LABOUR RELATIONS REFORM BILL 2002

Second Reading

Resumed from an earlier stage of the sitting.

MR McRAE (Riverton) [2.50 pm]: Before the break in the debate I had been taking on opposition members in a quite confrontational way to try to get them to understand the outcomes of their efforts and the reality of their experience. However, having listened to the Premier about the importance of focusing their minds on how they might contribute to the community's future, I am a little chastened. The Premier did indeed broaden the vision of this place. He said it is a question of using peripheral vision and looking at what is occurring across the whole of the community. If members opposite would stop trying to narrow the debate, cause disputation and conflict, and dig and rummage around looking for causes to encourage feelings of hate in our community, they might come on a bit. The Premier was absolutely right.

I know that most members opposite have not read the Bill before the House. One of the things that excites me about the Bill is that it gives unequivocally a statement of hope and optimism about industrial relations in Western Australia.

Mr Omodei interjected.

The SPEAKER: Order, member for Warren-Blackwood!

Mr McRAE: It does that very clearly when laying out the objects of the Bill.

Several members interjected.

The SPEAKER: Order! If the member for Kalgoorlie and the member for Warren-Blackwood want to conduct a conversation at that magnitude, they will do it outside the Chamber. I cannot hear what the member for Riverton is saying. I am sure that Hansard is having trouble. Any more interjections and I will call the members to order.

Mr McRAE: I have a pretty big booming voice and I was having trouble hearing myself during the interjections.

The paragraphs that set out the objects of the Bill give the lead for optimism, hope and development of a culture of innovation, continuing prosperity and productivity. The objects of the Bill are to provide for the rights and obligations needed for good faith bargaining; to promote the principles of freedom of association and the right to organise; and to promote equal remuneration for men and women for work of equal value. It might be interesting to hear at a later stage of this debate how the former minister, the member for Kingsley, can justify the absolute abject failure of her administration of the legislation, during which time the remuneration levels for women in Western Australia fell further and further behind those that were available for the rest of the women in Australia. The fourth object of the Bill is to promote collective bargaining and to establish the primacy of collective agreements over individual agreements. Here is the core of this legislation and the reason for optimism. Here is the capacity to imbed a culture of innovation, productivity and development in our community and workplaces.

Another object is to ensure that all agreements registered under the proposed Act provide for fair terms and conditions of employment. We have heard speaker after speaker on this side of the House give examples of where the current industrial relations law does not provide fairness and conditions of employment under which particularly the young and the less industrially powerful in our workplaces are able to protect their interests. Some of the members on this side of the House have related instances involving their children. My middle daughter was required to sign an individual contract. I read the contract in order to give her some advice, which I understand is in contravention of the Act. People should not take third party advice.

Mr Marlborough: You were not allowed to speak to her by law.

Mr McRAE: That is right. According to Kierath's laws, I was not allowed to speak to my daughter about the individual contract that she was required to sign if she wanted the job. One of the clauses in the contract stated that if any civil action was taken against the company for which she was to work, and she had served the person taking the civil action, regardless of whether she had knowledge of the cause of the civil action that person might later take, she was to accept responsibility for it. Her contract of employment contained an undertaking that she accept future and unknown civil liability and action taken against the company. That is an outrageous, damning, awful piece of legislation that allowed that sort of condition to be written into the contract of employment for a 15-year-old girl.

Where are the members of the Opposition who chanted about freedom of association and the right of choice? Not one of them is in the Chamber. The member for Kalgoorlie stood up and said he was the champion of all those workers who were protectors of individual rights. He is not here to respond in this debate. Where is he

now that I want to address his misrepresentation of statistics? An old saying reported in the Westminster Parliament in the nineteenth century was lies, damned lies and statistics. We have heard that from some of the members of this Parliament over the past 24 hours. One of the statistics used by the member for Kalgoorlie related to the number of employees on individual contracts. The number at any given time has never exceeded 10 per cent of the total number of employees in this State according to the Australian Bureau of Statistics. If no more than 10 per cent of the work force has been on individual contracts, one cannot say that individual contracts have produced productivity benefits and employment and economic growth in this State. It does not add up. If that is the sort of logic that present and absent members of the Opposition are relying upon, it is no wonder that the people of Western Australia lost faith in the previous Government's ability to see the outcome of its laws. That is the fact and the reality, and it is about time the Opposition confronted it.

In the same vein, I want to draw attention to some commentary on the connection between the labour relations law and productivity. It is true to say that productivity growth, enterprise innovation and enterprise success depend on our capacity to continue to develop productivity growth in Western Australia through the enterprises and industries of this State. Importantly, one of the objects of the Bill is to encourage employers, employees and organisations to reach agreements appropriate to the needs of enterprises within industry and the employees in those enterprises. This is a real innovation in industrial relations law for Western Australia. For the first time in this State we are setting out the objectives of the Industrial Relations Act and the principle that the Act is to have concern for enterprises within industry and for the employees who are the essential dynamic in those enterprises.

