

**MINIMUM CONDITIONS OF EMPLOYMENT (BLUE FLU) AMENDMENT BILL 2005**

*Second Reading*

Resumed from 21 September.

**MR J.C. KOBELKE (Balcatta - Leader of the House)** [4.01 pm]: The government will not be supporting this opposition bill. We see it as a political stunt. There were issues with the supposed blue flu that caused the government concern, and about which the opposition expressed its concern. However, this legislation is no more than a stunt. It does not deal with the underlying issues; in fact, it has the potential to exacerbate the problem. Clearly if no positive effect can be gained from the legislation, the government will reject it.

The fundamental premise of the legislation is that somehow the area of trust between employers and employees can be regulated by fining people if they behave in an inappropriate way. We fine people at times, but it is counterproductive to suggest that we can fine people who take sick leave. That is not to say that in limited circumstances there are no problems with sick leave. However, there is no need to take a sledgehammer to crack a peanut. We do not need to reduce the trust that exists in every workplace across the state to deal with a problem in a very limited number of workplaces.

One premise underlying the bill is that no legislation currently covers this matter; that premise is totally wrong. Section 22 of the Minimum Conditions of Employment Act, which relates to proof in support of claim for leave, states that an employee who claims to be entitled to paid leave under section 19(1) is to provide to the employer evidence that would satisfy a reasonable person of the entitlement. There is a clear requirement, therefore, in the act that an employer must be satisfied on the production of appropriate evidence that the employee is entitled to take sick leave. That covers the Minimum Conditions of Employment Act.

Clause 4 of the bill, which proposes to add new subsections to section 22 of the act, reads, in part -

- (2) Despite subsection (1), where the employer considers, on reasonable grounds, that an employee's claim for paid leave is for a period of absence was industrially motivated, then the employee has no entitlement to paid leave unless the employee provides a medical certificate and a statutory declaration that supports their claim.
- (3) An employee who makes a false claim for paid leave under section 19(1) commits an offence.  
Penalty: \$500.

I will talk about the penalty in a moment. It appears, from the way in which this clause is drafted to deal with a problem in extremely limited circumstances, that an employer must consider on reasonable grounds that an employee's claim for leave was industrially motivated. It brings in a new concept that an employer must on reasonable grounds make a judgment on whether the leave was sick leave or was industrially motivated. On that basis, an obligation will be put on the employee to provide medical evidence or a statutory declaration. These provisions are already contained in the act, but they are not hampered by the phrase "industrially motivated". This clause will put a more limiting test on the right that already exists for employers to require evidence if they suspect that an employee is claiming to be on sick leave but is not sick. I do not believe this clause clarifies the situation. I believe it complicates the matter by proposing to insert an extra provision into the act, given that an employer can seek to invoke the provisions of section 22 of the act. This clause simply duplicates and complicates a provision that already exists.

This is not to make little of the abuse of sick leave. It is something that the government clearly does not condone. In fact, the government condemns people who seek to abuse sick leave in an organised way. That is because sick leave is a very important entitlement for employees that has been built up over many decades. If people who have families to support, mortgage commitments and a range of bills to pay need time off work because of ill health or for medical treatment, they need the protection contained in the sick leave provisions. Sick leave provisions vary between awards. Mr Acting Speaker (Mr A.P. O'Gorman), you would be very well aware of some of the technical details involved in sick leave provisions that apply under various enterprise bargaining agreements and awards. However, common to those agreements and awards is the provision of a very important element for protecting people at a time of illness. Illness is not just suffering; it can often result in tensions in families and can throw on them many extra duties and costs. It is an important part of the protections that underline the fabric of working communities that people can maintain their income for a limited period during illness. Therefore, any abuse of sick leave provisions puts in jeopardy not only individuals or a class of workers but also workers generally, as employers will seek to undo those provisions that provide that support to people. The bill provides penalties for the abuse of sick leave provisions. Clearly, if a person takes sick leave to which that person is not entitled, an employer can simply refuse to pay the person's wages.

