

**INDUSTRIAL AND RELATED LEGISLATION AMENDMENT BILL 2007**

*Second Reading*

Resumed from 27 September.

**MR M.J. COWPER (Murray)** [4.29 pm]: Before the house are three bills that, although they relate in kind to each other, will be dealt with separately. I refer to, firstly, the Industrial and Related Legislation Amendment Bill 2007; secondly, the Contractual Benefits Bill 2007; and, thirdly, the Employment Dispute Resolution Bill 2007. These bills were introduced, first read and second read in this place on 27 September, which was three weeks last Thursday. If we combine the three bills, they become fairly lengthy legislation; for example, there are 59 clauses in the first bill, 23 in the second bill and the last bill is a piece of legislation in its own right. It has taken a fair bit of time to get one's head around the intention of this legislation. It was somewhat sprung on not only this Parliament, but also the people who have a vested interest in this field.

The timing of this legislation is interesting because it is curious to note that within five weeks there will be a federal election. It is noted that a number of weeks ago the Minister for Employment Protection travelled to Sydney with a group of her staff.

**Mrs M.H. Roberts:** You have made this allegation before. It is not true.

**Mr M.J. COWPER:** It is not an allegation. From my understanding I thought the minister said that she went to Sydney.

**Mrs M.H. Roberts:** No, I did not. You said that.

**Mr M.J. COWPER:** The minister did not refute my comment at the time; therefore, I took it to be the case.

**Mrs M.H. Roberts:** I thought you were talking rubbish.

**Mr M.J. COWPER:** There was a meeting, I understand, of ministers.

**Mrs M.H. Roberts:** In Sydney that I did not attend. You made this allegation before. It is not correct.

**Mr M.J. COWPER:** I did not make an allegation. I said there was a meeting.

**Mrs M.H. Roberts:** You alleged that I was in Sydney, when I wasn't, and that I went to a meeting in Sydney, when I didn't.

**Mr M.J. COWPER:** Minister, I will withdraw that comment. The fact is that it was not refuted in the past.

**Mrs M.H. Roberts:** I do not like to see you continuing to mislead the house.

**Mr M.J. COWPER:** The minister has corrected me and I will withdraw that comment. I was making the point that there was a meeting of a number of ministers.

**Mr R.C. Kucera:** It was called the H.R. Nicholls Society.

**The ACTING SPEAKER (Mr A.P. O'Gorman):** Members, the member for Murray has the floor and I ask that you let him speak.

**Mr M.J. COWPER:** There was a meeting in Sydney and it would have been very interesting to have been a fly on the wall to hear what was discussed and whether it was about issues pertaining to the wellbeing of the relevant states or whether heads were getting together to work out a strategy on how the Labor Party will circumvent or further impinge upon the effects of WorkChoices. We know the Australian states have some difficulty with that legislation. It is no surprise to members of this place or to many Western Australians that since March last year, when the federal WorkChoices legislation came into being, this state's Industrial Relations Act 1979 became a defunct piece of legislation. The legislation has been circumvented by the federal award. A decision was made by the High Court of Australia that resulted in the cessation of the jurisdiction of the state award.

This group of bills is a break in the traffic that is being seized upon to give relevance to the state award. The Liberal Party has a view on retaining a state award. For the record, the Liberal Party is keen to retain the Western Australian industrial award system. On that basis, we would like to work with the government to amend this legislation. I will, at the appropriate time, put forward amendments for the minister's consideration. The opposition wants to work with the government to fix this legislation so that it will benefit the people of Western Australia.

Notwithstanding that, I commenced my comments by noting that the timing of this legislation is interesting. One could ask: why, after a lengthy period of no bills coming before this house, was this group of bills brought to this place in the fashion it was? I happened to be in the chamber when the bills were introduced and I immediately

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focused on them. I am aware that some people in the community have a vested interest in this legislation. I am also aware of a letter that was sent to the minister from the executive director of the Chamber of Commerce and Industry of Western Australia that strongly urged the government to delay the process of this legislation to allow the government to consult fully with stakeholders on all aspects of this legislation and its impact to ensure that it is fully understood before it is implemented. That request has some validity because, quite frankly, this legislation has caught a number of people by surprise, not least of all me, and it has involved a lot of work in a short time. If it had not been for the assistance I received, the opposition would not be in a position to speak to the bill, given the short notice it has been given. I thank the minister for making available, only last week, briefings to the opposition on these bills. I am sure that this legislation will involve the minister's staff burning the midnight oil to follow its passage through this place.

The bills, as presented, are something of a mixed bag. Some parts are good and some parts will be good, with amendments acceptable to the Liberal Party, and some are plain rotten. I had to make a recommendation to the party room on how the Liberal Party would deal with this legislation. Initially, I thought it required too many amendments and total opposition to it was warranted. However, I have a number of amendments to this bill and each of the other bills that, hopefully, I can provide to the minister this evening or tomorrow after I have sought further counsel from my colleagues. Hopefully we can work with the government to bring about legislation that is workable and in the best interests of the workplace.

Again, I put the question that given that in five weeks there will be a change - sorry, an election -

**Mrs M.H. Roberts:** Change of government! Thanks for acknowledging what everybody already knows.

**Mr M.J. COWPER:** There may well be a change in fortunes.

**Mr T. Buswell:** The minister said that about Mark Latham.

**Mrs M.H. Roberts:** No, I did not.

**The ACTING SPEAKER:** Members, the member for Murray has the floor and it is not appropriate for members to be having conversations across the chamber. It is difficult enough for the Hansard reporter to hear what the member for Murray is saying, particularly with this noise across the chamber. I ask members to let him speak.

**Mr M.J. COWPER:** The point I was trying to make is that as sure as night follows day, some time in the future, whether it be in five weeks, three years or 20 years, there will be a change of federal government. Given that situation, there are always fluctuating fortunes with policies and legislation that the incoming government may or may not bring forward. It is interesting for members and other Western Australians to understand the preferred powers that the federal government is trying to seize upon with the state industrial relations award system. Will a future Labor government refer those powers back to the state? Something tells me that might not be the case.

**Mr T. Buswell:** It is definitely not the case.

**Mr M.J. COWPER:** The question is: will a Rudd-led government retain, for instance, the Office of the Australian Building and Construction Commissioner? I believe that one of the very fortunate parts of the workplace -

**Mrs M.H. Roberts:** Are you talking about our future federal government or John Howard's government?

**Mr M.J. COWPER:** I am talking about the ABCC and the fact that the ABCC has probably been -

**Mrs M.H. Roberts:** You said, "Will the federal government retain it?" Which federal government are you talking about? Is it in doubt whether John Howard would retain it?

**Mr M.J. COWPER:** The minister should listen. I asked whether a future Rudd-led government, or whoever happens to be at the helm at the time, would get rid of the ABCC. The provisions relating to the ABCC are arguably the best parts of the WorkChoices legislation. There has been a distinct reduction in the number of disputes across Western Australia. I can recall the 1970s, and particularly the 1980s, when I was in the Kimberley and Pilbara. At that time, the vast resources industry in our state was subject to ongoing industrial disputes. I have commented before on how I saw that polarise towns and create disharmony. I would not care to see that return. I thought it was incredible that the minister came into this place a few weeks ago and started spruiking about how wonderful it was that the state had effected a reduction in the number of industrial disputes in this state. I could not believe that the minister had the gall to come into this place and say such a thing, when we all know that it is the WorkChoices legislation that has brought about those changes.