Let it not be said by members opposite that somehow they are the font of all knowledge of innovation and new developments. With that clause alone the Minister for Consumer and Employment Protection has put a stamp on labour relations and the culture of industrial relations in this State that will last for many years to come and will benefit not only existing workers but also future workers.

The commentary on the connection between enterprise vitality, productivity growth, and industry and enterprise reform is important. It gives us an understanding of the real elements that go to making up successful enterprises. Gary Banks wrote in *The Australian* of 18 February this year -

> Australia was labelled a "miracle economy" in the 1990s. It withstood the Asian financial crisis to experience strong, sustained economic growth - the best since the '60s and early '70s. But this was no miracle. The good results were the outcome of deliberate policy reforms, rather than mere good fortune.

Why is it that in the 1990s we saw an outcome of economic performance which was recognised worldwide as outstanding and which stands out for the whole of the last century as an extraordinary performance by Australia? One fact stands out: this has nothing to do with the election of the Court Government in 1993 or the election of the Howard Government in 1996. It has everything to do with 13 years and more of sustained industrial and technological reform and cultural change pursued by the Burke and Dowding Labor Governments in Western Australia and, at a federal level, the Hawke and Keating Governments. Those Governments will be recognised by honest analysts when discussing the reasons for the economic miracle of the 1990s in Australia, and particularly in Western Australia.

It is interesting to compare productivity growth industry by industry between 1989-90 and 1993-94 and between 1993-94 and 2000 - in other words, the last five years of the Labor Government and the last five years of the conservative Government. The productivity trend between 1990 and 1999 indicates that Australia was second on the world ladder of Organisation for Economic Cooperation and Development countries, a smidgen behind Finland, a nose in front of Ireland and, in increasing percentage terms, in front of Canada, the United States and New Zealand. An industry-by-industry analysis demonstrates some interesting features. The agriculture, mining, electricity, gas, water and communications sectors experienced very strong productivity growth between 1989 and 1994 and strong, but slightly weaker, productivity growth between 1994 and 2000. The construction, wholesale trade, accommodation, cafe, restaurant, transport and storage, and finance and insurance sectors experienced a turnaround when Labor's reform agenda was implemented during the 1980s and took hold in the early 1990s. This gives the lie to the notion that individual contracts have introduced flexibility, productivity growth or wealth.

What is the clue for our future? Again, it lies in analysts' comments. Gary Banks continues -

> . . .our ability to continue performing well will increasingly depend on the innovativeness and analytical skills of the workforce and management alike. That, in turn, will largely depend on the quality and effectiveness of our education, training and research systems.

This is not rocket science. This is a clear understanding of Labor's agenda for industry reform and industrial relations developments. The article continues -

> Ensuring that those systems work well is therefore one of the key challenges in sustaining our productivity growth and living standards in the future.

This has nothing to do with individual contracts or the Liberal Party's agenda to destroy the union movement, which is the publicly stated objective of a number of former labour relations ministers. It also has nothing to do with forcing youth wages below award rates.

On 23 January, under the heading "Pay-cut firms tipped to shed staff", *The West Australian* quotes Mr Bill Ford, dean of the University of Western Australia law school as follows -

> . . . business and unions would have to "suck it and see" . . .

That is true. We will have to develop a culture of innovation and good relations under a new paradigm of rights for workers and collective action. Mr Ford continues -

> Employers had used workplace agreements for a variety of purposes - to cut costs, increase productivity or exclude unions from their workplace.
>
> But it was likely that only those who had forced wages down under workplace agreements would suffer damaging cost rises under the Government's plan.
>
> "The no disadvantage test is going to present a serious problem to those employers . . .

If that group will be penalised by this law, let us implement it and reinstate fairness, equity and productivity as Labor Party agenda items for this State and its people.

MR MURRAY (Collie) [3.05 pm]: I listened for several hours last night to members voicing their opposition to this Bill. Where have they been during the past few years? I heard criticism of workers, union officials and everyone else. The point they failed to address was the absence of freedom of choice. That is dear to my heart.

We should first consider the conditions the unions have achieved for workers: the 38-hour week, holiday pay, sick leave, parental leave, improved safety standards and redundancy payments. Unions worked long and hard for redundancy payments for workers. The first new member in this House to put up his hand for a redundancy payment was the member for Kalgoorlie; he was the first person to put his nose in the trough. He criticised what unions had done, but he was the first to avail himself of the benefits that they had achieved.

Some operators have not played by the rules and have engaged in thuggery and so on. However, contrary to what members opposite have said, the situation is not out of control. I am sure it is not out of control, although one or two people should be pulled into line - but that is true in any organisation.

The same thing happens with underpayment of wages. Workers do their jobs in good faith, but bosses close their operations and strip their companies of any assets, including those required to cover workers' entitlements. That often happens. It is wise to examine one's own backyard before criticising others.

I worked underground in the coalmines for 12 years. In the early days, things were tough - we still used shovels. Workers suffered many injuries. If it had not been for the unions, many would have been killed. Managers, who were chasing production, would call for blasts without checking whether workers were in danger. Thankfully, no-one was killed. The unions moved in and took control. They wanted safety to take priority over production.