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Therefore, there is already a detriment to an employee who abuses the sick leave provisions by not paying the employee. That is the way the system currently works. Clearly there would be issues about how the employer justified that refusal to pay. We are all aware of people who have taken sick leave when it was inappropriate. However, an employer can always ask for justification from the employee. Also, there would be grounds for the dismissal of someone who consistently abused the sick leave provisions and that person could, therefore, lose his or her job. Again, many of us have worked with people who lost their jobs because they used the excuse that they were sick and did not attend the workplace when they should have attended. The repeated use of sick leave is inappropriate and in extreme cases can lead to the loss of employment.

**Mr R.F. Johnson:** Unless you are a member of the CFMEU.

**Mr J.C. KOBELKE:** There are problems in particular areas. However, as I said, sick leave is a very important benefit. I do not want to see it jeopardised for individuals in the workplace. We need to make sure that the system is not abused, and because there had been suggestions of abuse we initiated action to have the Western Australian Industrial Relations Commission look into this matter. Many of the sites where this was happening were predominantly covered by federal agreements and there was an issue about whether this matter was covered by federal or state jurisdiction, but the state act provides for the responsible minister - me - to call for a conference to have these matters heard. That provision does not exist under the federal legislation, because it cannot initiate such action, but I could do it under the state act. The unions were called in and we had some preliminary discussions with the employers, who at that stage did not wish to be a party to the negotiations but have since confirmed that if there were to be a re-occurrence, they would quite likely be willing to become parties.

**Mr T.R. Buswell:** Which employers?

**Mr J.C. KOBELKE:** I am not going to put that on the record. I spoke to a number of employers.

**Mr T.R. Buswell:** No you did not.

**Mr J.C. KOBELKE:** I did. The member may not accept that, but I am not going to say that employer A, B or C has said that we can go in; they can make that statement for themselves, because they clearly wish to look after their workers and they do not need me to interfere.

The outcome was that the conference was adjourned, but it sent a very clear message that any re-occurrence was already on the agenda and it would be dealt with in the most appropriate way. Many awards and enterprise bargaining agreements deal with this matter and I will provide a couple of examples because they vary. Clause 14.21 of the Public Service General Agreement 2004 states -

In general, supporting evidence is not required for single or two (2) consecutive day absences. Where the employer has good reason to believe that the absence may not be reasonable or legitimate, the employer may request evidence be provided. The employer must provide the employee with reasons for requesting the evidence. The leave shall not be granted where the absence is not reasonable or legitimate.

In that agreement there is potential to have up to two days' leave without having to give justification, but if the employer has heard a story or has seen the person on television at the cricket when he has submitted an application for sick leave, he can ask for evidence to justify why the employee should be paid sick leave when he was not at work. As this matter relates only to the building industry, it might be appropriate to look at one of the awards in that industry. I refer to the Building Trades (Construction) Award 1987 and clause 23 dealing with sick leave, which reads in part -

- (1) An employee other than a casual employee as defined who is absent from his/her work on account of personal illness or on account of injury by accident, other than that covered by workers' compensation, shall be entitled to leave of absence, without deduction of pay, subject to the following conditions and limitations:
  - (a) He/she shall within twenty-four hours of the commencement of such absence inform the employer of his/her inability to attend for duty, and, as far as practicable, state the nature of the injury or illness and the estimated duration of the absence.
  - (b) He/she shall prove to the satisfaction of his/her employer (or in the event of dispute a Board of Reference) that he/she was unable on account of such illness or injury to attend for duty on the day or days for which sick leave is claimed.

That award contains other clauses relating to the accumulation of sick leave, which again are benefits available to many workers. There is considerable ability to accumulate sick leave, but in some cases there is a limitation

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on the number of days that can be accumulated. Under the Building Trades (Construction) Award 1987 a worker can be required to prove to the satisfaction of his or her employer that he or she was genuinely sick. I am relating this to the bill we are dealing with: if an employer thinks that a matter is industrially motivated, he can request this information. That is already contained in this award. The employer can require evidence if he believes that the sick leave is not justified.

