to try to reinvent the Industrial Relations Act to cater for penalties against crimes that are specified in another Act. Lest people be misled by the fact that a union official may enter premises under a permit and commit any act he or she wishes only to be penalised by the withdrawal of that authority - that is not the case. A crime committed by a person in any circumstance is dealt with by the appropriate legislation.

Hon DERRICK TOMLINSON: I accept the comments made by Hon Kim Chance. Of course, penalties are catered for under the Criminal Code. The person to whom I referred may, in fact, be facing a charge for a breach of the Criminal Code. However, the Leader of the House must also understand that it is extremely difficult to gather the evidence that would prove a breach of the Criminal Code by a union organiser on an industrial site. The evidence gathered by an investigator would have to sustain a prosecution. Because of the difficulty in gathering the facts for a prosecution under the Criminal Code, even though the provisions exist in the Criminal Code, prosecution under the Criminal Code would be uncommon.

Hon Kim Chance: I do not know why.

Hon DERRICK TOMLINSON: For the simple reason of gathering the evidence to sustain a prosecution. Therefore, let me go back to my earlier proposition. If the industrial relations laws were to regulate conduct on a work site, perhaps the principle espoused by the Leader of the House could be reconsidered. The provisions contained in the Bill are not only inadequate but also loaded in favour of the unions.

Hon NORMAN MOORE: I do not support this Bill, and I have already spent some time explaining why. I was interested in the comments made by Hon Derrick Tomlinson about W.G. Spence, because he was my wife's great-grandfather. In the 1890s, W.G. Spence was a staunch union man. He became a federal member of Parliament, and became the Postmaster General in one of Labor's federal Governments. By the end of his life, W.G. Spence had been totally disowned by the Labor Party, along with a few others. I raise this point to illustrate that one should never cross the Labor Party. W.G. Spence did, and he was ostracised. Those who do not stick with the brotherhood or sisterhood wind up being totally ostracised. My father-in-law had in his possession the original version of W.G. Spence's book and a tea set that he was presented by the Labor Party when he became the Postmaster General. My father-in-law presented both items to Bob Hawke when he became Prime Minister, and they were to be housed in the new Parliament House in Canberra as part of the memorabilia of the Labor Party. When my in-laws visited Parliament House a few years later, they could not find these items. I am hoping they have been retrieved. This is a message for Hon John Cowdell who was very helpful in arranging the delivery at the time.

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Apart from acknowledging that one should not do the wrong thing by the Labor Party - I do not think the situation has changed - one of the reasons I have raised this point is to indicate that class war is no longer alive in Australia - indeed, it is dead and buried. My wife and I both came from backgrounds that were very pro Labor. Last night, Hon Bruce Donaldson stated that his parents were strong Labor supporters. However, these days people make up their own minds about their political leanings and are not beholden to the politics of their parents and great-grandparents. People now make judgments about their political affiliations on the basis of what they believe to be appropriate for the society in which they live, and not by what they have inherited. It distresses me when members try to resurrect the class war in their debates by saying that members who sit on this side of the House are silvertails who are born with silver spoons in their mouths. In most cases, that is not true. Indeed, some members on the other side of the House have had a more affluent upbringing than I have. When we talk about industrial relations we must concentrate on what is best for both employers and employees.

Let us get some sensible balance in the laws that affect industrial relations instead of arguing, as some people do, that all bosses are bastards and that all employees are solid, down-to-earth, 100 per cent workers, because that is not correct. Across the board, there are good and bad employers and conscientious and slack employees. It does not matter where a person comes from or what he does, people exhibit a range of abilities and enthusiasm for what they do and a range of attitudes about how people should behave in the workplace.

When members on this side of the House take up the case for employer organisations, it is not because we happen to belong to them but because we are arguing, in many cases, that what they say is in the best interest of employment. However, we acknowledge, as we have on a number of occasions, that many employers do not play the game fairly. I commented on that the other night. On that occasion, I mentioned an advertisement by the unions that I happened to notice before the last election, which highlighted some circumstances in which particular workplace agreements were unfair. I recognised one of them as being a workplace in which I knew the situation was grossly unfair, and I said so. That employer should have been taken to task. He would have been had we remained in Government to modify the effects of workplace agreements and to take to task those employers who had misused them. The intention of workplace agreements was never to send employees back to the coalmines of the 1700s and 1800s that we read about. However, when this House first debated workplace agreements, one would have imagined from what members of the Labor Party were saying that we were going back to the working conditions that existed in the United Kingdom in the industrial revolution. That was never the intention because members on this side of the House sympathise with employees in the same way that they sympathise with employers. In a sense, perhaps the existing law has not been tough enough on recalcitrant employers. The law that we are now being asked to pass takes the balance too far in the other direction. Perhaps there is a place in the middle that we have not yet reached. However, at times I take exception to the suggestion by some members opposite that the class war is alive and well; it is not. I know my circumstances and how I fought for my political position. I was a very active member of the State School Teachers Union of WA - as I indicated by way of interjection - and the branch president for the whole time I was a member. I was the most active writer of motions and the most anti-government member that could be found. Once I even called a strike. The problem was that we did not have a calendar and it happened to fall on a public holiday. As such, it did not have much impact on the school. It was held in my first year of teaching in Karratha. I had arrived at a school that had just been built that had no grounds, lawns or garden. It was simply a rocky paddock with a brand new school built on it -

Hon Kim Chance: Was that the Karratha Senior High School?

Hon NORMAN MOORE: It was the original senior high school.

Hon Kim Chance: I built that school; it was a great school.

Hon NORMAN MOORE: I hope the minister did not get paid for it because one of the reasons we decided to go on strike was that the school was totally inadequate. It had no airconditioning. Anybody who knows Karratha will know that in the middle of summer in those days -

Hon Kim Chance: That was not our fault. We only built it.

Hon NORMAN MOORE: Exactly right. The school had no furniture, no stock and a heap of students with the population of the school growing at the rate of one class per week. Eventually, we had children in the house across the street. We decided that because the Department of Education was unable to deliver what was required we would hold a stop-work meeting, which I organised. That was not some ideological hang-up or determination by me to tread on some employer's toes. The meeting was held to draw attention to a set of totally unsatisfactory circumstances. That point has nothing to do with the Bill at all, but I made it to indicate to members that people on both sides of this House have come from all sorts of backgrounds. I despair when I hear people like Hon Graham Giffard continue to interject on the basis that somehow we are beholden to people like Len Buckeridge, the Chamber of Commerce and Industry of Western Australia, the Chamber of Minerals and

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Energy of Western Australia or anyone like that. We are not beholden to them, and they are not even part the organisation that is the Liberal Party, unlike the situation that exists opposite in which many members in the Labor Party are former union officials. Hon Kate Doust made a speech the other night as though she was still a union official.

Debate interrupted, pursuant to standing orders.

[Continued on page 10151.]

Sitting suspended from 3.45 to 4.00 pm