It is important to recognise that, in some cases, unions have pushed the limit. However, they have led the safety campaign. When people criticise unions they should also remember the good they have done. Some of my friends are still alive today because of the work of strong unions and workers. In one case, workers refused to go into an area and 20 minutes later 36 acres of roof caved in. If the union had not insisted that the workers stay away from the area, 26 people might have been killed or injured.

Workplace agreements have driven wages down, primarily at the bottom end of the scale. Those most dramatically affected have been casual workers, low-skilled workers and migrants. Those less powerful have been forced to sign agreements or lose their job. In fact, many people work under individual contracts but do not receive holiday pay. They are told that it is all right for holiday pay to be built into their overall wage rate. What a family life that creates. Worked out over a year, it does not provide even two weeks of rest and recreation with their families. These contracts are dollar-driven and amount at best to survival for workers. That is why the unions come in at the base level to try to help those people. At the top end of the scale, the unions have maintained standards and have not allowed them to be eroded. That is where opposition members are coming from; they want to erode them. Their mates in big business have pushed to bring down the top end of the scale to the lowest common denominator so that businesses and multinationals can make bigger profits. I am totally opposed to that.

When I think about how this Bill came about, I remember the marches that occurred before the previous Government's legislation was enacted. Some 40 000 people marched up St Georges Terrace to Parliament House. The legislation was put in place, but was never used; one wonders why. The minister who introduced it

was removed from his position as Minister for Labour Relations before the last election because he was a liability to the previous Government. It knew that it had overstepped the mark and that the 40 000 people who travelled into town to protest had a voice. The Government listened to them and moved the minister aside. However, the people went one step further. After the last election the minister went out the door because people knew that the legislation had gone too far and the Government would not listen to them. That is where the minister went; he is not in the House. He had been elected to a safe Liberal seat and on the night of the last election he appeared on television watching the election results with pride and joy, believing that he would walk it in. However, he was removed from his position because the people had spoken. That is another important point in this debate: members should listen to the people. As we deal with this Bill, it must be recognised that many workers in the community are hard done by.

It appalled me when I discovered in this debate the Opposition's lack of knowledge of award rates. When an award is enforced, there is a bottom line that puts everyone, including workers and businesspeople, on a level playing field. That fact is definitely missed by the Opposition. If we do not continue to level out the playing field, wages will be driven down. Why are people battling to make ends meet? We should move along, get on with the job and allow the legislation to pass through the Parliament. Members opposite should look at it for what it is worth. The people have spoken and have told them - which is why they are in opposition - that the legislation is not good enough and they want something better.

Two of the most asked questions in my electorate are: how is the industrial relations Bill going and where are we on compensation? Those two issues are important in Collie because it is a working town where workers know their rights and have stood up for them. I recall three years ago when two of my workmates standing in a picket line were run over by a bus that management had filled with apprentices. Members would not have read about that in the Press. They read only the bad things about unions. That action was taken by a management that called itself responsible. Those sorts of actions must stop. The picket line was not about huge wage rises but about the right of workers to stand and speak within their community. Individual contracts can prevent people doing that. This legislation is about the right to ask one's mate how much he earns a week. Those rights are removed in individual contracts; that is not good enough. The right of people to have legislation underpinned by awards will return and we will see a new spring in the step of workers because they will not be oppressed in their workplaces but will be able to stand and have their say.

Members should think about the issues, such as what the union movement has done for women. A tremendous push is being made for women to have equal rights, equal work and equal pay. The next push, which I hope will come to fruition in a short time, is for paid leave for women to have children. We must recognise that Western Australia would stop today if all working women walked off their jobs. That has not been recognised by the Opposition. The unions have recognised that but many other people have not, including businesses. We must move those rights forward because Western Australia needs women in the workforce. Many women are highly skilled - some more highly skilled than I am; they must be supported. This legislation, as has been said in this place today, is about moving into the twenty-first century, something for which I have a passion.

I have a family of four daughters who give me hell about women's rights. It is very hard to come home to four daughters and a wife who belt my ears about women's rights and their right to work. If I said that a woman's place is in the home, I would be out of my house and on my ear. My daughters are very passionate about equal rights. I stand in this place today with pride, with a sense of contribution - although my contribution has been short - and with a feeling of being part of a process of moving on. The Bill should be commended to the House.

MR BARRON-SULLIVAN (Mitchell - Deputy Leader of the Opposition) [3.15 pm]: The first issue in examining industrial relations legislation is to examine the key objectives of a state-based industrial system. I am sure every member would agree that the key objective is to get the right balance in a system that is a win-win situation for both employers and employees, with an overarching benefit to the State as a whole. When we consider what is required for business, especially small business, we look for a system that provides as much flexibility as possible for employers who put themselves at risk to operate businesses so that they can run them in the way they see fit and so that they are as profitable as possible. We want a system that will ensure high productivity, and obviously one that is as simple as possible and that reduces administrative hassles.