There is variation between a lot of the awards. Matters are not all dealt with in the same way. In some instances, enterprise bargaining agreements have aggregated the days available and this is often done at the request of the employer. The employer does not want to be involved with the account-keeping process and working out whether the person took sick leave, rostered days off or special personal leave that may be available for one or two days a year. He has bundled them together so the employee has so many days a year that he can use for personal leave or sick leave, with a limit of perhaps 10 days of those cumulated days. There is a whole range of different arrangements, but where the basis for taking a day off has been accumulated into a single day - that is the case with some of the CFMEU enterprise bargaining agreements - it has been agreed that a person can take time off, whether for sick leave or personal leave, and it is the employee's choice to do that. Conditions apply to how workers under such EBAs can avail themselves of that right. In EBAs, that is a matter for negotiation, and conditions can change from time to time.

I will return to the overview of the bill. This bill is really just political posturing. The government will not support this bill. It is unnecessary. The proposed amendment to section 22 of the act comes across the top of what is already contained in the act, so there is no need to add the other subsections. Proposed section 22 also refers to section 19(1), which provides the entitlement for sick leave. Of course, the benefits in the Minimum Conditions of Employment Act are fairly meagre and many people are entitled to better benefits. The proposal is to insert a new subsection (2) with extra restrictions tying the matter to the employer's perception about whether the absence was industrially motivated. From our perspective there is no demonstrated justification for the bill, because the reported incidences of blue flu in Western Australia were quite isolated. That is not to underestimate our concern that it might have spread, which did not happen, but also the concern that for a particular project or a particular employer even one day lost can be a major problem. If leave is taken at a time when work is at a critical stage, the loss of that day can be quite significant. However, in terms of the general public and the industry overall, blue flu really was a non-event, and to regulate everyone who works under the Minimum Conditions of Employment Act for what was a very limited problem does not make sense. There has been no demonstrated justification for this bill, because of the low level of incidence of this problem. Some people claim that it was use of sick leave in an inappropriate way; other people say that they took days they were entitled to under their award. It was the threat that it might become more commonly used that really concerned people, including those in the government.

The key point is that the government has sought to foster better relationships in the workplace to ensure greater trust between employers and employees. There is ample international evidence that enterprises are far more productive when employers respect the rights of their employees. Employers gain respect in return and people work in partnership for the productivity and success of the enterprise. When rules are laid down such as ones that impose a fine when someone takes a day off as sick leave when he is not sick, they are likely to undermine the development of trust in the workplace. That will certainly not improve workplace relations, the quality of the working life of employees, productivity or the financial benefit to the employer. This bill is a way of grandstanding on this issue. It does not deal with the real issues; that is, what is appropriate sick leave and how we should protect it.

I understand why the opposition wants to do this. Its members are a bit one way and a bit the other about the Howard government's industrial relations agenda. They supposedly do not want the federal government to take over the state's industrial relations jurisdiction. This is a matter of protecting the right and ability of Parliament to govern for the people of Western Australia. On that basis, the Leader of the Opposition does not support the push by the Howard government. However, I note that the Deputy Leader of the Opposition, the member for Vasse, who is the originator of this bill, has said that he does not have any such compunction and would be quite happy for a federal government to take over -

**Mr T.R. Buswell:** Where is that recorded?

**Mr J.C. KOBELKE:** I received that information from several people who heard the member say that at the Industrial Relations Society of Australia conference. Is the member saying that that is incorrect?

**Mr T.R. Buswell:** Here is my speech, and it is not in there. It says exactly what the leader says.

**Mr J.C. KOBELKE:** That is what the Deputy Leader of the Opposition is saying now. Is the member challenging me to get statutory declarations from a dozen people who heard him say that his view was that state

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rights were not much of an issue and that he would be happy to have a unified national system under the federal government?