**Mr T. Buswell** interjected.

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**The ACTING SPEAKER (Mr A.P. O’Gorman):** Would the Deputy Leader of the Opposition like to make a speech or would he like the member for Murray to make a speech?

**Mr M.J. COWPER:** There are some interesting aspects of this legislation that I think have some merit. One of them relates to an amendment that will make bullying in the workplace subject to the provisions of the Occupational Safety and Health Act. One of the questions that I will be asking is whether this will have an impact on those gentlemen whom we have all seen reported on in the media and who I believe do a great disservice to the union movement in Australia.

**Mr R.C. Kucera:** Are you talking about Mark Olson?

**Mr M.J. COWPER:** It is interesting that the member should mention Mark Olson, because he was charged with bullying and was subsequently acquitted. However, unfortunately, other people have gone into the workplace and bullied people. We have all seen those disgraceful displays; yet those persons were never brought to account or never brought to heel on a technicality, the technicality being that they were not employees of anyone on that site. Therefore, I think that maybe there is some virtue in exploring the options for dealing with anyone who goes onto a building site and behaves in the way that we saw demonstrated on our television screens. Those people should be brought to heel, because I think they are doing a disservice to the union movement right across Australia.

**Mr M.P. Murray:** So you’re saying that only the union people are bullies.

**Mr M.J. COWPER:** No, I did not say that at all. I am saying that a couple of individuals have sullied the reputation of the union movement.

**Mr R.C. Kucera:** You obviously didn’t go down to the wharf at Fremantle.

**Mr M.J. COWPER:** I have been to the wharf at Dampier, when there was arguably -

**Mr R.C. Kucera:** You didn’t go to the wharf at Fremantle, with the thugs in their balaclavas and with their dogs.

**Mr M.J. COWPER:** I have been on the waterfront, member, and had to deal firsthand with people I have actually known. I have been caught right in the middle of it, trying to deal with the disharmony that was caused. I am sure the member does not want to see a return to those days.

**Mr R.C. Kucera:** That is precisely why this legislation has been brought in.

**Mr M.J. COWPER:** I am pretty sure that the member has not even bothered to pick up a copy of the bill and read it. I will be proposing some amendments, and hopefully members opposite will be willing to ensure that the state award is not made irrelevant in the future.

**Mrs M.H. Roberts:** Did you make relevant or irrelevant?

**Mr M.J. COWPER:** I said “made irrelevant”. As I said, we want the retention of a state award, whereas some people in this state - only some, not all - want the whole matter shifted away from the state and become a matter for Canberra. I hope that the government, especially the minister, and all members will share that view. I will be very keen to hear the comments of the minister at the appropriate time.

The Industrial and Related Legislation Amendment Bill 2007 amends the Industrial Relations Act to make the denied contractual benefits jurisdiction the same as that under the Contractual Benefits Bill 2007. There are some issues relating to that which I will touch on in consideration in detail. It would be better to remove this provision from the Industrial Relations Act and rely solely on the provisions of the Contractual Benefits Bill applying to all employees. This bill allows the full bench to exercise the original jurisdiction in complex cases and removes the remuneration threshold for making unfair dismissal and denied contractual benefits claims. There is some case law in relation to those matters, and I believe that that needs to be well and truly considered when we proceed into consideration in detail.

Another issue of concern is that the bill also amends the Magistrates Court (Civil Proceedings) Act. When an employment-related claim, which is precluded from being dealt with in the manner proposed, is made in the Magistrates Court, it will be referred to the Western Australian Industrial Relations Commission for mediation. I do not necessarily have a problem with that; I think there is some merit in that. However, I believe that the legislation needs to be strengthened so that we can ensure we get that outcome. I would hate to think that this is just another vehicle by which the government will try to circumvent the WorkChoices legislation, or whatever will be in the best interests of the working class. At the end of the day, we have a responsibility to those men and women who are contributing to our great state.

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I do see one thing in this legislation, minister, and I will give some kudos to the government for it. Last year when certain legislation was being dealt with in this place, I moved an amendment that dealt with vexatious, frivolous and malicious complaints. There have been a number of instances in which an employee has taken an employer to court for no better reason than that the employee had a vexatious complaint against the boss. During the court proceedings, it was shown that this was done to deliberately cause mischief to that employer and, indeed, cost him money through lost production and having to take days off work to go to court, with the cost of legal representation and so on. In the past, these cases have been found to be vexatious or frivolous. However, prior to this legislation being introduced, there have been no provisions under which costs could be awarded against that employee. I am pleased that in this bill the government has picked up on that aspect - I think that is good - because it will obviously take out of the system those people who, because they have some knowledge of the system, use that as some sort of leverage to achieve an outcome. Again, this is a matter that we will discuss further in consideration in detail.

The penalty regime from the WorkChoices legislation for breaches of federal employment instruments is also subject to the mediation process if a party chooses to run proceedings in the Magistrates Court. When I had the briefing, I noted that the somewhat virtuous view, I suppose, was held that if employees observe the state award, they will not breach the federal award. Provisions relating to fair practices have subsequently been introduced into the WorkChoices legislation. A view is held by some that the state award offers greater protection for people than a federal award. If I am not mistaken, last year we had to raise the standard minimum conditions of employment so that they were equal with the federal awards. We cannot argue that WorkChoices has not been good for workers in this country, considering also that there has been an increase in wages across Australia. We now have low unemployment. Historically, we now have the lowest unemployment rate certainly since way before the time of anyone in this place. It is very much an employer's obligation to ensure that his employees are well catered for. If employees are not well looked after, they will be around the corner getting themselves a job elsewhere, particularly in the resources sector, which is paying big money. We are obviously seeing some ailments in that situation, particularly in the government sector and specifically in the police force. The state is trying to retain people and attract recruits. We have to go overseas to fill certain positions. A number of strategies have been put in place to try to deal with that problem. A lot of that - not all - has to do with the fact that we are in a skills market place that is very competitive.

A particular aspect of this legislation obviously seizes upon the anomalies that exist in WorkChoices. I speak specifically of the government's proposal in this bill to repeal the Children and Community Services Act 2004 and the Occupational Safety and Health Act 1984 to strengthen the protection of children who are either employed by a constitutional corporation or engaged as independent contractors. There is some concern in industry that this will make the process of employing anyone under 18 years of age somewhat complex and convoluted. There may well be a situation where employers may be less inclined as a result of this legislation -

**Mrs M.H. Roberts:** Why would it be a problem to meet state award conditions that they previously used to meet prior to WorkChoices?

**Mr M.J. COWPER:** I am saying that they have to contend with another layer of legislation. I am saying that it may - I am not saying it will - be an obstacle for some. Given the short time we have had to consider this bill -

**Mrs M.H. Roberts:** A month.

**Mr M.J. COWPER:** It has not been a month.

**Mrs M.H. Roberts:** It is four days short of a month. You were given the bill on 27 September; it is now 23 October.

**Mr M.J. COWPER:** Whilst the minister is interjecting, maybe when she gets to her feet she could explain whom she has sought counsel from in industry about this. I have a message from the Chamber of Commerce and Industry of Western Australia about this matter. It is seeking the further delay of this bill so that it can have proper consultation and an opportunity to look at the impact the bill will have. One of the questions that has been put to me that I will put to the minister relates to whether a regulatory impact statement has been conducted. Will she provide a full assessment of the cost to WA business of the proposed legislation?