From the employees' point of view, we want a system that in some way enables them to share in employers' gains, ultimately, through employment security or good wages and conditions. We particularly want a system that provides job opportunities, especially for young people, throughout the community. At a community level we look for a system that generates employment, and that provides an incentive for growth and a thriving small business and commercial sector throughout the State. Overall, we look for a system that as much as possible provides fairness to everyone and benefits to all.

I do not believe that any member would say that there has ever been an industrial system that is perfect. In years gone by there were many problems with the archaic awards system. Some awards involved exploitation by

employers who often did not pay award rates and so on; but, generally speaking, the system that was arrived at, and was put in place prior to this Bill, has been very beneficial and, arguably, has achieved the objectives outlined a moment ago better than any legislation we have seen in the past. However, even if the system is not perfect - members have cited examples of problems with the workplace agreement system - it does not mean that we should throw the baby out with the bathwater. Just because we have a few glitches in a good system does not mean we should chuck out the whole system and go back to an archaic system that has proved not to work too well. When we consider the question of balance and the role of unions, we must ask whether one group in the community should influence the development of an industrial system more than any other group. I shall refer to that matter later.

The success of workplace agreements cannot be denied. During the budget estimates debates last year, questions were asked about the take-up rate of workplace agreements. Members will find on page 470 of the budget statements that new parties to workplace agreements increased at a rate of 14 006 a month; that is extraordinary. The number of workplace agreements increased at a rate of 6 861 a month. The number of workplace agreements registered in the year 2000-01 stands at 82 331. We are not talking about small fry. This system clearly caught on at a rate of knots, and the basis for that was the underlying success of the workplace agreement system. One of the main reasons that the system was so successful was the degree of flexibility it provided for small business. The workplace agreement often worked in conjunction with the payment of over-award rates, because small business was able to gain greater productivity and a more harmonious workplace. That small business was able to boost its productivity and improve its profitability is reflected in the fact that employees and staff were often paid over-award rates. We have heard from members on this side of the House that real wages grew quite significantly under the workplace agreement system. I am mindful of the fact that the growth of real wages in this State under the previous Liberal Government was greater than during a comparable period under the previous Administration, which used the archaic award system.

I want to consider the situation for small business in slightly greater detail. One point that has been raised quite extensively by members on this side of the Chamber is the lack of consultation by the Government with the small business sector. The Government's real motives were reflected when it gave organisations and small business people barely 10 days in which to consult with the Government about this important legislation and a system that goes to the very heart of the conduct of their business. The 10-day consultation period was a token gesture, because the Government had clearly decided on the legislative changes it wanted to make, and it did not intend to give small business a genuine say in the process. This is despite the Labor Party's election policy - I think it was entitled "Small business, the way ahead" - in which it promised to consult small businesses about any major changes that would affect their livelihood. Was the Government inundated by small business organisations saying that they wanted the workplace agreement system scrapped when the consultation process took place? We all know the answer to that question is "no". In fact, it was the opposite. One by one, small business groups said they did not want it scrapped. They asked the Government not to go near it because it is one of the reasons that small business has flexibility, and it is one of the most important considerations for small business. In some instances, small business groups pleaded with the Government to not make changes. Fortunately, the Opposition was sent a number of the submissions forwarded to the Government by various small business organisations. I will touch on a couple of them later, because they are very important.

The Chamber of Commerce has obviously been pursuing the matter in some detail by carrying out surveys, and so on. Also, regional chambers of commerce have looked at the matter in detail. The regional chamber of commerce that covers the largest non-metropolitan business group in the State - the Bunbury Chamber of Commerce - has carried out surveys and contacted its members to ascertain the views of small business in the south west region. The feedback has been quite clear. Small business in the south west does not want the workplace agreement system scrapped. Small business in the south west has grave concerns about using a system that is worse than the one in place. Again, small business is concerned about the loss of flexibility. It is worried about the hassles and the administrative burden that will be part of a new scheme. Small business people have asked me whether the introduction of this legislation will mean going back to the old system of clocking on and off. This legislation is not conducive to a harmonious workplace.

While small business was expressing its concern, where was the Minister for Small Business? It is hardly surprising that the minister would not champion the cause for small business when his background is firmly entrenched in the union movement. He was secretary of the Miscellaneous Workers Union, and his most senior position with the previous Trades and Labor Council of WA indicates the background of the Minister for Small Business. Therefore, it is no surprise that we have not seen him championing the cause for small business, in either the Chamber or the community. It has been pointed out a number of times that neither the minister, nor any other government minister, has had the guts to prepare an impact statement, or assess the impact of this legislation on the small business community. Although in a different context, the member for Collie stated that it is also important to listen to the people. There is no real thirst for this reform in the community. Certainly, surveys of the community and small business have consistently shown that only a minority of people support the

changes that are being planned. Surveys conducted earlier in the year reveal that only 26 per cent of those surveyed supported the scrapping of workplace agreements, which is the centrepiece of change in this legislation.