**Mr T.R. Buswell:** No, I didn't say that. I said that it was causing significant political difficulty. Many people from your department were there, by the way.

**Mr J.C. KOBELKE:** A number of my people were there. I have also met many lawyers and practitioners over the years, and many of them regularly attend those conferences. I have also attended those conferences a number of times. The member is now saying on the record that he did not indicate his happiness for the federal government to administer a national system.

**Mr T.R. Buswell:** I would certainly have indicated my strong desire to see the outcomes of the federal reform program delivered to Western Australian workplaces.

**Mr J.C. KOBELKE:** I will come to that in a moment. That is not the point I am making. It has been relayed to me by more than one person that the member expressed the view that he would not be unhappy, to put it in its mildest form, if the Howard government took over the state industrial relations regime and established a national unified system.

**Mr T.R. Buswell:** I expressed the view that I was supportive of the outcomes, and that I believed that there was a certain political inevitability to the Howard government taking over state industrial relations systems.

**Mr J.C. KOBELKE:** Is the Deputy Leader of the Opposition now suggesting that, although he might have been a bit reluctant, he sees the benefits of having a single, national IR system administered by the commonwealth?

**Mr T.R. Buswell:** No.

**Mr J.C. KOBELKE:** The member considers it to be inevitable; it will happen anyway.

**Mr T.R. Buswell:** I said that there was a certain political inevitability to it. I am sure that even you, with your broad chequebook from the Western Australian public to use in your futile High Court challenge, would agree that the political aspect of this will happen.

**Mr J.C. KOBELKE:** We can debate where these things might go. What I am trying to get straight is the statement the member made at the Industrial Relations Society conference a few months back. It was relayed to me that the member clearly expressed support, and certainly not resistance, to the commonwealth government establishing a national industrial relations system, which would take over from the state jurisdiction.

**Mr T.R. Buswell:** I will give you the paper that I delivered and you can make a determination on that.

**Mr J.C. KOBELKE:** The Deputy Leader of the Opposition is being cute with me, because the paper he delivered does not necessarily contain exactly what he said to the 50 or 100 people who were at that meeting.

**Mr T.R. Buswell:** I spoke for 45 minutes. I will give you the paper I spoke from and you can make up your own mind.

**Mr J.C. KOBELKE:** The member is obviously not refuting the evidence that at least one of his statements went a bit further than what may be in the written paper, and that he made it clear that he saw benefits in the federal jurisdiction overriding the state industrial relations system.

**Mr T.R. Buswell:** That is your view of what was said. It certainly doesn't sit comfortably with my view of what I said.

**Mr J.C. KOBELKE:** Okay, it was not what the member meant to say, but it sounds as though he did say it. We will come back to that.

**Mr T.R. Buswell:** That is what your crew may want to say.

**Mr J.C. KOBELKE:** The Leader of the Opposition has maintained a position on the importance of state rights. One can understand that. That is similar to the government's position. However, as the Deputy Leader of the Opposition said a moment ago, the state Liberal opposition is very supportive of the tenor and general direction of the quite radical and extreme changes that the Howard government will inflict on the people of Australia. Given that background, we can understand why the member introduced this bill; that is, he saw the potential of blowing up the blue flu idea as a way of distracting attention from the federal government's horrendous industrial relations agenda.

I have visited a number of groups since the commonwealth legislation was released. No-one wants to speak in a proactive way about what will be achieved by the Howard government's industrial relations changes. They tend to want to talk around the issue, as we heard the Deputy Leader of the Opposition do in relation to the statement

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he made at the Industrial Relations Society conference. Nobody wants to try to sell the supposed benefits of the Workplace Relations Amendment (Work Choices) Bill, which is before the federal Parliament, because no logical argument can be mounted that it will benefit working men and women in Australia. That bill is all about reducing benefits. It has been alleged that these changes will somehow be good for the economy, but there is no economic report or reasoned argument to support that.

