

BACK PAYING OF EMPLOYEES

**1079. Mrs C.L. EDWARDES to the Minister for Consumer and Employment Protection:**

I refer the minister to a forum on trading hours that he attended on 6 March 2003. I remind the minister that the latest figures show that 62 000 federal workplace agreements involving Western Australians have been approved in the past 16 months alone.

- (1) Did the minister tell participants at that forum that if they changed to the federal system, and if Labor came to power federally, employers would have to back pay their employees?
- (2) If so, what arrangement has the Government come to with the federal Opposition to force employers to back pay their employees should Labor come to power federally?

**Mr J.C. KOBELKE replied:**

(1)-(2) The answer to the first question is no. Therefore, the answer to the second question is not applicable.

Mrs C.L. Edwardes: There will be some interesting participants at that forum.

Mr J.C. KOBELKE: No, because the member for Kingsley's question touched on things that I supposedly said. However, what the member said that I said was not true.

Mrs C.L. Edwardes interjected.

Mr J.C. KOBELKE: I ask the member to let me answer the question. We are used to the member twisting things. I will put the truth on the record.

Mrs C.L. Edwardes: What did you tell them?

Mr J.C. KOBELKE: I cannot recall the exact things I said at the meeting on 6 March, but I have said to many public forums and in many areas that if employers use the choice provision of the Australian Workplace Agreements and that is struck down in the High Court, they would then have to back pay their employees. It did not relate to the fact that a federal Labor Government might remove the AWA system. That is not what I said. I was saying that the new found choice that is being used by the Employment Advocate, as the person who has responsibility for the registration of Australian Workplace Agreements, is a total sham. The legal advice I have received is that it is likely that this would be overturned by the High Court. I have also received advice that I cannot be a party to such proceedings. Therefore, I cannot instigate legal action to overturn what I think is a horrendous abuse of the rights of workers to allow the imposition -

Mrs C.L. Edwardes: There are 62 000.

Mr J.C. KOBELKE: Again, the interjection by the member for Kingsley shows how she wishes to distort things. The figure of 62 000 relates to the number of AWA registrations and not to the number of AWA registrations in which choice has been used to abuse the situation. They are only part of that number. We have no idea how many there are. People are clearly pushing AWAs, and the so-called choice provision is being used as a way of undercutting accepted standards. I believe that is not only in breach of the spirit of the commonwealth Workplace Relations Act but also outside the letter of that Act. I have taken up this issue with the federal minister, Tony Abbott, on two occasions at ministerial conferences and made it clear to him that he has no standing whatsoever to talk about people upholding the law when he will not uphold the law in his legislation. It is a clear breach of federal law, but the federal minister will do nothing about it. That is disgraceful. It is also disgraceful for the member for Kingsley to say things that are not true and to twist the facts. I have made it very clear that if AWAs that use this choice clause are put in place, they are open to being overturned by the High Court. If that occurs, there is the potential for the employers who use those agreements to be caught out with the back payment of wages. To take that and to say that it applies to all AWAs is to totally misrepresent what I have said on many occasions in public forums.