One group of small businesses - which we all have quite a lot to do with, even if we do not work in the industry - will be severely affected by this legislation. I refer to fuel retailing. People who operate franchised fuel outlets, independent owners and major corporations have a great deal of concern about the Government's legislation. I will touch on the submission by the Motor Trade Association of Western Australia. I single out its submission because I want to focus on one industry. However, I could have picked one of a number of submissions from a range of different organisations. The Motor Trade Association's submission focuses, to a large extent, on the impact of this legislation on the fuel retailing industry. Its objections are not philosophical; they are very practical. The submission states -

> . . . that employers large and small will be forced to spend time and money on implementing the changes for no justified reason because the current system works successfully for them and for their employees.

That is an important point. This industry has worked very well. I am not aware of any widespread exploitation, or anything like that, in the fuel retailing industry. However, that industry will have the burden of changing its system at the whim of this Government, which is making these changes for political, and perhaps ultimately financial, gain.

[Interruption from the gallery.]

The ACTING SPEAKER (Ms Hodson Thomas): We welcome the attendance of the public in the gallery. However, I remind people in the public gallery that their presence is not an opportunity to contribute to the debate in any way, other than by listening.

[Interruption from the gallery.]

The ACTING SPEAKER: Again, I remind people in the public gallery that they are not invited to make any comments.

Mr BARRON-SULLIVAN: I will continue with my second quote, which states -

> Registering workplace agreements at the Commission for Workplace Agreements Office has been a very good, efficient and uncomplicated system.

These are the type of comments consistently made in many of the submissions from the small business community as a whole. The Motor Trade Association pointed to a number of technical difficulties in the legislation. Some of these will be covered at the consideration in detail stage, because they were referred to us by a number of small business organisations.

The most important message contained in the Motor Trade Association's submission was that the lack of flexibility will ultimately do two things to the industry: it will cost jobs and it will close down service stations. The industry operates for lengthy hours and, in many cases, on very low margins. It is often the case that employers in the industry must either find the money to employ staff or put in the hours themselves. Many businesses are family operated, and the husband and wife and often the children work in the business. However, those businesses also need to employ people to maintain the sorts of hours the community expects. The deregulation of recent years means that people now expect to have access to service stations 24 hours a day. They expect to be able to fill their cars with petrol during daylight hours and in the early evening. That has been largely achieved through workplace agreements. The submission states -

> As you are aware service stations operate under extreme pressure and limited profit margins and the no disadvantage test will force service stations to assess staffing levels and opening times. I am aware of members that work up to 80 hours a week for little return as they cannot afford to employ staff. If the proposed legislation is not correctly administered service stations will close down.

That is one of the implications of the legislation. The Motor Trade Association is concerned. I understand it has provided the Government with some information, including a detailed cash-flow analysis for a typical service station that opens on Sundays. The association is not bluffing. This is not a philosophical argument. The heartland of small business is saying that it will not be able to afford the changes. Those people cannot afford to move across. Not only the businesses but also the employees will be affected. Interestingly, the submission continues -

> . . . many service stations who currently open will cease to do so once this legislation takes effect, and as a further consequence of these changes, a decline in the number of fuel outlets open after-hours will I am sure anger the motoring public.

The association is saying that the result of the Government forcing this inflexibility on the industry will be job losses, the closure of some stations and reduced service to the community. That will be a direct result of this legislation. The Government should bear in mind that this is the legislation about which these industry groups were given only 10 days in which to submit a response.

I refer to a significant player in the industry, Gull Petroleum (WA) Pty Ltd. Most people would agree that Gull Petroleum has a lot of community support. It is one of the major independent companies in this State. It is a Western Australian-owned company, and we are all a bit parochial and would like to see such companies thrive and prosper.

[Leave granted for the member's time to be extended.]

Mr BARRON-SULLIVAN: The Liberal Party Opposition recently received a letter from the proprietor of the Gull service station in Munster, which states -

> The Government's intention to repeal the Workplace Agreement Act and introduce a 'no disadvantage' test to new employer/employee agreements will have a serious impact on my business. The 7 penalty rates and high wage structure of the award are unworkable and outdated.
>
> I may be forced to restrict opening hours and make some staff redundant. The affect this will have on the public is obvious and less stations will be open in the evenings and weekends. It may mean going back to a system of rostering which is not what the public are now used to.

That is an important point. Again, we are hearing of a situation in which staff may lose their jobs, a company's profitability will be affected, and the wider community will be affected because the service they enjoy will be reduced. God forbid that we go back to the roster system. People would march on the streets if that were to happen. People are generally assured that they have access to a nearby petrol station at any time of the day. If the Government gets around to implementing the fuel pricing legislation the previous Administration put in place, people might even be able to buy fuel at a reasonable price. The letter continues -

> This industry is one of the few industries that gives students, and those people who want to work casual or part time hours the opportunity to work THE HOURS THEY CHOOSE TO WORK, which fit in with their studies, etc. Many employees only want to work one shift each week, others wants to work as many shifts as they possibly can; the employers who run service stations are able to give employees WHAT THEY WANT, because we are flexible.