**Mrs M.H. Roberts:** There are many aspects of it. Of course it will make it cheaper.

**Mr M.J. COWPER:** Has there been any impact statement in relation to that matter? That is the question I am asking.

**Mrs M.H. Roberts:** You are just raising baseless fears.

**Mr M.J. COWPER:** Nonetheless, those questions are out there. I am relaying to the minister the message that I have received. Is there legal advice as to how the bill interacts with the federal government's IR laws through

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the Workplace Relations Act 1996? There are also serious issues relating to the lack of consultation. The business community will be adversely affected, according to some, by the interplay between the three bills and WorkChoices. There are very serious jurisdictional issues that go to the validity of the legislation and the crossover with WorkChoices, as the legislation will create dual employment rights and significant confusion for businesses. That is why the government needs to table its legal advice to show how the bill interacts. That is the request. They are the concerns that have been raised by industry about these bills.

**Mr R.C. Kucera:** How much consultation was given to the people who were affected the most by WorkChoices, those people who lost their entitlements?

**Mr M.J. COWPER:** I had nothing to do with the passage of that legislation. My job is to look at this legislation. As I have said from the outset, we want to work with the government to ensure that we have legislation that is workable and capable of providing benefit to the people of Western Australia. I hope that the government is altruistic and has good intentions. Given the timing of this bill, one would have to question the purpose of bringing it to this place now. Despite the fact that it was introduced four days short of a month ago, given the fact that there are three bills that are fairly complex to get one's head around and given the time frame involved -

**Mr R.C. Kucera:** One has to get off one's little bottie and do a bit of work. That's what it means.

**Mr M.J. COWPER:** The member would know all about that. That is why they called him the Gurkha, the member for bringing prisoners home.

*Withdrawals of Remarks*

**Mrs M.H. ROBERTS:** I believe that members are supposed to refer to other members in this house by the title of their seat. I believe that the member for Murray is out of order.

**The ACTING SPEAKER (Mr A.P. O'Gorman):** That is quite correct. Members do have to refer to other members in this place by the title of their seat. I ask the member to do that.

**Mr M.J. COWPER:** I seek some clarification. I do not recall calling the member any name.

**Mrs M.H. Roberts:** Is your memory that poor that you can't remember anything you said in the last minute?

**Mr R.C. Kucera** interjected.

**The ACTING SPEAKER:** Members, I am trying to give a ruling here, and members keep interjecting. I clearly heard you call the member for Yokine a Gurkha. It was a nickname that you were referring to. I ask that you withdraw that and refer to the member for Yokine in the proper manner please.

**Mr M.J. COWPER:** I withdraw that comment, but I would like to say that I did not call him that name. I said that is what he was called.

**Mr A.D. McRAE:** Mr Acting Speaker, the member is now conditioning his retraction after your guidance and that is, quite frankly, unacceptable in this chamber. I ask that you require him to unconditionally withdraw.

**The ACTING SPEAKER:** I think the member for Murray understood quite clearly that a withdrawal is an unconditional withdrawal and that that is what has to be done for him to continue this debate.

**Mr M.J. COWPER:** I unconditionally withdraw.

**Mr A.D. McRAE:** I raise a separate point of order. Whilst I was making that point of order, the member for Murdoch repeated a description of Hon Adele Farina that he refused to own up to some weeks ago in this place. Does the member want to say what he said?

**Mr T.R. Sprigg:** I said, "Another selfish salami."

**Mr A.D. McRAE:** Mr Acting Speaker, I suggest to you that it is disgraceful and unparliamentary to call Hon Adele Farina a selfish salami. I ask that you require him to withdraw it.

**The ACTING SPEAKER:** Unfortunately, I did not hear that comment, but I ask the member for Murdoch that if he did make such a comment with respect to Hon Adele Farina, he withdraw that.

**Mr T.R. Sprigg:** I reiterate once again that I said the words "another selfish salami"; I never mentioned anyone's name.

**The ACTING SPEAKER (Mr A.P. O'Gorman):** I did not hear the comment.

*Debate Resumed*

**Mr M.J. COWPER:** Now that everyone has had an opportunity to allow their passions to cool, I will continue.

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The main problem with this legislation is with the amendments it will make to the Children and Community Services Act 2004. The WorkChoices legislation provides that state child labour laws are allowed to operate despite any federal agreement or the federal act, so the government proposes to follow the New South Wales route of requiring employees under the age of 18 who are employed by a constitutional corporation under an Australian workplace agreement to be employed under state award conditions and to have an unfair dismissal remedy and a denied contractual benefits remedy in the Western Australian Industrial Relations Commission. A WAIRC finding that the child has not been given the benefits of a state award is prima facie proof that civil penalty provisions will apply in the Industrial Magistrates Court.

Employers will face total confusion over what their obligations are, and it will discourage employment of people under the age of 18 years and provide an employment disconnect between the rights of employees under and over the age of 18. The fairness test in the federal act will not operate to ensure consistency between the systems. The limitations of the bill in relation to the child employees of constitutional corporations make the validity of the bill suspect. It provides no protection for child employees remaining in the state system, so the law may not relate to child labour. Although the WorkChoices legislation purports not to oust child labour laws from their overriding effects on federal agreements, the Constitution will operate to exclude them if the federal agreement covers the field or is directly inconsistent. These provisions should be opposed, and they will be. There is also a prohibition on unpaid trial work by a child employee for more than one day in a year, which is acceptable and is aimed at employees who abuse the trial work period. I do not have a problem with that aspect.

The bill will also amend the Occupational Safety and Health Act, but, interestingly, it does not amend a bill that proceeded through this place a couple of weeks ago; that is, the Mines Safety and Inspection Amendment Bill. The bill will insert antibullying provisions, which is welcomed. It will change the scope of prohibited conduct in relation to the treatment of employees and contractors participating in health and safety committees or making complaints, which is good. The bill will give the Western Australian Industrial Relations Commission, acting as the Occupational Safety and Health Tribunal, jurisdiction to deal with such prohibited conduct by ordering that compensation be paid or reinstatement occur if a person has been dismissed, or by making specific performance orders to deal with bullying, which is something else that we can work with.

I have a number of proposed amendments to the bill, which I have offered to give to the minister. I will provide those amendments to her either this evening or tomorrow and, hopefully, we can have some meaningful adjudication by the minister on whether she will accept those amendments. That being the case, I will await my opportunity to speak to the two other related bills.

**MR T. BUSWELL (Vasse - Deputy Leader of the Opposition)** [5.03 pm]: I thought it would be appropriate to make a few comments about the Industrial and Related Legislation Amendment Bill 2007, the Contractual Benefits Bill 2007, and the Employment Dispute Resolution Bill 2007, if only to hark back to my early days in Parliament when I had shadow ministerial responsibility for this very interesting and challenging portfolio. I am a little less generous than the member for Murray in what I would call his glancing endorsement of some aspects of the government's legislative program. I have formed the view in my brief two and a half years in this place that the first thing that we on the conservative side of politics should do when the state Labor government brings in a bill on industrial relations is oppose the bill forthwith. Generally, if we dig away at the bill and look at the detail, its purpose and what it will ultimately do, we probably would not be far off the mark in adopting that position without any consideration. Indeed, these bills are not particularly different. I will be interested to hear the minister explain why they are being debated this week, the second week of a federal election campaign.

