## LABOUR RELATIONS REFORM BILL 2002

*Committee*

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

**Clause 4: Part VID inserted -**

Progress was reported after the clause had been partly considered.

Hon MURRAY CRIDDLE: I move -

Page 9, lines 1 and 2 - To delete the lines.

Proposed section 97UG(1)(b) on page 9 states that if the employee is a represented person, the employer must give the documents and information to that employee's representative before an EEA is signed. This amendment seeks to delete those words so that the employer has to give the documents and information only to the employee. It is up to the employee to determine to whom he or she wishes to pass that information. This amendment will prevent any breaches of privacy if documents are given to parties who should not be able to access that confidential information. From my reading of the Bill, this does not contradict proposed section 97WY. People with a disability will still be able to have a representative available to them. The employee should receive the documents and information rather than a representative.

Hon RAY HALLIGAN: We support the amendment, for the reasons that Hon Murray Criddle mentioned. A representative of an employee who wishes to sign an EEA will have to look through the EEA prior to witnessing it to understand what the employee is committing himself or herself to. For the sake of the employee and the privacy associated with these types of agreements, it should be up to the employee to decide whether to give a copy of the agreement to his or her representative or anyone else.

Hon N.D. GRIFFITHS: I suspect that Hon Murray Criddle and Hon Ray Halligan have failed to comprehend that proposed section 97UG(1)(b) relates to an employee who is a represented person. If this amendment were carried, we could forget about division 9, which deals with EEAs for persons with mental disabilities. The aim of this proposed section is to facilitate a person who has been appointed under division 9 representing a person with a mental disability. If we were to amend this proposed section in the manner suggested, the representative would not be able to carry out his or her job. It has nothing to with union officials and the like; it has to do with a representative approved in accordance with division 9.

Hon DEE MARGETTS: My understanding is that this proposed section does not require the employee to hand the documents and information to the representative. The requirement is that either the employee or the employee's representative must see the documents and information. It does not require the employee to hand the documents to anyone, and it does not even require an employee who is a represented person to have his or her representative look at the documents. The word "or" in proposed subsection (1)(a) indicates that one of those persons must have seen the documents and information before the requirements of the legislation can be met.

Hon MURRAY CRIDDLE: We are dealing with the employee. Why must the employee go through a second person to get the information? The first person who should get the information is the employee. That is why I have moved the amendment. What is the connection between this proposed section and proposed section 97WY, and why does the minister say it nullifies that proposed section?

Hon N.D. GRIFFITHS: The represented person is the person with a mental disability. The representative is the representative appointed under division 9 of this Bill. Proposed section 97UG states that an employer must not enter into an EEA with an employee unless he or she has given a copy of certain documents to the employee or, if the employee is a represented person, to his or her representative. How can the member have a complaint about that? We are talking about a person with a mental disability who wishes to be employed in accordance with division 9. The representative who is carrying out the contractual obligations on behalf of the employee with a mental disability should be given all the information and documents that a non-mentally disabled employee would have to be given before an EEA is signed. I cannot see what conceivable evil the member is trying to prevent.

**Amendment put and negatived.**

Hon MURRAY CRIDDLE: I move -

Page 9, line 23 - To delete "5" and insert "2".

Proposed section 97UG(4)(a) gives the employer five days in which to provide the documents and information. This amendment will expedite that by providing that the relevant time be two days. Under proposed section 97VF(2) on page 24, there is a cooling-off period of 14 days.

Hon N.D. GRIFFITHS: The amendment, as the member correctly points out, would reduce from five to two days the time a new employee would have to consider a proposed employer-employee agreement. It is the Government's view that five days is a reasonable period to allow new employees to consider their employment options. It might take some time for employees to seek independent advice. The Government believes that five days is a reasonable time frame to ensure necessary, genuine and informed choice. I am advised that the period of five days is consistent with the time frames that new employees in the federal and Queensland jurisdictions have to consider Australian workplace agreements and Queensland workplace agreements respectively.

Hon DEE MARGETTS: In the interests of consistency, the Greens (WA) believe that a reasonable period of notice is preferable so that new employees can consider the documents regarding employer-employee agreements. Therefore, we believe that the period of five days should not be shortened to two days.

Hon RAY HALLIGAN: I have heard what the minister has said about Australian workplace agreements in other States, and that might well be the case. It has been determined that five days is a reasonable period and the minister believes that.