The workplace agreement system is all about providing balance for both the employer and the employee. In no area does this work better than in fuel retailing, an industry that people deal with almost every day of their lives. It is a successful industry that is the heartland of small business. Around 75 or 80 per cent of fuel outlets operate on the basis outlined in the letter. For reasons of philosophy and financial gain, the Government wants to introduce a completely different system. It wants to put retailers through the hassle, expense, inconvenience and anguish of changing their workplace arrangements. The legislation must be philosophically and financially motivated, because why else would the Government want to chuck a system that works so well in an industry like this? I am sure that, even in this industry, some employees have been exploited; however, as I said earlier, the fact that the system has a few problems does not mean the Government should chuck it out completely. People operating within the industry have clearly indicated that the result of this legislation could be outlet closures and job losses. They have threatened a return to the old rostering system. That will be the effect of this legislation on just one industry. If the Government talks to small business people in other areas, particularly retailing, it will hear the same message. I used to be involved in food retailing. The award system was a nightmare. It was not that I was concerned with trying to keep down wages but that it was difficult to work out the marvellously elaborate rostering system and balance penalty rates and so forth in accordance with the award. I wish that I had the flexibility of workplace agreements. They would have simplified the system, and I would have been able to employ more junior staff and give some senior staff additional work when they wanted it. The award conditions meant I was prohibited from doing so, largely because of the administrative complexity of the system.

What worries me the most is that, at the end of the day, every small business area will be impacted upon. Some might experience the sort of disadvantages that cannot be directly measured; however, a significant cumulative effect will be felt throughout the small business community. Small business people are ringing me, saying they are worried about the changes and the prospect of union officials barging into their workplaces, even though many do not have union staff. They ask me for my recommendation. I do not pretend to be an industrial relations consultant or to know the state and federal legislation in the same detail as my counterpart the shadow minister. However, I countenance those people to contact an industrial consultant and ask about moving to the federal workplace agreement system. Some of the major players in this State have recently received much publicity by saying that they are considering giving their employees the opportunity to be part of the federal

industrial system. That is a lesson for small business. Some of the small business people to whom I spoke have made inquiries, and they have indicated that although the federal system contains some provisions also contained in this legislation, they do not believe it is exactly the same.

The no-disadvantage test will apply differently. There certainly is a great deal more flexibility and there are more benefits generally for small businesses under the federal Australian workplace agreements system, as opposed to the system many businesses will be faced with. Many small businesses do not realise how they will be affected. For example, many have set up workplace agreements, which either have expired or do not have follow-on provisions and might expire over the next year or so. However, because the system works well, their employees are happy, they are happy and they can get on with business, it is the sort of thing to which they are not paying a great deal of attention for one reason or another. The attitude is: "If it ain't broke, don't fix it." A lot of those businesses do not realise that after the proclamation of this legislation, a number of them will have absolutely no transition period between their current arrangements and a new rigid award structure with which they must abide. Some might have the three-month transition period, others might have six months, and some might have a full year. The point is that many of them will not have much time in which to move. My advice to small businesses is that they do not have long before the proclamation date to consider changing to the federal system. It takes at least 34 or 36 days to have the agreement processed once an application has been made. Small businesses should be looking at Anzac Day or thereabouts as a deadline for moving to workplace agreements.

It is sad that the Government can introduce a system that will impact heavily on small businesses and will frighten many of them into transferring to the federal industrial system. I say that for a couple of reasons; it is not just because, generally speaking, workplace agreements have enabled a harmonious and productive workplace in small businesses, but also because there is no necessity to make these changes - except for the Labor Party of course. That is why members on this side of the House have pointed out the true agenda behind these changes, the real reason these changes will be steamrolled through so quickly and the reason these changes are taking precedence over many other pieces of legislation which could come before this Parliament and which could receive community support. This legislation is supported by 26 per cent of the community, compared with other legislation in the law and order portfolio that would attract far greater - perhaps almost unanimous - support in the community.

Why is the Government pushing this legislation? We have heard why. The sting in the tail is contained in clause 193 of the legislation. It is one very simple line that states, "Part VIC is repealed." The significance of this cannot be overstated. One little line in legislation as thick as this can mean a great deal. If this legislation gets through, obviously we shall see a concerted campaign to boost union membership, particularly in the private sector, but also in the government sector. The private sector, which currently has only about 15 per cent union membership, will see a very aggressive union campaign to boost numbers. Following that, we shall see the reintroduction of the good old Chekhov provisions - the automatic union dues - whereby all members of a workplace will suddenly find that they are being railroaded one way or another into joining a union. Then, lo and behold, in the next moment a chunk of their hard-earned money will be allocated to the Labor Party for political purposes. Obviously, the quicker the Labor Party gets this legislation through, the quicker it will boost the union membership, the quicker the automatic union due provisions will be in place, especially in the public sector, and the quicker the union coffers will build up ready for the Labor Party to fight an election in three years. These are not just words.