**Mrs M.H. Roberts:** Because they have laid on the table for three weeks.

**Mr T. BUSWELL:** Yes, and I will get to that in a minute.

**Mr C.J. Barnett:** Seventy per cent trade union hacks, I think.

**Mr T. BUSWELL:** Trade union hacks; that is right. They stand up like Jock Ferguson did a couple of years ago at the commencement of 2006 and, on behalf of the metal workers' union, of which the member for Joondalup is a loyal servant, annoyed Alan Carpenter, as a possible Premier of Western Australia, because the member for Midland could not get Burkie to endorse her. They asked her, "Did you ring Brian Burke and ask for his endorsement?" She said, "No; I don't think that was particularly important", as she bumbled around before finally admitting that she got on the blower to him when she wanted the top job. He was the first person she rang. However, getting back to the point of the bill -

**Mrs M.H. Roberts:** First, you are not correct; and, secondly, it has nothing to do with the bill.

**Mr M.P. Murray** interjected.

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**Mr T. BUSWELL:** Who was that? We have the rise of the pickled poacher, who was trying to put me off debating this very important bill!

**Mrs M.H. Roberts:** So far you have been nothing but rude and negative.

**Mr T. BUSWELL:** Dear me!

**Mrs M.H. Roberts:** Have you got anything positive to contribute?

**Mr T. BUSWELL:** I have. Before I go into the bill, let me dig into my little box of goodies because I have something that I would like to draw to members' attention. It will take a little of the Chair's indulgence. It is of course an article on the member for Collie-Wellington, a portrait of whom received first prize in an art competition.

*Point of Order*

**Mrs M.H. ROBERTS:** What relevance do an art competition and the member for Collie-Wellington have to the legislation before the house?

**The ACTING SPEAKER (Mr G. Woodhams):** I presume, member for Vasse, that there is some relevance to this piece of legislation. I know that when the Deputy Leader of the Opposition rose to his feet, he chose to address the three pieces of legislation that the minister has responsibility for. If the document that he is holding in his left hand is relevant to the debate, I insist that he get to it straightaway.

*Debate Resumed*

**Mrs M.H. Roberts:** Can you make a link between what is in your hand and industrial relations?

**Mr T. BUSWELL:** Is the minister running for Speaker now?

**Mrs M.H. Roberts:** I am asking you a question.

**Mr T. BUSWELL:** I will get to what is in my hand in due course, but, if the minister insists, I will deal with the bill. However, it is a nice picture of the member for Collie-Wellington. He won the category of dry works, which I thought was ironic; I do not think he has been dry since he was about 16!

Do members know why the minister is not serious about this bill? If she were serious, she might have consulted with industry groups in this state, so that they could enable her to understand - I do not think she understands how business works - what will be the implications of some of the components of this legislation for their businesses and employees. I want to know whether she consulted.

**Mrs M.H. Roberts:** Yes, I consulted with a few people.

**Mr T. BUSWELL:** Outside of UnionsWA and her regular bunch of cronies, whom did she consult with? Did she consult with the Chamber of Commerce and Industry of Western Australia or the Master Builders Association? She did not consult anybody! It is not serious legislation; that is the problem. We will not stand by and let her get away with that.

Do members know what this bill will do? Let me tell them what some aspects of this bill will do. The bill will clearly increase red tape and regulations for businesses in this state.

**Mrs M.H. Roberts:** Rubbish!

**Mr T. BUSWELL:** Rubbish? How does the minister know? She has not asked them. When was the last time she ran a business? She would not have a clue. That is one of the problems with her side of politics. They would not have a clue, except for maybe the member for Joondalup and the member for Peel. It will have an impact. Did the Minister for Employment Protection conduct a regulatory impact statement to examine the impact of this legislation on Western Australian businesses?

**Mrs M.H. Roberts:** It is the same old insults.

**Mr T. BUSWELL:** I will take that as a no. The minister has not conducted any regulatory impact statements to examine the impact of this legislation. Did the minister ask to have conducted an assessment of the costs that this legislation will place on Western Australian businesses?

**Mrs M.H. Roberts:** Have you read the bill? Do you know anything about it?

**Mr T. BUSWELL:** Yes. We can sit down and go through it clause by clause. The minister did not conduct a regulatory impact statement. Did the minister conduct an assessment to understand the costs that will be borne by Western Australian businesses as a result of this legislation? No. Has the minister taken legal advice -

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**Mrs M.H. Roberts** interjected.

**Mr T. BUSWELL:** Honestly, it is like the drone of a seagull at the tip. I will nip out to the dining room to order a big platter of chips and toss a couple of them over to the minister, because if she has some, she might quieten down for a second.

Has the minister sought legal advice on how the contents of this bill will interact with the federal Workplace Relations Act? There are three issues right off the bat.

**Mrs M.H. Roberts:** I have received legal advice.

**Mr T. BUSWELL:** Will the minister table that advice?

There are three issues right off the bat. Did the minister conduct a regulatory impact statement? No. Did she conduct an analysis to determine the full cost impacts that this legislation will have on Western Australian businesses? No. Has the minister sought legal advice on how the bill will interact with the federal government's industrial relations legislation? I doubt it. There are three important issues right off the bat. This suite of legislation will produce duplication and increase red tape and the number of regulations. The interesting thing is that the minister will trumpet this bill as an anti-WorkChoices crusade. This will end up being an attack on the federal WorkChoices legislation.

**Mr M.P. Murray:** Do you support the federal government's WorkChoices legislation as it is?

**Mr T. BUSWELL:** I will get to that.

**Mr M.P. Murray:** I asked you a question.

**Mr T. BUSWELL:** I will tell the member for Collie-Wellington what I do support. I support the retention of Australian workplace agreements. I support the retention of the Australian Building -

**Mr M.P. Murray** interjected.

**Mr T. BUSWELL:** What is WorkChoices? The member for Collie-Wellington should tell me in one sentence. What is it? The member does not have a clue and yet he sits there and parrots that word. He does not know what he is talking about. Does the member for Collie-Wellington support the retention of the Australian Building and Construction Commission? No, he does not. Does he support the retention of AWAs? No, he does not. I do. I stand for those two things. I think the Minister for Employment Protection supports the retention of the ABCC.

Let us look at the history of the Labor Party's opposition to WorkChoices. The opposition agreed with the government's position on the use of corporations power to effectively remove the state's rights to determine an industrial relations framework for employees who choose to live and work in the states. The government took a challenge to the High Court and lost. The funny thing is that Kevin Rudd and the alternative federal government - Labor - will not undo that component of John Howard's industrial relations reform; they will not undo one part of it. Proprietary limited companies will still operate in the Australian industrial relations system, because that aspect of this suite of changes that were brought in because of WorkChoices will not be undone by Kevin Rudd and Julia Gillard and co. We are stuck in this system in which the majority of industrial relations power in this state and country resides with the commonwealth. Time will determine whether that is a good or a bad thing. However, members opposite do not say boo about that. They mount arguments of convenience when it comes to their opposition to this broad suite of reforms called WorkChoices. Who from the government benches has written to Kevin Rudd and told him that a High Court challenge was launched against this legislation and asked him to undo it? Will he undo the component that sees corporations power imposed on states? No, he will not. It will not happen. The Minister for Water Resources accused our Leader of the Opposition of being a quisling. That term could quickly be thrown back when it comes to the government's silence on pursuing this issue with Kevin Rudd and federal Labor.

It is interesting to understand the history of the use of corporations power in the Australian industrial relations system. It started under the Keating government when Laurie Brereton, I think, was the federal minister responsible. He opened the Pandora's box that we now see in this country. That is a fact. Sure, it was developed further with the introduction of AWAs and now it has reached another stage. No member on the government benches will seek to close that Pandora's box and throw away the key. It will not happen.

