

**BUILDING AND CONSTRUCTION INDUSTRY, COLE ROYAL COMMISSION'S FINDINGS**

*Matter of Public Interest*

**THE DEPUTY SPEAKER** (Mrs D.J. Guise): Today I received a letter from the member for Kingsley seeking to debate as a matter of public interest the following motion -

That this House calls on the Government to -

- acknowledge that the Cole royal commission's findings provide clear evidence that the labour relations laws in Western Australia are frequently ignored by unions, with 230 of the 392 separate instances of unlawful conduct happening in this State;
- adopt a bipartisan approach and work cooperatively with the federal Government to establish a system of monitoring, investigating and enforcement of the building and construction industry that cannot be circumvented by unions;
- upgrade the activities, powers and resources of the building and construction industry and Special Projects Inspectorate exposed by the commission as ineffectual and toothless, to ensure clear and decisive action in respect of the enforcement of the rule of law in Western Australia;
- ensure the protection of all who gave evidence to the commission from the tactics of fear, intimidation and thuggery that have increasingly characterised the building and construction industry in Western Australia since the advent of the State Labor Government; and
- request the Auditor-General to carry out an audit of the financial records of the Construction, Forestry, Mining and Energy Union of Workers submitted to the Western Australian Industrial Relations Commission as a registered organisation, given that the Government is now on notice, from the Cole Royal Commission's finding, that serious concerns have been raised about the financial dealings of this union, which includes public funding.

If sufficient members agree to this motion, I will allow it.

[At least five members rose in their places.]

The DEPUTY SPEAKER: The matter shall proceed on the usual basis.

**MRS C.L. EDWARDES** (Kingsley) [3.25 pm]: I move the motion. Thank you, Madam Deputy Speaker, for reading out the terms of this motion in the way in which you did. The findings and recommendations of the Cole royal commission were tabled in the federal Parliament last Wednesday and Thursday. The report identified 392 separate instances of unlawful conduct, 25 different types of unlawfulness and 90 different types of inappropriate behaviour. These included unlawful strikes, unlawful payments, abuse of union rights of entry, fabrication of safety issues, compulsory unionism, coercion to pay wages and meet conditions demanded by unions, disregard of contracts and agreements, disregard of court and tribunal orders, workplace riots, threats, intimidation, inadequate attention to health and safety, and interference in commercial tendering for industrial purposes. That is an appalling state of affairs. A further volume, volume 23, referred to 31 individuals who had possibly breached criminal laws. Those breaches have been referred to specified agencies for investigation, and, where appropriate, prosecution of possible breaches of criminal and other laws will occur. Twelve of those 31 individuals come from Western Australia. That again highlights the serious nature of the findings for Western Australia. Based on those findings, the royal commission made 212 recommendations for substantial regulatory reform, both structural and cultural.

It was made quite apparent that doing business in Western Australia meant doing it the Construction, Forestry, Mining and Energy Union way. There were 230 separate incidences of unlawful conduct in Western Australia, including breaches of the enterprise bargaining, freedom of association, right of entry, and strike pay provisions of the Workplace Relations Act; breaches of the Trade Practices Act; departures from proper standards of occupational health and safety; and threatening and intimidatory conduct. In the opinion of the royal commissioner, the rule of law had little or no currency within the Western Australian building and construction industry. He found that it was an industry marred by unlawful and inappropriate conduct. Fear, intimidation and coercion are prevalent and commonplace on building sites on which the CFMEU has a presence. Contractors, subcontractors and workers continuously face that culture. In the commissioner's opinion, the CFMEU is at the centre of this culture and of much of the unlawful and inappropriate conduct. The CFMEU in Western Australia effectively controls all union EBA sites in Perth, and that control is entrenched.

The commissioner also found that it was common for occupational health and safety issues to be used as an industrial tool. That was highlighted during the 1980s when the Occupational Safety and Health Act was

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developed by a previous Labor Government. However, this Labor Government put safety back into the Industrial Relations Act, which gives a clear signal to the unions that they can use workplace safety as an industrial tool, and it mars any commitment to safety. Unlawful strikes and threats are employed to secure outcomes decided by unions.

In Western Australia there were 230 findings of unlawful conduct; the rule of law has little or no currency; fear, intimidation and coercion are commonplace; the industry is marred by unlawful and inappropriate conduct; and occupational health and safety are misused as an industrial tool. Does the minister opposite really support these levels of intimidation and coercion, or does he wish to keep his head in the sand about these comments by the Cole royal commission? Does the minister support violence and thuggery?

Mr J.C. Kobelke: I do not. I am on the record as opposing it. I am taking action to stamp it out.

Mrs C.L. EDWARDES: That is good to hear, because violence and thuggery are continuing and little has happened since this Government came to power. An article in *The West Australian* of 27 March states -

... Mr Kobelke said industrial disputation has decreased since the inspectorate was formed.

An on-line article states -

... most of the incidents referred to in the report took place while the task force was operating.