**Mr T.R. Buswell:** Yes there is.

**Mr J.C. KOBELKE:** There is not. It has been said in the past few weeks that the federal Treasury has studied the economic impact of these changes, but it has said that it has not. With all the resources and consultants that are available to the federal Treasury, if there were any way to put together a half-reasonable economic case to support these changes, it would have done that. The federal government spent \$55 million on straight propaganda. Surely it would spend \$5 million or \$10 million on getting the best economic analysts of its political persuasion to present a report that argued the positive aspects of these changes for the Australian economy, job creation and wages. However, it cannot do that.

**Mr T.R. Buswell:** I will get you the study from the Business Council of Australia on productivity growth and real wage growth.

**Mr J.C. KOBELKE:** The Business Council of Australia has concocted a report that -

**Mr T.R. Buswell:** That is the group that employs the workers you supposedly represent. That is a nonsense statement. This report was prepared ages ago by the Business Council.

**Mr J.C. KOBELKE:** It is a concocted report that has no validity in terms of substantiating the benefits of the federal government's work choices bill. If passed, the work choices legislation will be disastrous for many working Western Australians. The federal government has made no attempt to outline any positives from these changes. In fact, a group of leading economists and industrial relations professors and lecturers from universities around Australia put out a position paper stating that there is no reputable study to support this move. In other words, no report in support of these changes stacks up against scientific and peer analysis. That has not happened. A few people have been paid to produce a report. Anyone of any academic standing in the relevant area would simply rip that report apart. There is no proper science or logic to these bogus reports that somehow claim -

**Mr T.R. Buswell:** Bogus!

**Mr J.C. KOBELKE:** Absolutely bogus. The claim was made that 55 000 jobs would be created by doing away with unfair dismissal laws. It was a totally bogus and made-up report - there was no justification for it at all.

**Mr T.R. Buswell:** I have seen some of your submissions on some matters and the quality of what you put up gives bogus a good name.

**Mr J.C. KOBELKE:** Give me an example.

**Mr T.R. Buswell:** The latest report on the impact of AWAs. It is that full of rhetoric that it is almost completely empty of any factual analysis.

**Mr J.C. KOBELKE:** The Australian Centre for Industrial Relations Research and Training study? I used the ACIRRT study of 2002. Does the Deputy Leader of the Opposition not have confidence in ACIRRT from the University of Sydney?

**Mr T.R. Buswell:** I'm telling you that it was that full of rhetoric that if you scraped away the rhetoric, it almost had nothing of substance.

**Mr J.C. KOBELKE:** The Deputy Leader of the Opposition is very good at making bold statements. A lot of the information and cases I have presented have come from the ACIRRT study on Western Australian workplace agreements. Is the Deputy Leader of the Opposition saying that that is a bogus report?

**Mr T.R. Buswell:** I said that it was so full of your rhetoric that I had to scrape -

**Mr J.C. KOBELKE:** I used a report from a very reputable organisation that is part of the University of Sydney. We paid that organisation to go through the old Western Australian workplace agreements when they were being removed and to benchmark them. A lot of work went into looking at the workplace agreements, deciding the relevant award and capturing that data. It compared more than 200 workplace agreements from various sectors and arrived at averages so that we had a clear and sizeable sample of the results. I used those studies and many other people used those studies, yet the Deputy Leader of the Opposition said that it is all bogus.

**Mr T.R. Buswell:** You just said that you paid the University of New South Wales group to do the report.

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**Mr J.C. KOBELKE:** The government did.

**Mr T.R. Buswell:** And you were telling me that it was unacceptable for the research of the Business Council to be paid for.