The reason that the Labor Party is opposed to certain aspects of WorkChoices is that it wants a return to the collectivism that dominated Australian workplaces right up until the mid-1980s.

**Mrs M.H. Roberts:** That is just more of your rhetoric.



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**Mr T. BUSWELL:** Rhetoric? That is coming from a minister who had the gall to issue a press statement that said that because of the initiatives of the Western Australian government, industrial disputation in Western Australia had dropped to an all-time low. That is the gall of a minister who accuses me of using rhetoric when her government changed nothing. The minister should tell me what her government did that led to that change. What did it do? It did nothing.

**Mrs M.H. Roberts:** We did a whole range of things.

**Mr T. BUSWELL:** Tell me about those things. I will stop for a minute and the minister can tell me what they are. I will get my pen out and write them down. How many dot points do I need?

**Mrs M.H. Roberts:** You are hopeless. Why don't you have a look back through every piece of legislation and regulation -

**Mr T. BUSWELL:** Which ones? Which pieces of legislation did the government bring in? It did not bring in any legislation. I will tell members what happened. I will show members a graph that is in colour; I do not want to confuse members opposite. There is a big green arrow on this graph.

**Mrs M.H. Roberts:** You're embarrassed, aren't you, about the low level of disputation in this state under six years of a Labor government?

**Mr T. BUSWELL:** Six years - is the minister dreaming? The graph shows the total number of working days lost in Western Australia per 1 000 employees. It was high. I wish I had the Australian comparisons because Western Australia was the most industrially disputatious state in Australia up until the end of 2005. Until then there were more strikes per 1 000 employees and more days lost on average in Western Australia than in any other Australian state. In six years of Labor -

**Mr A.D. McRae** interjected.

**Mr T. BUSWELL:** They are Western Australian days.

**Mr A.D. McRae:** What is the big step down?

**Mr T. BUSWELL:** That is a good point. The big step down and the thing I am trying to point to is December 2005. Do members know what happened in December 2005?

**Mr A.D. McRae** interjected.

**Mr T. BUSWELL:** That is 2003, you goose! Do members know what happened in 2005? Let me think.

*Withdrawal of Remark*

**Mr R.C. KUCERA:** There is a clear convention in this house that members call each other by their proper title. There is no need for that kind of language, quite frankly. The remark should be withdrawn. The member for Vasse clearly used a derogatory name to refer to the member for Riverton and it should be withdrawn.

**The ACTING SPEAKER (Mr G. Woodhams):** Member for Vasse, if you used an accusatory word to describe the member for Riverton, I ask you to withdraw it unconditionally. It is rather noisy in this chamber. For the benefit of the Hansard reporters, I ask members to keep their voices down. I urge the member for Vasse to unconditionally withdraw any derogatory term he might have used to describe the member for Riverton.

**Mr T. BUSWELL:** Thank you, Mr Acting Speaker, for that direction. I most certainly withdraw the use of the term goose in the description of the member for Riverton, and I apologise.

**Mr A.D. McRae:** I accept that.

*Debate Resumed*

**Mr T. BUSWELL:** I must have become overexcited, because the member for Riverton was helping me immensely with my argument! This is someone who accuses other people of using bluff and bluster. He makes ridiculous statements and then expects other people to believe them.

The reason that industrial disputes collapsed at the end of 2005 and the start of 2006 is that the federal government introduced an institution called the Australian Building and Construction Commission. That institution did not come about because of WorkChoices - which was a separate piece of legislation, member for Collie-Wellington; it came out of the Cole inquiry, the report of which identified all sorts of thuggery, skulduggery and misappropriation of funds by trade unions in this state. Members have no idea! It was a disgrace. When the Cole inquiry was finished, a secret report about the prosecuting of certain people was given to a government minister, or ministers, but nothing ever happened with that, of course! However, out of that process the ABCC was established, and it said that people will no longer engage in unlawful industrial activity

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on, for example, the Perth-Mandurah rail project. The unions tried it once, and have not tried it again. There is no more blue flu and no more going on strike, with everyone downing tools and holding up a billion-dollar project because “the Pope” Ballard gets the shove! Nothing; it does not happen anymore! Western Australia is a harmonious workplace when measured by the level of industrial disputation today, and that has absolutely nothing to do with this minister and this government. Yet, the government is so blinded by its desire to prop up the arguments of the ACTU that it wants to get rid of the ABCC.

**Mrs M.H. Roberts:** No!

**Mr T. BUSWELL:** In fact, I do not think the minister wants to get rid of the ABCC, even though everyone else does! If that is the case, I take my hat off to her; however, I suspect she will change her view in due course.

In my humble view, this suite of legislation is just another example of this government’s attempts to attack the federal government for political purposes. If the state government were dinkum about properly reforming this state’s archaic rump of an industrial relations system, it would not bring in a bill without asking major employer groups, such as the Chamber of Commerce and Industry of Western Australia, what they thought. It would not bring in a bill without asking the state’s major construction group, the Master Builders Association, what it thought. It would go out and consult properly.

I will deal quickly with the Western Australian industrial relations system. WorkChoices has in many ways rendered the Western Australian industrial relations system a rump of its former self. Under WorkChoices, people employed by a proprietary limited company toddle off to the federal system. However, it is important to understand that prior to the introduction of WorkChoices, this state’s industrial relations system was in terminal decline. WorkChoices has simply sped up the process of decline.

**Mr A.P. O’Gorman** interjected.

**Mr T. BUSWELL:** I will get to that. However, first I will explain why the state’s industrial relations system was in a state of decline. Australian Bureau of Statistics data indicates that in 2000, 24 per cent of Western Australian workers were covered under the state system, through either collective or individual agreements. By the end of 2004 and the beginning of 2005, that figure had dropped to just over 15 per cent, and it was heading south. Fewer Western Australians were choosing to use state-based individual or collective agreements. During the same period, the percentage of Western Australian workers covered by federally registered collective or individual agreements had increased from 16 per cent to 34 per cent.

[Member’s time extended.]

**Mr T. BUSWELL:** Between 2001 and the beginning of 2005, one sector of the labour force - those people involved in individual or collective agreements - decided they would not stay in the state system but move to the federal system. Most of that figure is represented by people moving to federal AWAs. The ABS statistics, which, unfortunately, do not distinguish between federal and state awards, also highlight that during that time there was a declining trend of people on awards, with a drop from 18.3 per cent to 12.6 per cent. In other words, fewer people in Western Australia were employed on awards and more people were employed on individual or collective agreements, most of which were federally registered. Interestingly, the ABS has a category which it defines as unregistered, collective or individual agreements and which covers those people who are operating under an informal type of workplace agreement.

**Mr M.P. Murray:** It just shows you what happened to so-called choice; it was take it or leave it!

**Mr T. BUSWELL:** It most certainly was not, member for Collie-Wellington.

**Mr A.P. O’Gorman:** It was take it or leave it.

**Mr T. BUSWELL:** It most certainly was not take it or leave it. Does the member for Collie-Wellington know why people moved to AWAs? They moved because people were no longer forced to join a union when they went to a new workplace. That is what happened in this case!