The Premier repeated that during question time today. I will itemise the incidents for the minister because I know he will not have had time to sit down and read through the report himself. He has received the spin that the majority of cases occurred during the time of the previous coalition Government. Eleven case studies were done during the time of the coalition Government and 10 during this Government. The minister might say that the majority was done during the term of the coalition Government, but the case studies by the Cole royal commission during the coalition Government ran from 1996 to 2000 - a period of five years. The case studies carried out during this Government were conducted in 2001 - a period of one year. Ten case studies were done under Labor in one year, and 11 case studies were done over a period of five years under the coalition.

I will now refer to some of the incidents. McDonald is a well known figure on building sites and in the media. The royal commission found that he had been involved in 104 incidents of unlawful conduct - 57 in one year during Labor's time. There were 104 incidents over six years, but more than half - 57 - occurred in one year! I do not think the minister can say with all honesty that the majority of the incidents of unlawful conduct occurred during the previous coalition Government.

Mr J.C. Kobelke: They did. You have confirmed it.

Mrs C.L. EDWARDES: The minister should listen. I have just referred to one unionist; I can refer to all the others if the minister wishes. McDonald was involved in 104 incidents of unlawful conduct. I ask the minister: is 57 of those more than half?

Mr J.C. Kobelke: Overall, when they are all added up, the majority were in your time.

Mrs C.L. EDWARDES: The minister is wrong. He has not taken the time to read the report for himself. He has taken the line from the good spin doctors; he has dismissed it and put his head in the sand.

Mr J.C. Kobelke: The truth is hurting you.

Mrs C.L. EDWARDES: For the good of the industry I would like a bipartisan approach to be taken to this issue. The minister should not put his head in the sand; he should quit pussyfooting around with the unions and take some action. If the minister does not support violence and thuggery on building and construction sites, he should do something about it.

The Cole royal commission named 14 unionists for engaging in unlawful conduct. They included: Kevin Reynolds, Joe McDonald, Ken McCullough, Jim Reid, Graham Pallot, Walter Molina, Mark Hudston, Kevin McParland, Kevin Ennor, Les McLaughlan - he is from the Communications, Electrical and Plumbing Union and not the Construction, Forestry, Mining and Energy Union of Workers - Daron Smith, Robert Wade, Jim Murphy and Gary McIntyre. Those unionists are accredited under the Western Australian Industrial Relations Act. They are registered to have unfettered access to building sites by virtue of this Government's new labour relations laws. They have all been named by the Cole royal commission as the subject of findings of unlawful conduct. The minister should have serious concern about that. He says that the Building Industry and Special Projects Inspectorate is doing its work, but he should read what the royal commission has to say about the inspectorate.

First, I will refer to a number of the findings summarised in report No 12. In the case studies, under the heading "Description of conduct", the dates are listed, together with the official organiser who has been found -

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Mr J.C. Kobelke: And the majority of the dates are during the time of your Government.

Mrs C.L. EDWARDES: No, they are not. Members opposite may believe this is appropriate behaviour. The Cole report states that on 26 June 2001, Kevin Ennor, an organiser for the CFMEU, said to one of the subcontractors -

It is your choice to work here but we have banned it. If you do work on this site you will be murdered out there.

On 8 August 2001, Vinnie Molina said to a supervisor from another small business -

Perth is a small place you know, you're going to finish this job soon and we will target you on other jobs.

Those two incidents show the level of intimidation and bullying. Does the minister support that level of intimidation?

Mr J.C. Kobelke: No.

Mrs C.L. EDWARDES: The minister must get his inspectorate to do some work. Kevin Reynolds wears the criticism that was contained in the findings of the royal commission like a badge of honour. He fails to recognise the seriousness of the complaints that have been made, and is reported as having said when interviewed -

Our role is to try to convince these builders to sign enterprise bargaining agreements, which give wage increases to workers -

I dispute that and so does the Cole royal commission. A lot of those payments made under the EBA go straight to the union, not to the workers. He continued -

and you can't make an omelette without breaking some eggs.

I wonder how many heads look like eggs, in terms of all the intimidation, threats and coercion that goes on at those sites. He also said -

We are not cream puffs but neither are the people we are dealing with . . .

I have seen grown men who work on those building sites come to my office and cry following the threats that have been levelled against their families and their children, and they will not come forward because of the threats that have been made. This minister says the inspectorate is doing its job! The royal commission found and highlighted weaknesses in enforcing the laws. It said there was nobody to ensure compliance with the laws. It further stated that the police consider this conduct as industrial and not criminal, and there is no relief from the unlawful industry action. The report continued by saying that there is nobody to ensure that the industry operates within the law. The royal commission highlighted the fact that Western Australia had a building industry task force that was set up by the Labor Government when it came to power in 2001.

With regard to the new inspectorate, the Cole royal commission states -

In the building industry in Perth there is a strong perception that BISPI, in contrast to the previous WA BITE, is ineffective. Part of this perception arises from a view that BISPI is reactive rather than proactive . . .