Hon N.D. Griffiths: It is a matter of judgment.

Hon RAY HALLIGAN: Okay.

Proposed section 97UG(4)(b) states -

> in the case of an existing employee, not less than 14 days before the EEA is so signed.

Can the minister advise us how that number of days was determined? Are they working days? Does it mean five days from Monday to Friday or five calendar days?

Hon N.D. GRIFFITHS: In order to expedite new employment opportunities, five days was considered a reasonable period for new employees, but 14 days was considered a more appropriate period for existing employees. Again, that also is a matter of judgment. It could have been 15 days and six days or four days and 14 days; it is a matter of judgment. The number of days is to be five clear days.

Amendment put and a division taken with the following result -

Ayes (16)

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

Noes (17)

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

**Amendment thus negatived.**

Hon RAY HALLIGAN: I refer the minister to proposed section 97UE. There are many forms of employment contracts, including awards, EEAs and industrial agreements, that are enterprise bargaining agreements. What part does the employment contract play? I find it confusing. Proposed section 97UE states -

> (1) An EEA, while it has effect, operates to prevent from extending to the employee any award that would otherwise do so, including an award that comes into operation after the EEA takes effect.

I accept that the EEA takes precedence over the award. The proposed section continues -

> (2) An EEA, while it has effect, does not displace any contract of employment . . .

That means something other than the award. It is a third type of contract, so to speak, between an employer and an employee. I continue -

> . . . but the EEA has effect -
>
> (a) as if it formed part of that contract; and

Obviously that refers to a situation in which someone is currently under a contract of employment. Is that synonymous with "award"?

Hon N.D. Griffiths: No.

Hon RAY HALLIGAN: Okay. I continue -

> (b) regardless of the provisions of that contract.

The EEA must be registered. The no-disadvantage test means that it must be compared with the contract of employment. Certain decisions are made and the EEA takes precedence. The proposed section continues -

> (3) The provisions of an EEA have effect subject to section 5 of the MCE Act.

Will the minister please explain how all that comes together?

Hon N.D. GRIFFITHS: These provisions are similar to those in the Workplace Agreements Act. An employee and an employer have a contract of employment. That contract of employment exists irrespective of whether the employee operates under an award, industrial agreement or EEA. An EEA can become part of the contract of employment. It lies on top of that contract of employment. If it were otherwise, an employee entering into an EEA might lose contractual benefits. A contract of employment may deal with matters other than the matters dealt with in the EEA. The EEA overrides the contract of employment in cases of inconsistency.

The Minimum Conditions of Employment Act sets out certain minimum standards that must be complied with. Notwithstanding what may occur with issues such as no-disadvantage tests, which are relevant to EEAs, and the freedom of choice between an employer and employee, the community through this Parliament has said that there are minimum conditions that cannot be overridden.

Hon RAY HALLIGAN: I asked about contracts of employment only because there does not appear to be anything in the definitions part of the Bill.

Hon N.D. Griffiths: It is a common position.

Hon RAY HALLIGAN: I assume that was intended to refer to only existing contracts of employment. If this Bill is passed, other terms will be used.

Hon N.D. GRIFFITHS: Contracts of employment will continue. Many people in our community have contracts of employment but are not, and never have been, covered by awards, enterprise bargaining agreements - industrial agreements as they are properly called in our legislation - or workplace agreements. Contracts of employment exist in many areas of activity.

Hon Peter Foss: Contracts of employment can exist even when there is an award.

Hon N.D. GRIFFITHS: That is right. Contracts of employment may exist in conjunction with awards or industrial agreements. They will exist in conjunction with EEAs. A person is employed under a contract of employment. He may also be employed under another arrangement such as an award, industrial agreement, workplace agreement, Australian workplace agreement or, in due course, EEA.

Hon Derrick Tomlinson: Enterprise agreements.

Hon N.D. GRIFFITHS: What are commonly referred to as enterprise bargaining agreements are properly called industrial agreements.

Hon RAY HALLIGAN: I was trying to be flippant about these things. I understand about contracts of employment. The minister mentioned industrial agreements and EBAs and said that one takes the place of another. I thought that a different term from contracts of employment might be used in the future.

Hon N.D. Griffiths: It is along the same lines as section 6(4) of the Workplace Agreements Act.