**Mr M.P. Murray:** It was take it or leave it! If you wouldn’t sign an AWA, you were out the gate.

**Mr T. BUSWELL:** That is why the member for Collie-Wellington and people like him insist on collectivism! They insist on a monopoly representation in the workplace whereby the only way a person can get onto a building or mine site is by joining a union. Workers are forced to pay fees to support people like the member for Collie-Wellington getting into Parliament! That is why the member does not like change. Change takes it all away. It means unions have to compete to attract members, and they are failing to do that.

Several members interjected.

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**Mr T. BUSWELL:** Some unions are doing a good job because they are contemporary and offer the services that their members look for and they participate in meaningful public debate. However, a lot of other unions sit and pray for the return, under Kevin Rudd and Julia Gillard, of a centralised collective system because that will mean that they will be able to do what they have always done - force people to join a union. They do not have to earn a membership dollar!

**Mr M.P. Murray:** No, it will give workers a choice for a change; it will give workers a choice!

**Mr T. BUSWELL:** If the great paragon of intellectual power wants to speak, he should stand and speak! I am waiting for him to rise to his feet and stun us into silence. I am waiting for it to happen! He should go home and read his abalone licence - turn it over and read the fine print. He probably cannot read it with a couple too many under the belt!

The situation in Western Australia is that people are leaving the state system. Yes; WorkChoices has hastened the decline of the state industrial relations system, but it has been in a dramatic decline since 2004, if not before. It is little wonder why with people like the member for Collie-Wellington sitting in here!

**Mr M.P. Murray:** Why is the coal industry still fully unionised?

**Mr T. BUSWELL:** Is it?

**Mr M.P. Murray:** Yes.

**Mr T. BUSWELL:** What about the coal industry in Queensland?

**Mr M.P. Murray:** I am talking about WA.

**Mr T. BUSWELL:** The member did not say that. Where are the most efficient coal mining operations in Australia?

**Mr C.J. Barnett:** Certainly not here.

**Mr T. BUSWELL:** Certainly not here! Why does the member think Verve Energy is going broke - the donkey!

**Mr M.P. Murray** interjected.

**Mr T. BUSWELL:** Oh, come off it! The member is dreaming. His views are as delusional as those that underpin these three pieces of legislation. I have told the member before to go down to Throssell Street, get out his lucky \$2 coin and go into the house of mirrors and take a good hard look at himself. That is what he needs to do.

**Mr M.P. Murray:** One thing I will never do is rat on my mates! Never!

**Mr T. BUSWELL:** Has the member been down a coalmine and seen what they make workers do?

Several members interjected.

**Mr M.P. Murray:** You are a rat, a gutless rat. Yes, you are. Ask your own bench over there. Ask them all - do they trust you? No way in the world!

**Mr T. BUSWELL:** Oh, cut me down! Cut me down!

**Mr M.P. Murray:** Put your hand up if you trust him. Put your hand up.

**Mr T. BUSWELL:** Cut me down!

Several members interjected.

**Mr T. BUSWELL:** The current state system is failing because people were forced to go on strike all the time. There was a massive level of industrial disputation in this state. The state system was failing and it continued to fail because this government removed the state-based individual workplace agreements and replaced them with a most magnificent legislative reform called employee-employer agreements. Those EEAs were an absolute disgrace and it is no wonder that people refused to use them. It was a completely hopeless method by which to arrange a relationship between an employer and an employee.

**Mr C.J. Barnett:** I know the members opposite hate him, but does the member know that when the former minister Kierath introduced workplace contracts -

**Mrs M.H. Roberts:** Your friend.

**Mr C.J. Barnett:** Yes.

Several members interjected.

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**Mr C.J. Barnett:** Yes, in just one industry - because they talk a lot to me about it - productivity in the iron ore industry went from 11 000 tonnes a worker to 22 000 tonnes a worker, and wages went up. That is what it was all about. Yet, your government, under former Premier Geoff Gallop, abandoned the system, and that is why the system is now federal.

**Mr T. BUSWELL:** That is right, and that is why it all went federal. Now the Labor Party wants to get rid of federal Australian workplace agreements. This government is denying large sections of the Western Australian workforce access to a tool which will deliver tremendous productivity improvements over time - which it could still do - and which will flow on into real wage growth. The sad economic reality is that, ultimately, real wage growth is underpinned by productivity growth. Productivity growth is underpinned by a number of factors, and one of those factors is the flexibility of relations in the workplace. That is why a lot of businesses in this country want to maintain Australian workplace agreements and their capacity to make collective agreements with their employees. It has nothing to do with driving down wages and conditions.

**Mr A.P. O’Gorman:** Yes, it is. Of course it is. It is exploitation.

**Mr T. BUSWELL:** I am not saying that some employers do not act appropriately. Those that do not act appropriately should be dealt with very harshly; I have said that before in this place. They bring a good system into disrepute because of their behaviour. That should not be condoned and cannot be supported. That is why the vast majority of businesses stand to defend flexibility in the workforce. It is because flexibility relates to productivity, and for their employees it relates to real wage growth. That is a fact.

I will close with a couple of very interesting observations on the changing nature of the contemporary Australian workforce, as again it relates back to this Minister for Employment Protection’s obsession with collectivism and supporting a union-centric industrial relations system that is really non-contemporary. I will give members an example. In 1998 -

**Mr A.P. O’Gorman:** Isn’t the CCI a union? The CCI is an employers’ union.

**Mr T. BUSWELL:** I am always interested to understand the member for Joondalup’s views on industrial relations and I will quote from *Hansard* of 16 November 2005. We were talking about industrial relations -

**Mr A.P. O’Gorman:** Is this the first time I have been quoted? That’s a privilege, isn’t it?

**Mr T. BUSWELL:** Yes, it is the first time. Listen! It is a good one. The member for Joondalup said -

It does not matter how much those opposite beat us up, workers will always regroup and come back in numbers, more determined and more organised. We will put opposition members back in their places, because they will never win this argument in the long term; they might win it in the short term but in the long term the hearts and souls of the workers will always win out.

This was a beauty and the defining piece of the argument -

I can prove this by going back 800 years when ye olde countries were invaded by overseas people.

That is the style of thought that sits under the views articulated often by a lot of members opposite. It is this confrontational “You’re capital; we’re Labor.” It does not exist in a modern, contemporary workplace, and I will give some statistics to indicate why. In 1998 approximately two million Australian workers were in trade unions and 1.6 million were self-employed. Let us not forget that membership of Australian trade unions has been in decline for a lot longer than just since 1998; however, I want to make a point here. By 2004 the number of self-employed workers had risen by almost 14 per cent to 1.9 million people, while in the same period the number of trade unionists had fallen by approximately 10 per cent to 1.8 million people. In other words, by 2004, on a trend that has continued until today, the number of trade unionists in Australia was fewer than the number of people who defined themselves as self-employed. It is more interesting to dig down into the statistics that sit under those self-employed people. Members might think they are the people in the dotcom industry or this, that and the other industry, and are all self-employed on contract-type arrangements. However, it is very interesting to note that data produced by the Australian Bureau of Statistics on occupational categories indicates that 45 per cent of people who are classified as self-employed describe themselves as managers and administrators; 30 per cent say they are tradespeople; 29 per cent say that they work in advanced clerical and service areas; and 14 per cent of labourers call themselves self-employed. Therefore, this move to self-employment is a phenomenon that is permeating the modern Australian workplace. It is a phenomenon that in many ways the three bills before the house fail to recognise.

**Mr R.C. Kucera:** There is a flaw in that argument. In many instances people are being forced into it by government policy.