The task force used to visit building sites at 5.30 am. If there is a problem on a building site today, it is very difficult to get an inspector from the Building Industry and Special Projects Inspectorate to be there before 8.30 or 8.45 am. The previous task force used to get to the building sites as soon as there was a problem. The commission further states that BISPI -

. . . has achieved little. Given the relative power of the CFMEU in Perth, these perceptions of BISPI mean it is ignored as a means of controlling unlawful action. Any regulatory or enforcement agency in this sector of the industry must be and must be seen to be proactive and sufficiently empowered and determined to eliminate the misuse of power by all participants in the industry under its jurisdiction.

In contrast, the Building and Construction Industry Task Force was very effective. On 11 October 2000, I tabled information on a number of charges that the task force and the police fraud squad had laid under the Criminal Code and the industrial relations legislation. They were all very effective. The important component in the effectiveness of the task force was that it was proactive. It got to the sites and resolved many issues before they became serious issues.

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I refer the minister to tabled paper No 325 on 11 October 2000. Four charges were laid in July 2000 against Joe McDonald, Graham Pallot, Mr McCulloch, Mr Wade and Mr McIntyre, under the Police Act. The companies involved were Doric Construction Pty Ltd, BGC (Australia) Pty Ltd at the Armadale-Kelmscott Memorial Hospital site, BGC at its Cannington site, and Henry Walker Eltin Contracting Pty Ltd at its Midland workshop site. I ask the minister what has happened to those charges?

Mr J.C. Kobelke: I do not know, and I have no reason to follow it up and interfere; it is a police matter.

Mrs C.L. EDWARDES: It might very well be appropriate for the minister to follow that up. I understand that the charges were dropped prior to the task force being abolished. Given the perception that the task force would have no support from the Government, it was thought that no support would be given to continue those prosecutions. I urge the minister to follow through with that matter. It appears that those four charges were dropped. That follows the changes the minister made to the industrial relations legislation to make industrial offences civil rather than criminal offences. The Cole royal commission made it clear that a criminal penalty rather than a civil penalty will weigh more heavily on a person's record and in his own mind before taking a certain course of action. We tried to make that point in this House, and it has been recognised by the Cole royal commission. With regard to the building industry task force and BISPI, the Cole royal commission further states -

There can be no doubt that the threat of a criminal prosecution carries far more deterrence than the threat of proceedings before the Industrial Relations Commission.

The minister changed that when he came to government. I further refer the minister to BISPI. The evidence that was given showed that BISPI had limited powers to investigate and prosecute, in stark contrast with the former task force. The task force was prepared to initiate prosecutions in the absence of parties putting up their hands. That is another important issue. The minister also removed BISPI from any dealings with the code of practice. That is another issue that goes to the effectiveness of the task force.

Mr J.C. Kobelke: Could you repeat that? I don't think that is right.

Mrs C.L. EDWARDES: The minister should check what he has done to the code of practice. He made it plain that the body set up to replace the building industry task force would have no ability to deal with the Western Australian code of practice. The minister put in place his own monitoring committee. What has it done? Has it met?

Mr J.C. Kobelke: It responds to a code of practice. There is a code of practice.

Mrs C.L. EDWARDES: I know there is a code of practice.

The Cole royal commission made further recommendations for structural and cultural reform in the industry. The cultural issues will be critical to achieving any changes. The proposed building construction commission will not be the same as the previous task force that operated in Western Australia; it will be broader and have stronger powers. It will have a wider base than the previous industrial task force had. Therefore, it is wrong for the minister to continue to say that it will not.

I turn now to the most serious of matters: the royal commission's recommendations on the financial records of the unions. I refer to the situation in Western Australia. The Cole royal commission found that accounting and banking procedures are inadequate and that inappropriate receipts and payments have been made. Contractors disguised payments to unions and they disguised the records for some payments. Unions used industrial power to raise money for their own purposes.

The Government must keep in mind that some of the money it receives for election purposes comes from the Construction, Forestry, Mining and Energy Union. One might then question whether that is inappropriate money.

The Cole royal commission also mentioned the training levy, which is a payment made by union members under the enterprise bargaining agreement. For the year ending 31 December 1999, the training levy totalled almost \$700 000. For the year ending 31 December 2001, it had increased to \$1.1 million, which is a 65 per cent increase. The worst part is that, in the main, the money was not used for training. That is the critical issue. If the money were spent on training, neither the employers nor the employees would worry about paying it. Not all moneys are receipted. Questions must be raised in respect of the levy for the fighting fund against the Cole royal commission. Do members on work sites today get a receipt for moneys they are forced to pay? The training levy is just one levy they are forced to pay.