Hon DEE MARGETTS: I indicate that amendment 115/4 standing in my name is also a consequential amendment relating to the offering of contracts to people under the age of 18 years and, therefore, is no longer required to be moved.

Hon MURRAY CRIDDLE: I move -

> Page 11, line 18 - To delete "or may arise".

This part of the Bill allows for an employee to appoint a bargaining agent, and specifies the role of the bargaining agent. The agent can act on any question, dispute or difficulty that exists or may arise. This amendment seeks to remove the provision for the agent to deal with things that "may arise". Employees should have access to a bargaining agent for events that have occurred, but not for hypothetical events that may arise.

Hon N.D. GRIFFITHS: The Government opposes the amendment. It would prevent a bargaining agent from representing an employee in a dispute that may arise out of the employment. It would restrict the bargaining agent's activities. It would make life more difficult and encourage the escalation of rather than expeditious dealing with matters.

Hon DEE MARGETTS: My understanding of the way the legislation is structured is that people should appoint their bargaining agents when they sign the contract, and that is why the words "or may arise" are included. It is not just about what happens at the time the contract is struck but about what might happen after that. The Greens (WA) have some further comments to make about the appointment of agents. I agree with the Government, and the Greens will not support this amendment.

Hon MURRAY CRIDDLE: I am at a loss to understand how people can negotiate about something that may arise in the future. Are we legislating for anything that might happen? What may arise? What is it that the Government thinks might happen that has prompted it to include the words in this proposed section?

Hon N.D. GRIFFITHS: An agreement about proposed redundancies is an example of what may arise. Frankly, it could be anything. Some people entering into employment arrangements want a bargaining agent. It is unfortunate that not every employment situation is plain sailing at all times. An experienced agent can prevent what may be a small incident escalating into something major. A person is not compelled to engage a bargaining agent to be on stand-by as it were to deal with something in the future. It is a matter of choice. I do not see anything sinister in this. It is a provision that facilitates good workplace practices. Hon Dee Margetts is correct when she says that the intent is to facilitate the appointment of a bargaining agent at the onset. However, that does not have to be the case. People can appoint a bargaining agent as they go.

Hon MURRAY CRIDDLE: With my amendment, proposed paragraph (d) would read -

> for the purpose of acting for him or her in connection with any question, dispute or difficulty that has arisen in the course of employment.

What is wrong with that?

Hon N.D. GRIFFITHS: I do not want to put words and ideas into Hon Murray Criddle's mouth. However, if his amendment were passed, it would seriously impede a bargaining agent such as a trade union from carrying out its activities.

Hon DERRICK TOMLINSON: I think the problem Hon Murray Criddle has is the confusion with the current and future event in the words "that has arisen or may arise". The bargaining agent may be appointed for the purposes of a current dispute or difficulty arising out of the course of employment or he may be appointed in anticipation of a future event - a dispute that may arise out of the course of employment. I wonder whether it might have been simpler had the clause been in terms of "dispute or difficulty that arises out of the course of the employment". The alternatives (a), (b) and (c) with the conjunction "or" suggesting that they are alternatives, not sequential, provide that it is the negotiation and making of. A temporal order is involved.

A temporal order is contained in proposed paragraph (c), which states -

> for the negotiation and making of a cancellation agreement; or

One is sequential upon the other or perhaps even consequential upon the other. Proposed paragraph (d) continues that temporal order that has arisen or may arise. I think that is the minister's intention. The minister explained that a person may appoint a bargaining agent, whether it be a union employee or a handsome young man like me! It is to deal with matters in the present or matters anticipated in some uncertain future. The wording is not a matter of affecting the course of the employment; it is a matter of making clear the temporal order that is intended. Will the minister consider removing the confusion by deleting the words "a dispute or difficulty that arises out of"?

Hon MURRAY CRIDDLE: I saw the minister shrug his shoulders. The explanation that has been given clarifies what we are trying to do in this case. That would overcome the difficulty that the amendment has highlighted.

Hon N.D. GRIFFITHS: The words contained in this clause at the moment clearly cover what the Government is seeking to do. We are content with those words. I note that Hon Derrick Tomlinson is seeking to use the English language in a particular way. I am often very pleased with his contributions in that regard. However, the Government is content with the words in the clause. It does what the Government is seeking to do. I note that the amendment moved by Hon Murray Criddle is to the contrary.