Recently, the Australian Electoral Commission published statistics on the amount of money that unions give to the Labor Party. I can recall off the top of my head one figure of $317 000 - I think it was from the Construction, Forestry, Mining and Energy Union - that was provided to the Labor Party. That probably was not the only amount that that union contributed at state and federal levels. Who knows? However, it demonstrates the importance of this source of funding for the Labor Party. It demonstrates one of the underlying reasons this Government is keen to get this legislation through.

There is a very brief explanation in the information attached to the Bill of the reason for that simple little line in clause 193 to which I referred. It will allow unions to get on with their job in the workplace or be entitled to carry out their affairs in a legitimate way, or words to that effect. However, it ignores the fact that the people who will be giving their money to the unions will have no say whatsoever in whether that money goes to the Labor Party, or the Liberal Party or One Nation for that matter, or whether it should be used for any political purposes. The member for Collie made a speech about the original purpose of the unions; that is, to look after the conditions of employees throughout the State in relation to salary and non-salary benefits, and particularly in relation to occupational health and safety. We know now that politics have superseded these original objectives in many ways, and that is reflected in the legislation.

The Labor Party is moving on this legislation for blatant financial gain. It is prepared to create problems in a range of small business areas; it is prepared to jeopardise jobs, particularly for young people in this State; and it

is prepared to inconvenience the community. I am not being philosophical; that is a practical assessment of what will happen to small businesses under this legislation.

MR TRENORDEN (Avon - Leader of the National Party) [3.46 pm]: I am very happy to participate in this rollback legislation, which will take us back to the 1950s. That is what most of this legislation is about. There is no question that the previous legislation introduced by Minister Kierath - the first and second wave legislation as those on the other side like to call it - caused some problems. There has never been a time in history when some employers have not been prepared to do the wrong thing by employees. I know by direct association that plenty of employees want to do the wrong thing by employers. In fact, a long time ago, when I worked in a warehouse for Western Mining Corporation, I was constantly asked by employees to steal on their behalf, which I totally refused to do. One day I was visited by two union representatives. I joined the union after they told me that if I did not, I would not be able to walk to the front gate because I would have two broken legs. That was a long time ago. I do not see any change in the -

Mr Pendal interjected.

Mr TRENORDEN: I am a country boy, but I did get the point pretty quickly. I left that employment within two weeks; it was not the sort of place I wanted to work.

Mr Pendal interjected.

Mr TRENORDEN: Yes. I was working for Western Mining Corporation, not that it had anything to do with the company. The current stories about unionism have not changed from the stories I was told.

Mr Dean: Stories!

Mr TRENORDEN: If the member for Bunbury wants stories, I will tell him one. A young person standing beside me in one of the local hotels in my constituency was chatting to me during the election campaign for Reynolds. His mother was rung the day before and instructed to tell him that he was to take his ballot paper to his work site where the union official would watch him fill it in and hand it in, otherwise he would not have a job. He told me that as a joke, not as a complaint. That is why I will not use the individual's name. It is an important issue that that young person was told that if he did not complete the ballot paper at the work site, in the presence of the union convenor, and hand it in, he would not have a job and he could forget about working in the construction industry. He thought that was standard practice in the industry. The fact is that it is - we know that. This Bill will help some of those practices to continue to exist.

There are two sides to the equation. Some employers are prepared to find gaps and opportunities to do in employees, and plenty of employees would do the same to employers. That is not the issue. If a safety net was needed under the old legislation, I for one would have been happy to raise that safety net to a certain level. I have no difficulty with that. In the joint party room at the time, I debated with Minister Kierath that that issue should have been raised. I come from rural Western Australia, and in rural WA the employer and the employee play at the same golf club and the same bowling club, and often attend the same church - they are constantly living with each other. Therefore, that confrontation does not exist in the regional area in which I live. If an employee has a problem with the boss, he confronts the boss and has it out with him. Those of us who come from country areas have witnessed a few harsh words spoken to the boss on numerous occasions - "Knock it off, boss. I'm doing my job. Get off my back", or whatever. I have seen that happen. The situation is the same the other way. When a boss is irritated, the situation is made clear. The boss and the employee have it out, walk out the door and continue to have a very good working relationship - they are not necessarily friendly, because not everyone is friendly. However, the good working relationship remains, and that is important.

The Bills of the Kierath era were introduced. Now that legislation will be rolled back by the other side, and the same sorts of problems will occur under a different administration for a different group of people. That will be sad, particularly for rural constituents who will be caught up in a major fight between large employers and large unions, which do not exist in my electorate.

Going back a few years, an incident occurred at the Northam Regional Hospital. Because it was a sizeable building site, the union came onto the site and insisted that it was a union site. Therefore, a crane was needed to lift an object that was heavier than a tonne. A crane in the town of Northam was owned by a private enterprise person, obviously. He made it clear that nobody other than his employees would operate that crane. None of his employees was a member of the union, and they certainly would not join the union for a day, an hour or two hours - whatever time it took to do the job. What did the crew do? It got a front-end loader, put a chain on it and lifted the object with the front-end loader, which was contrary to every safety regulation, just so that the union would have its way. However, no proper safety mechanisms were in place.