Another concern, which is even more serious for the minister, involves the funding of the Construction Skills Training Centre Inc - the training company of which Kevin Reynolds is the chairman. The company was significantly assisted by a capital grant of approximately \$1 million provided through the Australian National

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Training Authority in 1998. An application for a grant was made in the name of the Western Australian Builders' Labourers, Painters and Plasterers Union of Workers and identified the training levies paid by the union as required by the union-endorsed EBA as income of the CSTC. It was made available to ensure the CSTC's viability. However, although the training levies have been collected and administered, the CSTC, giving the appearance the moneys were received for its benefit, had actually received the moneys for the benefit of the CFMEU. The CFMEU has in turn loaned amounts to the CSTC during a three-year period in which the CSTC collected and banked to the credit of the CFMEU in excess of \$2.5 million in training levies. The CFMEU has loaned less than \$1 million to the CSTC. This has been a deliberate course of conduct designed to protect the union's interest and ensure that if the CSTC were not viable, the grant made by ANTA would not have to be repaid for the benefit of any other training organisation.

A fraud was being set up. I request that the minister ask the Auditor General to conduct an audit in order to reinstate community confidence with regard to those public funds. The Cole royal commission has provided guidelines for action. The onus is clearly on the State Government to deliver some reforms that would eliminate the lawlessness that has existed and continues to exist in the industry, and that is becoming worse while Labor is in power. Confidence must be restored to employers and employees. The minister can do certain things to achieve that. The motion has identified what the Government can do. We ask the minister to seriously consider it, get his head out of the sand and stop pussyfooting around with the unions.

**MR M.W. TRENORDEN** (Avon - Leader of the National Party) [3.50 pm]: I support the motion. The Labor Party refuses to extract itself from union influence, and the unions' purse strings. It comes as no surprise at all to read the comments of the Minister for Consumer and Employment Protection in *The West Australian* expressing concern and refusing to give support to the Cole royal commission. Given that the Labor Party is clearly beholden to the union movement, the very thought of establishing a commission to act as a policeman for the building industry must be terrifying to the minister. The minister's natural reaction to the Cole royal commission is to lash out at it, because he does not like it. It is interesting to note that the Royal Commission Into Whether There Has Been Any Corrupt or Criminal Conduct by Western Australian Police Officers, set up by the present Government, is claimed by the Government to be the best thing since sliced bread. The Attorney General said in the House on 27 February -

The police royal commission is one of the most important institutions that this Government has created, and one of the most important institutions to which this Parliament has given extraordinary powers.

The obvious question is, what is the difference between the royal commissions? Why is one royal commission different from the other? The Cole royal commission has recommended setting up a commission to police the building industry, with similar extraordinary powers to those of the police royal commission. It is rather hypocritical to baulk at supporting one group with strong powers to investigate union dominance, while strutting around crowing that the police need to be investigated; that is, the police are bad, but building unions are good. That is the clear message to society. The minister has also said regularly in this place that the Opposition has an appalling record of opposing the police royal commission, and that it is hypocritical in doing so. Why can the same allegation not be made against the Government in relation to the Cole royal commission? The minister is taking this position for pure political expediency. Again on 27 February, in this House, showing the level of pride the Government has in its own royal commission, the Premier said, "we give awesome powers to our royal commissions". That is stunning hypocrisy. One royal commission that investigates police is good, another that investigates building unions is bad.

**MR J.C. KOBELKE** (Nollamara - Minister for Consumer and Employment Protection) [3.53 pm]: I thank the Opposition for bringing on this debate. The motion is flawed in umpteen ways, to which I will refer shortly, but the issue is a very important one, and I appreciate the opportunity to put on the record my view, and that of the Government, and respond to the points made by members opposite.

Mr C.J. Barnett: The small number of government members in the House just shows how gutless Labor members are in respect to the union movement.

Mr J.C. KOBELKE: The Leader of the Opposition did not enter into the debate. He simply enters into snide attacks on people, because he has no substance to add to the case.

Several members interjected.

The DEPUTY SPEAKER: I call the member for Nedlands to order for the first time.

Mr J.C. KOBELKE: The Leader of the Opposition has been found out on too many occasions making false accusations simply to attack people and does not lend anything to the debate. While I disagree with several things said by the member for Kingsley, she has presented a rational debate on a very important issue.

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The building and construction industry is incredibly important to this State. It operates at a very high level, it is an international standard industry, and generally projects are carried out on time and on budget. However, there are problems in the industry that need to be fixed. My concern is that the good name of the industry is being dragged down by the behaviour of a few and by the way in which, in many cases, it is sensationalised rather than factually reported. There are problems with behaviours, which need to change. Where those behaviours extend to illegal activity, that needs to be stamped out, and the Government will ensure, as it has already, that the illegal activity is tackled and that prosecutions and other actions follow where the evidence exists. I agree totally with one comment made by the member for Kingsley - that it goes beyond that, to a need to change the culture of the industry. That is not easily done, but it is a task that must be addressed. The Government is addressing it. While the member for Kingsley has a very different view of the Government's labour relations reform legislation of a year or so ago, it has been a big step towards changing that culture. We need sensible, workable propositions.

I have not rejected the 212 recommendations in the Cole royal commission report. The Commonwealth has not yet gone through the recommendations and decided which it will pursue. I heard on the radio this morning that a decision may come out of federal Cabinet today. However, when I met with Mr Tony Abbott, the federal Minister for Employment and Workplace Relations, in Adelaide on Friday, he made it clear that the Commonwealth has not yet considered the report, although it has been available for over a month. At that stage the State Government had had the report for one day. We will wait to see what the Commonwealth Government does with the 212 recommendations, and then respond in a way that seeks to improve the culture and provide mechanisms to attack unlawful activity where it occurs. This must be done in a way that is not political grandstanding, but rather addresses the issue.