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**Mr T. BUSWELL:** The reason people are becoming contractors is that they do not want to be forced into trade unions. They have aspirations. People in Australia have aspirations and they embrace a form of workplace relationship that enables them to fulfil their aspirations. That is what we defend on this side of the house when we debate bills such as this. The Minister for Employment Protection might say that these bills make a few minor changes here and there to the failed Industrial Relations Act, but it is a bit more than that to us on this side. We will defend that today and we will defend it every day.

**MR D.F. BARRON-SULLIVAN (Leschenault)** [5.35 pm]: I will make a couple of points that have not yet been made and I will expand on a couple that the member for Murray and the Deputy Leader of the Opposition have made as well. However, the first question I have that I hope the Minister for Employment Protection is listening to and will answer in her response to the second reading debate is: why are we dealing with this legislation today? I have lost count of the number of times that this chamber has had to deal with legislation when the circumstances surrounding the political and parliamentary environment of this state are in a state of flux; in other words, when things are changing. I note that this legislation, the Industrial and Related Legislation Amendment Bill, provides for the Industrial Relations Act to be consistent with not just this bill, but also the other two bills that are on the notice paper today. The effect of that, for example, is that it will provide for our industrial relations system to fit in very snugly with the federal system of Australian workplace agreements. One particular example is that currently the Western Australian Industrial Relations Commission lacks the jurisdiction to mediate; conciliation and arbitration are its only functions. That is a historical and legislative fact. Therefore, the Industrial Relation Commission lacks the jurisdiction to mediate, and the other bills we will deal with today, which are consistent with the bill we are talking about right now, will give the WA Industrial Relations Commission the authority and the jurisdiction to mediate specifically in relation to federal agreements. In other words, the legislation that we are dealing with now is designed to dovetail very neatly and very snugly with the federal Liberal Party's legislation to do with workplace agreements - AWAs.

Earlier on the minister tried unsuccessfully to goad the member for Murray by asking him whether he was suggesting that Kevin Rudd would win the election to be held in five weeks. This legislation concedes that Kevin Rudd will not win in five weeks. If the minister genuinely believed that Kevin Rudd would succeed and that he would genuinely chuck out AWAs, she would not need big chunks of this legislation. Why does the minister propose passing the provisions contained in the two bills - the one we are dealing with now and the Employment Dispute Resolution Bill that we will debate later - that will give the Industrial Relations Commission in WA jurisdiction to mediate AWAs if she believes that in five weeks Kevin Rudd will win the election and say, "Bye-bye AWAs"? The minister is saying that she accepts one of two things. Either she is suggesting that John Howard will still be Prime Minister in five weeks, that small, medium and large business will still be able to enjoy the flexibility of AWAs, and that workers throughout the nation will be able to enjoy the significant gains that AWAs have provided for them, or she is suggesting that Kevin Rudd is telling a porky and will not change aspects of AWAs. Why are we dealing with legislation that is specifically constructed to dovetail with AWAs - that is, Liberal Party federal policy - if she really thinks that in five weeks there will be a change of federal administration that will ultimately result in the demise of AWAs? It can be only one of two things: either the minister accepts the fact that Australian workplace agreements will continue, or she is again wasting a large chunk of our time in Parliament.

**Mrs M.H. Roberts:** Do you not know that the Labor Party doesn't have a majority in the Senate and will not have a majority until, at the earliest, next June?

**Mr D.F. BARRON-SULLIVAN:** The minister concedes that AWAs are here to stay at a federal level? I applaud the minister's commonsense and honesty, at long last.

Another important point has been raised about the need for an independent regulatory impact statement. The member for Murray asked whether that would be provided, and he suggested that the minister should table such a statement if one had already been prepared. I go one step further by reminding the minister that the Labor Party has committed to providing not only regulatory impact statements, but also impact statements relating specifically to the impact of the government's legislation on small business. To a large extent, it is small business that has reaped the benefits of a more flexible industrial relations system in recent times. The state Labor government is, or was, committed to providing statements on the impact of all legislation on small business; in other words, determining the cost implications and the simplicity of negotiations and arrangements between employers and employees, specifically in the small business sector. The last time I pursued this it had something to do with the government's decision to deregulate trading hours. The government hid behind the barricade of having carried out an impact statement for small business for that legislation; however, it claimed that the statement had been sent to cabinet and was therefore confidential. Coincidentally - or not - a copy of the statement just happened to fall off the back of a truck, and I just happened to be there at the time. The opposition was therefore able to point out that that small business impact statement - prepared by the state's foremost and

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eminent small business policy group, the Small Business Development Corporation - was actually averse to what the government was trying to do.

This begs a number of questions. Firstly, has the government prepared an impact statement for this legislation? If so, will the government table it, as the member for Murray asked it to, or has the government gone back on a previous election commitment to provide statements about the impact on small business of its legislative program? Again, the minister will probably not even answer the question, but if there was an impact statement, she will probably say, "Sorry, but it went to cabinet, so I can't release it." The opposition wants to know whether a statement was prepared and, if so, who prepared it. How can the government develop an impact statement for small business without actually consulting small business? In relation to the other matter I raised, the Small Business Development Corporation had carried out extensive consultation, and it knew full well that what the government planned to do would have very negative consequences for the small business sector.

I accept that the Chamber of Commerce and Industry of Western Australia is not always renowned as the pre-eminent proponent of small business, but it has a large contingent of small business members. If it has not been consulted, I will bet that none of the other small business groups in the state has been consulted either. Specifically, I would like to know whether any consultation with small business has been undertaken. Was a small business impact statement prepared? If so, by whom? As the member for Murray asked, will the minister table the statement? I think I know what all the answers will be.

The legislation raises the big issues that the member for Murray and the Deputy Leader of the Opposition began to touch on. Under the new industrial relations environment, the constitutional corporations power has been used to absorb a large proportion of the industrial relations legislative jurisdiction at the federal level. I might add that this leaves 10 to 15 per cent of private enterprises and the bulk of the public sector in Western Australia not covered by federal powers, in accordance with that constitutional authority. Many people are saying that we now have a complicated system, because on one hand there are state public authorities, a number of private enterprises, particularly partnerships, and small businesses run by one or two individuals and which are not incorporated; and on the other hand, there are incorporated private enterprises and a number of public authorities covered by the commonwealth industrial relations authority. We therefore need to ensure that the system operates as simply as possible. I am not convinced that the legislation we are dealing with in any way achieves that. Part 4, for example, amends the Children and Community Services Act 2004. The commonwealth government's WorkChoices legislation actually provides that the child labour laws of any state in Australia will be allowed to continue to operate, despite any federal agreement or, indeed, the federal act itself. WorkChoices, for example, provides that Western Australian state child labour laws will take precedence; no AWA or any part of the federal act can override state child labour laws. Western Australia is, in this regard, following the path taken by New South Wales. Child employees on AWAs who are under the age of 18 and are employed by an incorporated company or constitutional corporation will be employed under state award conditions. They will have an unfair dismissal remedy and a denied contractual benefits remedy through the Western Australian Industrial Relations Commission. The minister will correct me if I am wrong, but should the Industrial Relations Commission find that, for example, a Western Australian child - who, of course, would be covered by Western Australian child labour laws - has not been given the benefits of the state award, there would be sufficient proof in the Industrial Magistrates Court for civil penalty provisions to apply. Hopefully, the minister's adviser will go through this with her, because she does not seem to pay much attention to anything coming from this side.