Mr Dean: As a member of Parliament, you knew about that and did nothing about it.

Mr TRENORDEN: I raised the matter in this place. If the member for Bunbury reads *Hansard,* he will see that I raised this matter.

Mr Dean: Was the union prosecuted?

Mr TRENORDEN: No, it was not prosecuted.

Mr Dean: Why not?

Mr TRENORDEN: No-one prosecutes a union. Of course it was not prosecuted. I raised the matter far and wide, and there was no action whatsoever.

Mr Dean: So the minister was incompetent?

Mr TRENORDEN: That is a good proposition: the current minister is as responsible as the previous minister, so every time an action takes place on a work site, the current minister will be responsible. Is that what the member for Bunbury just said?

Mr Dean: No.

Mr TRENORDEN: I thought he just said that. Did I not just hear that? I thought I heard that. I do not blame the current minister or the previous minister for activities that take place on work sites, because I do not expect the minister to be the policeman and to wander down the road to see what is happening. Of all the things the minister and I might argue about, that will not be one of them.

Outside the small business arena, there will be a big exodus of large corporations to the federal system. Within a few months, more than 50 000 employees will be lining up to be employed under the federal register. I know that the minister is saying, "So what?" I think, "So a fair bit." I like to think that Western Australians will look after and control the conditions and the lifestyle of all Western Australians, and not handpass the responsibility for them to the federal Government. It is important to understand that large corporations might decide to go across to the federal system. I have been speaking to them. A substantial number of the big corporations are in the process of doing so, and the federal minister is already organising extra staff to handle the Western Australian action. It is a pity. I have heard the minister say that it does not matter; that is choice. It is choice, but I believe that it matters that Western Australians will opt out of the protection of Western Australian legislation. I make that point and leave it.

Mr Kobelke: I never said that it did not matter. I prefer people to be in the Western Australian scene, but they have a choice.

Mr TRENORDEN: Okay. The minister knows that many of those people will be paid hundreds of dollars above the award rate, and the employees and the employers will walk. It will not be only the employers who will say that they must go. Many of the employees will vote to go, because they know that they are getting paid way above award rates. They will not be prepared to take a risk. We will wait to see what happens. We will all be proved right or wrong with the passage of time. However, I believe that many of those employees will be concerned about this matter.

When the Graham Kierath legislation was introduced, I went to a family function in Karratha; someone was having a birthday party. A friend approached me and got stuck into me about the legislation. He told me that I was doing a horrible thing to him and that his whole life had been turned on its head. He had been working for a major corporation in Karratha for many years, and he said that I was a despicable person to be involved in the Kierath process. Some 18 months later when I was in the north again, that person approached me and said that those reforms were the best thing that ever happened to him because he was able to get working conditions that suited him. I will not name the individual, but I am happy to talk to the minister about that. When that individual is asked whether he wants to go on to a federal award, I am certain he will say yes, because the conditions that he has now are the best conditions he has had in his working life. Under the current system, there have been very few industrial disputes. The safety record has improved. Previous speakers have made those points, so I do not intend to repeat them.

Madam Acting Speaker, I probably should not mention this, but it appears that I have been given unlimited time. I do not mind having unlimited time, but perhaps that situation should be fixed.

The Premier likes to say that 10 per cent of people are on registered contracts. Obviously, that figure - statistics and damn lies - does not take into account that about 70 per cent of people in Western Australia are employed by small business. Therefore, we are talking about 10 per cent of the remaining 30 per cent - not 10 per cent of 100 per cent. That is why that statistic is a nonsense. A reasonable percentage of people who are in the organised work force are on individual workplace contracts.

Mr Kobelke: The only reliable figure we have - there is a more recent one that I will give you - is that an Australian Bureau of Statistics survey showed that 8.7 per cent of people in employment were on individual statutory contracts.

Mr TRENORDEN: They are registered contracts. What about all the small business operators?

Mr Logan interjected.

Mr TRENORDEN: No, I just said that. There are two formal arrangements - registered individual contracts and the standard award arrangements. About 19.5 per cent of people are in unions, and 8.5 per cent are on individual contracts. Statistically, it is not poles apart. However, it is not 10 per cent of 100 per cent, because people in small business will never be caught; they are not a part of that process.

Mr Kobelke: If the survey was of all employees working in small business, a person might be the only employee, but he is still an employee. He might be on a common law contract, an award or some other arrangement. However, the survey found that 8.7 per cent of those employees were on registered individual contracts.

Mr TRENORDEN: That is right, because they make up the formalised part of the work force, in the same way as the 19.5 per cent are the formalised part of the work force. As the minister said, the rest are on common law agreements.

Mr Logan interjected.

Mr TRENORDEN: Exactly. The boss and the employees work it out and away they go. The Premier uses the figure of 10 per cent, but if it is 8.5 percent, it does not make much difference; 8.5 per cent against 19.5 per cent is not a huge difference. It is only just under two and a half times more, not 10 times more.

Debate interrupted, pursuant to standing orders.

[Continued on page 8248.]