I come now to the five points of the motion before the House. The first point, in part, suggests that labour relations laws in Western Australia are frequently ignored by unions. The report also says that they are frequently ignored by the builders. However, the motion is just anti-union, rather than saying there is a problem in the industry, of which the union is clearly a part. We need to take a more balanced view to make sure we tackle the whole problem.

Mrs C.L. Edwardes: It could also be a matter of short-term commercial expediency. If a builder wants to get projects finished, and profit margins in the industry are very low, what is the commercially expedient way of doing that?

Mr J.C. KOBELKE: What about health and safety, and tax avoidance. They are all mentioned in the report, but the Opposition has not mentioned them in the motion. They are matters that also need to be addressed.

Volume 12 of the "Final Report of the Royal Commission into the Building and Construction Industry" deals with 204 cases in Western Australia in which the commission found unlawful conduct. The reason the Opposition uses slightly different figures is not important, because we know that 38 other matters are dealt with in a secret report, and some of those relate to Western Australia. Volume 12 mentions 204 instances where it was indicated that things were unlawful. The member for Kingsley was willing to admit, in her contribution, that the majority of those occurred in the time of the previous Liberal Government. I do not know how they chose the case studies. I am not suggesting that there was a random selection. Therefore it cannot be said that there was a higher incidence of such conduct in the time of the previous Government than under this Government. That conclusion cannot be logically drawn, and I am not doing that, but it refutes the accusation being made by members opposite that the situation is worse under the present Government. There is simply no grounds, on the basis of those figures, for drawing that conclusion. Looking at the weight of the findings, paragraph 176 of volume 12 of the report states -

... because a Royal Commission is an administrative enquiry, not a judicial hearing, the findings have no legal effect.

The following paragraph is the schedule that contains these 204 findings. It states -

The Schedule does not include circumstances in which I consider it appropriate that the matter be referred to the appropriate prosecuting authority for consideration whether criminal charges should be laid.

In a rather convoluted way, the commissioner is saying that, of these 204 adverse findings, not one merits referral for prosecution. It shows something of the seriousness, or the strength of the evidence, that not a single one of these cases is referred to any authority for prosecution. I have already indicated that there are 38 cases in a secret report, and that prosecuting authorities will look at those. Some will quite likely lead to prosecutions. The people will have their day in court, and we will see what flows from that, which may help deal with some illegal activity.

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The 204 cases did not merit even referral to a prosecuting authority, let alone a prosecution. There is evidence that unions have ignored certain things. Some matters relate to other players. We need to acknowledge that those offences were scattered over a long time. There is no evidence that the situation has worsened since the election of the Gallop Government.

The second point of the motion suggests that we should have a bipartisan approach. I have clearly taken a bipartisan approach. Tony Abbott set up the royal commission in a highly political way. He did not seek cooperation. He sought to stick it up our noses and to create a political fight over the issue. Despite that, I offered the full cooperation of my department, and the State Government spent hundreds of thousands of dollars providing information in support of the royal commission. Further, when the interim report of the royal commission suggested the establishment of an interim task force, we supported the idea. However, that task force's track record and my meeting with it gives us no confidence in it at all. It looks like it is simply a duplication of what is already in place. We have cooperated and we continue to cooperate despite the partisan political game played by the Liberals. We have seen this as a serious problem, not just a political football.

The motion simply talks about unions. It does not talk about dealing with the industry and all the players. The real and genuine concern about the recommendations of the royal commission is that we will end up with duplication. The royal commission report recommends that as well as the Australian Industrial Relations Commission, we have a new Australian building and construction commission to cover an area that is currently covered by the Industrial Relations Commission. Such a commission would also duplicate the work of the state Building Industry and Special Projects Inspectorate. The royal commission recommends that a new federal organisation be established to look after health and safety. That would duplicate what happens in both WorkSafe and the National Occupational Health and Safety Commission.

Mrs C.L. Edwardes: That will be only on federal sites and when federal funding is involved.

Mr J.C. KOBELKE: Those sites are already covered by existing agencies. If we are to give support to those organisations, we will want guarantees that they will not simply be a duplication of bureaucratic regimes and that the actions to be taken could not be effectively taken through existing agencies.

The third part of the motion suggests that BISPI is ineffectual and toothless. The royal commission report clearly states that it is not happy with BISPI compared with the earlier task force. However, how did the royal commission officers check out this matter? They spoke to some people in Western Australia on the public record, but they did not canvass what people across the board really thought of the two bodies. A very small group was consulted. Kim Richardson from the Master Builders Association is quoted in the report as supporting the task force. The MBA has been supportive of the task force and opposed to BISPI from day one. It has not changed its attitude. The evidence on which the Cole royal commission made that judgment is highly suspect. BISPI is proactive. It is out there doing the job. It has one major prosecution -

Mrs C.L. Edwardes: Is it doing it at six o'clock in the morning?