**Amendment put and negatived.**

Hon RAY HALLIGAN: Proposed section 97UI(1) refers to a form of information statement that is to be given to employees. Is the minister able to advise us when that form of statement will be available?

Hon N.D. GRIFFITHS: I am not definite on this, but I am advised that it will be available within a month or so - emphasis on a month - after the royal assent is forthcoming.

Hon MURRAY CRIDDLE: I move -

Page 12, lines 28 and 29 - To delete the lines.

This part of the Bill specifies the form of the employer-employee agreement. Currently, it states that a new EEA must be offered and registered for every change of full-time, part-time or casual employment. This amendment seeks to delete the provision that states that the type of employment - full time, part time or casual - must be specified in the agreement. This information should be provided in a covering letter to the future employee. Therefore, a standard EEA could be offered.

Hon DEE MARGETTS: The Greens (WA) think it rather odd that a person could be asked to sign an agreement that does not specify whether the employment is full time, part time or casual. At the very least, when a job is advertised, that kind of information is available. It seems bizarre that that basic information about the status of a job would not be included in the agreement.

Hon RAY HALLIGAN: Members will note that there is a further amendment to line 29 on the supplementary notice paper should this amendment not be passed. However, the Liberal Party supports the amendment moved by Hon Murray Criddle. Should it not be successful, I will move my amendment.

Hon N.D. GRIFFITHS: The Government opposes the amendment. I note Hon Dee Margetts' contribution, and the Government agrees with it.

Amendment put and a division taken with the following result -

Ayes (16)

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

Noes (17)

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

**Amendment thus negatived**.

Hon RAY HALLIGAN: I move -

Page 12, line 29 - To insert after "casual" the words "fixed-term employment".

There appears to be an assumption from the wording of the Bill that people are only employed full time, part time or in a casual sense. Another group of employees - more so nowadays - have fixed-term employment. It quite often happens for specific, designated periods; it could be a two or three-year contract. I do not know

whether the term "full-time" is supposed to cover those people, but my understanding of full-time employment is that it is somewhat indefinite and that full-time employees work all the time with one employer. It may come down to what people decide on the day. The intention in the Bill needs to be a little clearer so that people in these situations find themselves covered. The point is that, under an EEA, if an employer and an employee came to an agreement about a fixed-term arrangement, unless there is something in this Bill that I have yet to find, it may be the contention of some that they are not necessarily covered under this provision because it mentions only full-time, part-time or casual employment. Hopefully the minister will be able to explain to me where I might be wrong.

Hon N.D. GRIFFITHS: The Government has a concern with the amendment proposed by Hon Ray Halligan, which would require parties to specify in the EEA whether the employment is for a fixed term. Firstly, this is unnecessary and can be dealt with under the contract of employment. Secondly, and importantly, the Government does not want to flag to employers the ability to make fixed-term EEAs, which are also fixed-term contracts, because some permanent employees could inadvertently sign EEAs that would have the effect of changing their employment to a fixed term. The end result would be that the expiry of the EEA would be the end of their employment.

Hon FRANK HOUGH: Ironically, I agree with the Government on this amendment. Fixed-term employment is a dangerous situation. If a worker is signed up on a fixed-term employment contract for two years, and the contract is finished in 14 months, the employer is lumbered with another 10 months employing that worker. Fixed-term employment is very dangerous, and is covered under "full-time, part-time or casual". To add fixed-term employment, particularly with overseas and fly in, fly out contracts, would be detrimental to employers.

**Amendment put and negatived.**

Hon DEE MARGETTS: I move -

Page 12, after line 29 - To insert -

(ca) specify the differences between the EEA provisions and those that would otherwise apply under a relevant award.

In moving this amendment I foreshadow that the Chair need not call me for the following amendment, which is consequential upon this one. As members would by now be aware, the Greens (WA) are opposed to individual contracts, including EEAs, but we recognise where the numbers lie, and that both major parties support them in some form. We wish to ensure, however, that where such agreements are made, the registration process is as rigorous as possible. We believe that some of the measures we propose are better than those already provided for in the Bill. As the employer-employee agreement will take employees completely out of the collective award and agreement system, employees need to be made fully aware of the implications of accepting the agreement, as opposed to the relevant award. That is the reason we believe the EEA should specify the differences between that and the relevant award.