Imagine how confusing this is for employers. What are their obligations? Do their obligations fall under state labour law or will they have to keep an eye on the WorkChoices legislation? One result might be that employers will throw their hands in the air and say, "I won't employ a 17-year-old; I'll employ an 18 or 19-year-old", or whatever. Imagine the confusion that will arise when a 17-year-old employee turns 18 and the provisions no longer apply. At best there is a huge question over the industrial coverage for a 17-year-old employed under state labour laws, as is the case in New South Wales, and for people who are 18 years of age or over. It demonstrates that this legislation will make the current situation more complicated. I suggest that the minister should talk to small business people because the one thing they really do not want is for employment relations with their staff to become any more complex or complicated. This is one of the beauties of AWAs; it is one of the things that small businesses, in particular, love about AWAs, because it means they can lay it on the line and it is a far clearer and simpler arrangement than the previous arrangement. We now have what is becoming a very messy legal situation. At best there are some serious legal questions, and at worst there are clear indications that this legislation will make the industrial relations system in Western Australia - particularly for employees under 18 years of age - far more complicated. The government obviously has an enormous aversion to Australian workplace agreements. I will have one little dig and I take my hat off to Mark Olson, from the Western Australian branch of the Australian Nursing Federation.

Government members interjected.

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**Mr D.F. BARRON-SULLIVAN:** I knew that would get a response from government members. Mark Olson is a person who runs a union in the best interests of the members of his union. If ever the proof of the pudding is in the eating, it is that Mark Olson obviously has to go to an election on which all the members of the union vote. That happened earlier this year. He copped over 70 per cent of the vote in his favour. Mr 70 per cent popular, who does a very fine job looking after the interests of nurses around the state, came out recently in a spate of rare honesty from trade union leaders in this state and conceded that AWAs can be beneficial.

The member for Murray made the point that we on this side of the house want to work with the government on this legislation in a constructive way to try to assist to make this legislation as workable and beneficial as possible, albeit that there are some very serious legal questions about certain aspects of it. The member for Murray waved the little white feather and said, "If you guys want to work with us, let's do the right thing because we're talking about an incredibly important area of legislation. We're talking about the relationships between employers and employees, the prosperity and viability of small, medium and large business in Western Australia, and the pay and conditions of employees throughout WA. There are not too many pieces of legislation that are much more important than matters concerning industrial relations." The member for Murray did that. I suggest to the minister that she take him up on his offer, even if it means that after the second reading debate she has to sit down with him and look at the amendments to see whether they can make it workable. If the government were to adopt the Mark Olson approach and accept the fact that we have AWAs federally, as I think we have, otherwise we would not be dealing with parts of this legislation that dovetail with AWAs, when we finish dealing with this bill in this chamber the government would have much better legislation than is now before the house. The member for Murray is holding up his amendments now. It looks like quite a number. I am very pleased that members on this side are prepared to work with the minister. Without significant changes - not too many but amendments of some significance - this legislation is problematic and it contains serious problems.

On that note I reiterate that if the minister really believes that AWAs will be phased out, I cannot honestly understand why we are dealing with the legislation in the format that we are now. I look forward to the minister's response to that and an indication from her whether a small business impact statement was prepared; and, if so, by whom and whether she would table it. I look forward to hearing from the minister that she will work with the member for Murray and the Liberal Party to try to get a bit more commonsense into the legislation. Quite frankly, without some sensible changes to it, this bill would be hard to support in the format that it is in now.

**MR M.P. MURRAY (Collie-Wellington - Parliamentary Secretary)** [5.54 pm]: I congratulate the Minister for Employment Protection for introducing the Industrial and Related Legislation Amendment Bill 2007. It is well overdue. This bill amends several acts, including the Industrial Relations Act 1979.

I will relate to the house a couple of stories that illustrate the reason that this legislation should be passed. One story relates to the increase in the number of self-employed people, to which the member for Vasse referred. Young people have aspirations and they will move forward to become a contractor and subcontractor. I have witnessed what happened to a member of my family. My daughter wanted a job and applied for a position as a truck driver on the Bluewaters Mine site that paid \$50 an hour. She was very pleased about it, although she had to arrange to pay for her own workers' compensation and other things associated with the job. After her first day at work I asked her whether she had signed up for workers' compensation and complied with the other requirements. She said that she had not. She worked on that job for a week without any insurance. That demonstrates the vulnerability of young people, of whom there are many in the community.

Many young people have to pay their own workers' compensation and tax. A lot of young blokes who are self-employed brickies or tilers tell me that they have been confronted with huge tax bills because they have had no training in small business management. They have bought the new Holden ute and the gear that goes with it, but they do not have the business acumen to move forward and pay the bills that are due. All of a sudden representatives from the Australian Taxation Office appear on their doorstep and they are forced to sell their homes and, as a consequence, relationships suffer. Therefore, it is very important that we offer some sort of protection for these young people. This bill certainly helps in some way to make sure that people are afforded that protection.

Six workers of a prominent tiling company approached me by telephone, even though they work in the city. Of the six workers, three are married. They were being paid \$22 an hour as subbies laying tiles. That made their financial situation unworkable and their wives complained that they could not pay the bills. However, they were too frightened to go to their employer because they had an agreement that provided them with exclusive rights to tile a certain number of houses. They were guaranteed an income, but the only way they could make reasonable money was to work more hours, but their rate of pay was not increased. After representation by the member for Maylands and one or two ministers, the company suddenly came out of the woodwork and offered these six

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workers some shut-up money and their hourly rate was increased by \$15 an hour. The workers were extremely grateful for that increase. If they had not sought that help, they would certainly still be working for \$20-odd an hour, even though they were using their own ute, travelling to work in their time, carting the gear around and setting up before the tiles arrived. This demonstrates that help is needed in many cases, and that help is, in many cases, via the union.

An organisation that is close to my heart is the Asbestos Diseases Society, which works very hard with the unions to make sure that the people who were poisoned over a long time are compensated by the companies that knew what was occurring. If the families of the people - many of whom have passed away - whose cases the Asbestos Diseases Society took up had not had the Australian Council of Trade Unions behind them, they would not have been duly compensated for the health problems that their loved ones suffered. I heard the member for Vasse say that we must get rid of the ACTU and have AWAs, but where will the people who experience problems go? There must be a collective group to ensure that things happen. The cases that the Asbestos Diseases Society took up in the early days were stretched out until the people involved died. The federal legislation has been slightly changed since then, but the Western Australian legislation does not go far enough. Many of these people were migrants who came to this so-called lucky country and were deceased by the time they reached 50 years of age. They were working in conditions that to them were acceptable because the boss said that they were okay and that if they wanted to leave, they had to walk to the main road, which was probably 30 kilometres away and, hopefully, catch a lift home.

Some people still say that Wittenoom is safe, but I do not believe that to be the case. I know about the help that was given to employees of CSR. The company then stretched out its cases and then promised to deliver the money. It never delivered on that money and the federal government very strongly resisted introducing legislation that would ensure that the employees would receive compensation for the injuries they suffered. Yet, people still say that unions should not survive but should be pushed out and that employment should be arranged on a one-on-one basis; that is, worker and employer. At times that can work, but overall the younger people will not have the life skills to be able to stand up when they know they are being duded and say, "Excuse me, sir, something is wrong", because the boss has it within his power to say, "If you don't like it, lump it", and out they go. That does not give people choice.

*Sitting suspended from 6.00 to 7.00 pm*

Debate interrupted.

[Continued below.]