Mr J.C. KOBELKE: The officers will be out there at six o'clock in the morning if that is what is required of them. They are certainly working outside normal hours to try to cover this area. BISPI is an important part of the inspectorate, and there is ample evidence that it is doing a great job.

The fourth part of the motion suggests that tactics of fear, intimidation and thuggery have increasingly characterised the building and construction industry in Western Australia since the advent of the State Labor Government. Again, there is no evidence to support that false assertion. The fact is that the majority of the adverse findings in the report relate to offences committed in the life of the last Government.

Mrs C.L. Edwardes: You are clearly wrong.

Mr J.C. KOBELKE: I have a more detailed analysis. I do not know whether the member has analysed the nature of those 204 breaches.

Mrs C.L. Edwardes: Who did your summary for you?

Mr J.C. KOBELKE: I am happy to hand the member a copy. The royal commission indicated that 29 of those 204 adverse findings - that is, only 14 per cent - related to the Western Australian Industrial Relations Act. Fourteen per cent of those supposed illegal actions were committed in state jurisdiction. The majority came under commonwealth law, which the Commonwealth has responsibility for policing. We assist the Commonwealth through the work of our labour relations division, but it cannot prosecute unless it has the approval of the federal authority, the Office of the Employment Advocate. Forty-eight per cent - 98 - of the found illegalities were breaches of the federal Workplace Relations Act, four and a half per cent were breaches of the Trade Practices Act, and 35 per cent were matters of tort. The suggestion that there has been a rise in illegal actions since the election of the Gallop Government is not supported by the findings of the royal

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commission. The majority of cases occurred in the time of the Liberal Government. Further, only 14 per cent of the supposed breaches relate to the law of Western Australia. There is simply no basis for the campaign to show that things have got worse. In fact, the figures show a marked improvement in industrial disputation in the building and construction industry. The Australian Bureau of Statistics figures show that for the eight years of the last Liberal Government - I am not using only the high year to distort things - there were 483 days lost for each thousand workers in the building and construction industry. The available figures cover a fair bit of the first two years of the Gallop Government, and they show a reduction to 342 days lost for each thousand workers. That is a substantial drop in industrial disputation. That does not prove the whole argument, but it is another clear indicator that things are improving rather than getting worse, as the Liberals opposite would suggest. There is no evidence that things are getting worse, but clearly there is a problem that we wish to address. We are addressing it.

The final point in the motion suggests that the Auditor General should look at the financial records of the Construction, Forestry, Mining and Energy Union of workers. The member is trying to keep the issue alive when the facts have already been considered by a \$60 million royal commission. The royal commission looked into this. It had more powers than the Auditor General. It went through all the bank accounts. The Auditor General cannot requisition bank records. The royal commission could.

Mrs C.L. Edwardes: He can under the Financial Administration and Audit Act.

Mr J.C. KOBELKE: That is only for organisations in the schedule.

Mrs C.L. Edwardes: Or another organisation recommended by the Treasurer.

Mr J.C. KOBELKE: The unions are not covered by the schedule.

Mrs C.L. Edwardes: The Financial Administration and Audit Act states "and such other accounts as the Treasurer may require to be audited by the Auditor General".

Mr J.C. KOBELKE: I think the member will find that the organisation must be caught by the schedule.

Mrs C.L. Edwardes: The Act does not say that. Get yourself a legal opinion.

Mr J.C. KOBELKE: I will get legal advice, but I think the member is again misquoting the facts. She is making selective use of the Act. The fact is that the \$60 million royal commission had access to bank accounts. It could requisition all sorts of records. It had the power to conduct phone taps.

Mrs C.L. Edwardes: It did not do those. That is a furphy.

Mr J.C. KOBELKE: That is a matter of conjecture. It had the powers. The member is suggesting that a royal commission with \$60 million of full inquisitorial powers did not get the job done right. She does not believe that the royal commission did its job properly. She is going further than I have in attacking the royal commission. She wants the Auditor General to conduct an investigation on the dubious basis that he may have jurisdiction. My preliminary advice is that he does not have jurisdiction.

The Australian National Training Authority money the member spoke about was approved in the time of the Liberal Government. We had nothing to do with approving the funding for the Construction Skills Training Centre.

Mrs C.L. Edwardes: We approved the funding based on information provided by the CFMEU that was clearly wrong. The royal commission said that the training levies were collected and administered by the Construction Skills Training Centre, giving the impression they were received for its benefit. They were received for the benefit of the union.

Mr J.C. KOBELKE: A moment ago the member stated that the \$60 million royal commission was not up to the game, that it could not do the job and that the Auditor General should be brought in to fix it up. Now she is saying that when the Opposition was in government it was hoodwinked and it made a mistake because somehow the wool had been pulled over its eyes. It ticked off on the federal funding for the skills training centre through the Australian National Training Authority. That is commonwealth money and the Commonwealth Government has the power to audit that money.