Hon FRANK HOUGH: Proposed section 97UL provides that an employer-employee agreement must specify whether the employment is full time, part time or casual. This amendment would require the EEA to specify the differences between the EEA provisions and those that would otherwise apply under the relevant award. The amendment would mean that an employer would have to seek the advice of a barrister every time he wanted to employ someone. We do not need to baffle employees and employers with science. The amendment is not needed. We have enough information to cover, and to add to that would be diabolical.

Hon N.D. GRIFFITHS: I note the words "specify the differences" and the observations of Hon Frank Hough about barristers interpreting the differences. The Bill already contains sufficient safeguards for what is to be provided. Proposed section 97UG specifies that the documents to be provided to an employee include the award. Employees can appoint a bargaining agent to advise them. I do not think it is appropriate that the onus should be on the employer to specify the differences. This would be very onerous for employers. They might get it wrong. It would put at risk the independent meeting of minds between the employer and the employee on an EEA by enticing an employer to put his interpretation on what he thinks the differences are. It is unnecessary, as it would make the implementation of EEAs more difficult.

**Amendment put and negatived.**

Hon MURRAY CRIDDLE: I propose to delete the entire proposed subsection that provides for employees under 18 years to have a parent, guardian or independent adult sign on their behalf. I indicated my reasons for this amendment the other day when I spoke about young people making decisions for themselves. If they are old enough to do all the things I mentioned, such as drive and meet the challenges in the community at present, they are old enough to sign on their own behalf. They can get advice if they need it. I move -

Page 13, line 14 to page 14, line 3 - To delete the lines.

Hon DEE MARGETTS: Astute people would note that an amendment standing in my name also seeks to delete those lines. However, this is the main area that gives some protection for people under the age of 18. As we did not get our wish to guard against EEAs being offered to people under 18 years, I will not move my amendment, nor will I support this amendment. It would defeat the purpose of the Greens (WA), which is to provide a better and fairer system for all people, including those who are in the hardest bargaining positions. That includes groupings of young people, who experience one of the highest levels of unemployment. I will not move the amendment in my name, nor will I support this or the subsequent amendment of the Opposition, which is incorporated within those lines.

Hon KATE DOUST: I oppose the amendment moved by Hon Murray Criddle on the basis that this part of the Bill provides protection for people under the age of 18. Although people under the age of 18 are able to do a range of things, such as drive cars -

Hon Murray Criddle: They are important.

Hon KATE DOUST: Indeed; they are important, but they require different skills and are in an entirely different field from employment contracts. Employment contracts are often detailed. A person usually needs some sort of technical background to be able to understand the terms of employment contracts. It can be confusing for people under the age of 18, who may not have been in the workplace at all - they may have just left school - to perhaps be presented with a one-page contract that sets out the conditions under which they will work. Indeed, it is unfair to place that burden on young people and expect them to understand the implications of those agreements. This part of the Bill specifically ensures that if a person under the age of 18 is offered an employer-employee agreement, he can seek advice from somebody about whom he is confident, is over the age of 18 and can represent him.

Hon Simon O'Brien: I agree with Hon Tom Stephens' comment that backbenchers should be seen and not heard.

Hon KATE DOUST: I am sorry to disappoint Hon Simon O'Brien. Under the current legislation, young workers face difficulties with secrecy. They are not afforded the protection that is provided in this Bill. This clause will afford protection to those people and enable them to access the rights that should be available to them. It will enable them to seek advice from people who have more experience in the world of work and perhaps a better understanding of the detail of the agreements that young workers will be asked to sign. I believe that the Government has taken all the appropriate steps to address this issue and has provided the protections that are needed for young workers under the age of 18.

Hon FRANK HOUGH: Half an hour or so ago, I was not sure whether to go one way or another. I thought I did my sums fairly well with Hon Kate Doust. I was about to support the proposed section that Hon Murray Criddle wants to delete, but I have since done some more homework and have got examples of some of the scenarios that could occur if this proposed section were included in the legislation. It is no use saying that these young people - a 16-year-old, a street kid or whatever - particularly in country areas, could grab an 18-year-old to sign the agreement for them or help them with the document. Some situations will not allow that. I will reflect back on some legislation that has recently been passed. We gave the okay for 16-year-old kids to work in bathhouses. If those young people are old enough to work out a contract for a bathhouse, they are old enough to make decisions. A 16-year-old boy is not as mature as a 16-year-old woman. There will be circumstances in which it is no good saying that a young person can grab someone over the age of 18 years to help him with his contract. That person may not be on his side. I support Hon Murray Criddle's amendment.