Mrs C.L. Edwardes: Did it come through the Western Australian Government?

Mr J.C. KOBELKE: The last Liberal State Government ticked off on it, and now the Opposition is saying that it was hoodwinked.

Several opposition members interjected.

The DEPUTY SPEAKER: Order, members!



Deputy Speaker; Mrs Cheryl Edwardes; Mr Max Trenorden; Mr John Kobelke; Mr Colin Barnett; Mr Bob Kucera; Mr John Hyde

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Mr J.C. KOBELKE: The Leader of the Opposition's voice, yelling and invective rises when his case dissipates. The less of a case he has, the more aggro and nasty he becomes. However, that is his normal way of performing.

The royal commission had the resources to discover matters if they existed. It would not seem to be appropriate - I will check if it could even be done - for the Auditor General to go further and show up the royal commission for not doing the job properly. The Opposition likes to sound tough for political purposes; however, as I have already indicated, many of these problems occurred during its time in government.

I will raise an issue that was not covered by the royal commission. The Opposition referred to unlawful acts and stated that something must be done about them. When the Opposition was in government, it inserted a special provision in the statutes that required a secret ballot to be held before industrial action could be taken. However, that provision was flouted and no-one took any notice of it. The law was breached all over the State. Did the previous coalition Government do anything about the unlawful activities that breached the legislation that required a secret ballot before a strike could occur? It did not do a thing. The Opposition - the custodian of law and order - has stated that there should be a no-tolerance policy in this area of industrial relations, even though it did not have that policy in a range of areas when it was in government. It simply turned a blind eye, because it knew it was a silly piece of legislation that was not workable. It decided that propping up a useless piece of law would not improve industrial relations - a piece of law that we have removed from the statutes, because we believe the laws of this State should be good, effective and able to be enforced. We will seek to introduce such laws rather than introduce nasty, union-bashing legislation that can be used from time to time if desired. When the Opposition was in government, it acted in an unlawful way in many areas. It did not uphold the law, so it is in no position to suggest that somehow this Government is not fully upholding the law. Our practices are different from those of the Opposition when it was in government.

**MR C.J. BARNETT** (Cottesloe - Leader of the Opposition) [4.13 pm]: This State's building and construction industry has had a long and sorry record. The greatest of the problems occurred during the 1970s and 1980s, particularly in the resources industry, although they were probably concentrated in central business district building. The problems included intimidation, threats, coercion, fraud and money changing hands. The statistic that stands out from the Cole royal commission is that of the 392 cases of unlawful conduct that occurred across Australia, 230 cases - over half - took place in Western Australia. In the past few days we have seen photographs of Kevin Reynolds and Joe McDonald, wearing his braces, blazoned across the front pages of *The Australian* and *The West Australian* advertising to the whole country that the Western Australian building industry is crooked. After it was elected, the Government allowed the introduction of no ticket, no start on building sites and announced the end of workplace agreements, which, it said, would bring productivity and efficiency gains to the industry. In fact, after the Government was elected there was intimidation as well as threats and industrial action, and yet the minister claims that the situation in the industry has not become worse. Problems existed when the Opposition was in government and that is why the task force was set up. It had not finished its job, but it was proactive and had started to make a difference. The Government got rid of the task force and industrial unrest immediately broke out.

Mr J.C. Kobelke: You do not have the figures to back that.

Mr C.J. BARNETT: I will repeat what the member for Kingsley stated and refer to the cases of unlawful conduct involving one union official, Joe McDonald. Out of the 104 cases cited in the royal commission report, 47 occurred during the six years of the coalition Government. Fifty-seven cases, that is the majority, occurred in just one year of the Labor Government. During the coalition Government's six years in office there were 47 instances of unlawful conduct, but in the first year that Labor came to office there were 57 cases involving one individual. How can the minister tell us that industrial problems have not become worse? Anyone who reads the newspapers, watches the television news, walks past a building site in Perth and sees a sign that reads "No ticket, no start" and who hears stories of threats, intimidation and money changing hands knows that it is back to the bad old days. Everyone recognises that the problem was not solved, but it was being tackled. This Government is doing nothing. The Minister for Consumer and Employment Protection has admitted - with the compliance of the Minister for Health, a former senior police officer - that the Government will not act on the attempted fraud that has been exposed, because it happened when the Opposition was in government. The two ministers sat there and almost cheered for the unions to get away with it.

*Point of Order*

Mr R.C. KUCERA: I do not know how I became involved in this debate. I have made no such admission of any kind. I am not quite sure where the Leader of the Opposition is trying to lead this debate by dragging in those who have played no part in it. I did not hear any admissions of fraud by anyone, except the Leader of the Opposition. The member previously responsible for this portfolio and the Leader of the Opposition have shown remarkable incompetence when it comes to dealing with this issue.

Deputy Speaker; Mrs Cheryl Edwardes; Mr Max Trenorden; Mr John Kobelke; Mr Colin Barnett; Mr Bob Kucera; Mr John Hyde

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The DEPUTY SPEAKER: Minister for Health, you must clarify your point of order.

Mr R.C. KUCERA: My reputation has been impugned. At no time did anyone say anything about fraud; it was simply used as a device to cover the Opposition's incompetence.

The DEPUTY SPEAKER: The rules about impugnation are quite clear; that is, there must be a direct charge. I did not hear such a charge, so there is no point of order.

*Debate Resumed*

Mr C.J. BARNETT: Members opposite are a bunch of cream puffs.

The minister condoned an attempt to commit a fraud involving public money and stated that it happened in our time. The attempt to commit a fraud happened during our time in government; however, the evidence has now become clear, and it is this Government's responsibility to act to regain that public money. The Government cannot dismiss the matter because it happened during the time of the previous coalition Government. The minister has a responsibility to pursue the issue. However, it is clear from both his comments and the Minister for Health's interjections that he will not act because the issue involves the Labor Party's union mates; that is, Kevin Reynolds, Joe McDonald and their merry bunch of men.

The effects of this are higher construction costs and productivity below world-best practices. There will also be heavy penalties in the corporate sector, because the message that will be sent is, "Do not invest in Western Australia." Until the Government acts, people, superannuation funds and portfolio investors will shy away from investment in commercial property in this State.

**MR J.N. HYDE** (Perth) [4.18 pm]: What we are not hearing about from the Opposition is the Royal Commission into the Building and Construction Industry's 40 recommendations that deal with bankruptcy, security of payments and superannuation. The Opposition was silent on the issues raised during the Cole royal commission that related to the way subcontractors have been abused because the federal Government and previous State Governments have done absolutely nothing about the security of payments.

Mr R.F. Johnson: I thought you were doing that.

Mr J.N. HYDE: We are; our legislation is being introduced. The Cole royal commission report refers to the efforts of the Western Australian, Queensland and New South Wales Labor Governments in the area of security of payments. The lack of legislation and action by the previous State Government and, more importantly, by the federal Government, is clear in the report. More importantly, it highlights the way in which workers, subcontractors and others have been rorted in their superannuation through practices in the building industry. It is there for everyone to see. The test of the federal Government will be how it reacts to the recommendations on preserving the rights of subcontractors and their superannuation - retirement money - and that of working Western Australians and self-employed people. It is very interesting to watch the interviews and hear the comments about the royal commission's statements on bankruptcy and the neglect of the previous State Government and the federal Government in not dealing with bankruptcy. The human ramifications of bankruptcy in the building industry are an absolute disgrace. It affects families and marriages; lives have been destroyed in the State through quickie bankruptcies that the previous State Government and the federal coalition Government allowed to happen. With their mates the motto is, "Bankrupt quickly - let the ramifications fall on workers, self-employed people and people in regional Western Australia." The Cole royal commission has the case studies. Regional Australia is being hurt through this activity. The federal Government must act because this is a federal responsibility. It must deal with the issue and stop quickie and phantom bankruptcies. This State Government should hold to account the federal Government to ensure that the proper responsibilities of the Commonwealth Government are upheld with regard to superannuation and security of payments affected by bankruptcy.

Mrs C.L. Edwardes interjected.

The DEPUTY SPEAKER: Order! I call the member for Kingsley to order for the first time.

Mr J.N. HYDE: The proper responsibilities of the Commonwealth Government must be adhered to. I will follow carefully the 40 recommendations of the Cole royal commission.

Question put and a division taken with the following result -

**Extract from *Hansard***  
[ASSEMBLY - Tuesday, 1 April 2003]  
p5838b-5847a

Deputy Speaker; Mrs Cheryl Edwardes; Mr Max Trenorden; Mr John Kobelke; Mr Colin Barnett; Mr Bob Kucera; Mr John Hyde

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Ayes (21)

Mr R.A. Ainsworth	Mr J.H.D. Day	Mr A.D. Marshall	Ms S.E. Walker
Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Dr J.M. Woollard
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	Mr J.L. Bradshaw ( <i>Teller</i> )
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr P.G. Pendal	
Mr M.F. Board	Mr M.G. House	Mr R.N. Sweetman	
Dr E. Constable	Mr R.F. Johnson	Mr T.K. Waldron	

Noes (29)

Mr P.W. Andrews	Mr S.R. Hill	Ms S.M. McHale	Mrs M.H. Roberts
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mr D.A. Templeman
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr P.B. Watson
Mr A.J. Carpenter	Mr R.C. Kucera	Mr M.P. Murray	Mr M.P. Whitely
Mr A.J. Dean	Mr F.M. Logan	Mr A.P. O’Gorman	Ms M.M. Quirk ( <i>Teller</i> )
Mr J.B. D’Orazio	Ms A.J. MacTiernan	Mr J.R. Quigley	
Dr J.M. Edwards	Mr J.A. McGinty	Ms J.A. Radisich	
Dr G.I. Gallop	Mr M. McGowan	Mr E.S. Ripper	

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Pair

Mr W.J. McNee

Mrs C.A. Martin

Question thus negatived.