Hon DERRICK TOMLINSON: The thrust of proposed section 97UM is that a child must be represented by a responsible adult. Alternatively, a decision entered into by a child must be confirmed by a responsible adult. I disagree with my colleague, Hon Simon O'Brien, who said that government backbenchers should be seen and not heard. I encourage the Government to let its backbenchers participate. So far, they have made more sense than the government frontbenchers in this debate. I particularly encourage Hon Kate Doust to speak more frequently. The interjections of Hon Sue Ellery are usually brief, but they are incisive and intelligent. There is foreman material on the backbench and they should be allowed to inform the debate. That is an aside.

Proposed section 97UM intends that a responsible adult should confirm the decisions of a child. Is that an unnecessary repetition of the provisions of proposed section 97UJ? A child, one assumes, may appoint a bargaining agent. I assume a bargaining agent would be a responsible adult capable of entering into a contract - I think that is the common law term used by the minister. If a child appoints a bargaining agent, does a parent have to sign and confirm the appointment of the bargaining agent? Does a parent have to sign any agreement contained in proposed section 97UJ(2) or (3)? If a child wishes to join a union, does a parent have to sign a form

consenting that the child may join a union? I see heads shaking. That is why it is very important that the backbenchers contribute to the debate. How many children employed in fast food outlets have an application for union membership thrust in front of them? They go home and say, "Dad, guess what? I am a member of a union." Dad will say, "You are a what?"

Hon Peter Foss: I have experienced that.

Hon DERRICK TOMLINSON: I experienced that with my own offspring. My son told me that he was a member of a union although he did not want to sign up. They told him to sign up. As an objecting parent, I had no say in that. Perhaps we should make sure that when a child wants to join a union the application must be confirmed by a parent. Proposed section 97UM implies that a child is not capable of entering into a contract, because a child is a child. It must be a responsible adult over the age of 18 years. The responsible adult may or may not be related to the child. It does not have to be a parent of the child.

This is rather like my experience of joining the teachers union when I was at teachers college. A lecturer, a person in authority, put an application in front of me and told me to sign it. I did, and I became a member of the teachers union.

Hon N.D. Griffiths: It regrets it!

Hon DERRICK TOMLINSON: It does not regret it. I made a significant contribution to the union - I resigned from it!

Several members interjected.

The CHAIRMAN: Order, members! Let us apply ourselves to this amendment as members are keen to progress the Bill.

Hon DERRICK TOMLINSON: Thank you, Mr Chairman. If proposed new section 97UM requires a responsible adult to confirm a contract for membership of a union entered into by a child, does the same provision apply to a contract entered into on behalf of a child by a bargaining agent? If not, why not? Why does proposed section 97UM require the parent's confirmation of the child's contract when the child may have contracted through a bargaining agent? Some parents may be confronted with a child saying, "Dad, I am now a member of a union, the thing was put in front of me." However, the reverse may apply. The child may say, "Dad, I've got this enterprise agreement with the boss who says I have to sign it" and the father says, "Well, sign the bloody thing, son, and get your pay cheque." It does not follow that parents are responsible. Proposed section 97UJ covers that situation, so why is it included in proposed section 97UM?

Hon JOHN FISCHER: I will not support the amendment moved by Hon Murray Criddle. I take on board the points made by Hon Derrick Tomlinson. I note that proposed section 97UJ states that an employer or employee may, by an instrument in writing, appoint a person to be his or her bargaining agent. I agree with my colleagues - I have already spoken about this matter on a previous Bill - that allowing 16-year-olds in bathhouses is ridiculous. I do not believe that two stupid laws advance anyone's interests. People under the age of 18 need to be looked after. Although I take on board the points made by other members, I am certain that if my children took on a job at the age of 17, I would feel utterly responsible for any document they were about to sign. As I said, I will not support this amendment.

Hon PETER FOSS: A number of issues need to be considered in this proposed section. It very much selects one aspect of the employment of a child in reference to one type of agreement. Without any participation by, consultation with or knowledge of a child, conditions of employment can be radically altered in an award entered into by arrangement between a union and an employer or possibly a group of employers; it does not have to be a particular employer for whom a child works. That sort of thing happens. Those children are not given the choice of saying that they do not want those conditions to apply to them; they are fixed by the terms of that award. They cannot take that award home to their parents and it would be impossible for the award conditions to be changed if their parents did not agree with them.

If the minister believes that the theory is a good one, why did he choose only one incident of employment on which the terms of employment can be changed? For instance, as Hon Derrick Tomlinson said, entering into an individual contract with a union with the financial responsibilities that go with that contract should be done with at least the opportunity for consultation with a parent. Despite all we have done recently to expose 16-year-olds to the world, a 16-year-old is still a child in law and in fact. This was drawn to my attention recently when my son came home and said he had become a member of a union. I asked him what were the circumstances under which he became a member of a union.

Hon N.D. Griffiths: And you then proceeded to cross-examine him!

Hon PETER FOSS: No. I was actually very understanding. I wanted to find out how it had happened. He had gone to an induction day at his workplace, and during the day the union representatives had marched in and proceeded to give those workers a lecture on what the union was all about.

Hon Sue Ellery: Do you know that they marched in?

Hon PETER FOSS: Yes. They then handed out forms and said, "Sign this".

Hon Derrick Tomlinson: That sounds the same as my son's employer.

Hon PETER FOSS: It probably is.

Hon Derrick Tomlinson: It is probably the same union.

Hon PETER FOSS: Yes, the Shop Distributive and Allied Employees Association.

Hon Derrick Tomlinson: And Hon Kate Doust was probably the one who marched in!

Hon Kate Doust interjected.

Hon PETER FOSS: If it is not called the SDA, tell me, because that is what is written all over the front of its pamphlets.

Hon Kim Chance: That is the correct name. What we are trying to find out is whether the SDA officials marched.

Hon PETER FOSS: I think it may have been stomach first, but they definitely marched in.

Hon Kate Doust: You are stereotyping union officials.

Hon PETER FOSS: There is a picture on the pamphlet. It is not a stereotype. The person with the smiling face on the front page of the pamphlet distinctly features a stomach! I did not pick the photo. We all know whose photo it is. It is Hon Kim Chance's stomach that is on the front page!

Hon Kim Chance: Not mine, surely!

Hon PETER FOSS: It is very similar!

Hon Kim Chance: I am not in the SDA. I am in the metal workers union.

Hon PETER FOSS: I have not done anything more than ask my son what I think are the appropriate questions about why he signed up and whether he wished to remain a member of that union. I have not tried to influence his views one way or another. However, it is a little difficult when we are presented with the fact that our child has already signed up with a union and that if he wants to cease to be a member of that union he has to ring up the union and say he does not want to be in the union any more. There should at least be a cooling-off period. The union should say, "Here is the form. Go home and discuss it with your parents, and if you then want to join the union, sign it and bring it back." That would be a better process. As a matter of good practice - I am not even saying as a matter of law - that is what should happen.

Hon Robyn McSweeney: Did they take his money on that day?

Hon PETER FOSS: Of course. He signed up to have it taken out of his pay. We talk about the employers not having good relationships with their employees. Unions should take a better approach than that to signing up children to become union members. What would it have mattered if the union had said to my son, "Take the form home and talk to your dad and mum and see what they think about it, and if you then feel like joining the union, send in your form." It was not done in that way. He was told, "Sign up, and if you have any problem with it you can ring us up and tell us you do not want to be a member". The reasoning is obviously to strike while the iron is hot. That is slightly unwise. This is not the Construction, Forestry, Mining and Energy Union. That union seems to have slightly different methods of encouraging people to join up, which I think we all accept are illegal and improper. The SDA is a respectable union. I do not for one moment suggest it is in that group of unions that seems to live more off its members than for its members. It is a union that works for its members; and that is one of the things I discussed with my son. However, if a union of that respectability adopts that method, there is some concern.

While the minister is going through this Bill and putting in this sort of provision, it might be worth his looking at some of the other things that happen during the course of labour relations. Surely, if one had to pick a formation of a contractual relationship that should receive the same type of protection - leaving aside whether it should or should not be here and assuming that this relationship should have it - it would be very hard to see what logic says that joining a union should not have it. Without in any way saying what is the theory, I would like to hear from the minister what is so distinctive about joining a union. What is the logic behind this provision that would not apply to joining a union? If we had that information we might understand it.

**Progress reported and leave granted to sit again, pursuant to standing orders.**