**Mr J.C. KOBELKE:** I did not say that at all. I am saying that some people will write a report to provide the required answer. Other academics around Australia will pick it to pieces because it simply tells people what they want to hear. However, when a proper analysis is done with proper data, that is open to peer review. Other people can consider it and criticise it, but they will not find a hole in it because it is soundly based and can be relied on. That is the sort of information I am using. The information that is being used to support the Howard proposals has no basis in fact. It is trying to create an image by producing a report, the outcome of which has already been conceived. That report has no valid evidence. The claim that 55 000 jobs will be created by removing people's unfair dismissal rights has no basis at all. Umpteen academics have picked over that report and shown it to be a bogus report.

How could the opposition introduce a bill for debate that shifts the focus away from the big issue in industrial relations in Western Australia today; namely, the impact the Howard government's work choices bill, if it becomes law, will have on Western Australian workers. The issue of potentially losing sickness benefits - the right to have leave because of ill health - will be totally insignificant compared with the loss of the protection of provisions wrought on many people as a result of the work choices bill.

I will make four points because they support the argument as to why the opposition brought this bill forward. We know that the Howard government changes are very similar to the system that Western Australia had under the previous state Liberal government. It is not the individual measures themselves that will be negative and harmful to working people - it is the combined effect of those measures. The minimum wage will not be set by the Industrial Relations Commission. Rather, it will be set by a body called the Australian fair pay commission. The word "fair" was removed from its guidelines, so it is no longer required to have anything to do with fairness. That is what the last Liberal government did in Western Australia, because the former Minister for Industrial Relations set the minimum wage. The result was that the minimum wage in Western Australia was \$50 a week behind that in the rest of Australia.

The second point is that people can be forced into workplace agreements because a decent no-disadvantage test is not required. That will create a drive to the bottom. Again, we had that in Western Australia. Howard is implementing those measures in a more extreme way. The third point is that if we remove the power of the Industrial Relations Commission to arbitrate when people's legal rights have been abused, how will working people with limited money uphold their rights? Federal minister Andrews has reflected how totally out of touch he is with working people by saying that a young person can pay his or her accountant \$60 or \$80 an hour to go along and give them advice.

**Mr T.R. Buswell:** They could take their union rep.

**Mr J.C. KOBELKE:** Then they might actually get some benefit.

**Mr T.R. Buswell:** They can do that under the legislation.

**Mr J.C. KOBELKE:** In theory they can, but not in practice. Under the law an AWA is registered, even if the person is not able to get advice, because he or she has been offered the job. They will be told to sign the workplace agreement or they will not have a job. People will not have the ability to receive advice. The point I am making is that when a person's contractual rights are abused and ripped up, there will be no effective way of having them enforced. Under the current system, the Industrial Relations Commission considers matters of contractual rights and, at a reasonably low cost, a person can approach a jurisdiction that is not overly legalistic and represent himself or be represented by a union rep in an attempt to have his contractual rights enforced. In that way, if a person has been underpaid, he can get his back pay. Under the Howard regime, the Industrial Relations Commission will not have the power to arbitrate. It can be used for mediation, but it will not be able to arbitrate to uphold a person's rights. If a person cannot uphold his rights, they will not mean very much. That will be one of the key problems with workplace agreements.

The fourth point concerns removing people's rights to an unfair dismissal claim if they are dismissed in a harsh, unjust or unreasonable manner. If a person complains that he is not being paid properly, or if he presses his manager or employer to improve the safety of the work environment, he could be threatened with the sack and have no comeback whatsoever. If an employer sacks a person because he refuses to use a piece of unsafe equipment, the employee could use the health and safety legislation. However, if the employer closed that machine down for a week and sacked the worker, the worker would have no right to an unfair dismissal case if he worked for an incorporated organisation with fewer than 100 employees. For many employees, there is the double whammy of lower minimum wages, and workplace agreements with no choice and no standards against

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which they can be benchmarked. Further, in the proposed system, the Industrial Relations Commission will not be able to arbitrate if a person's rights have been contractually abrogated. If a person speaks up for his rights, he could be dismissed without having the right to make a case for reinstatement. When we put those factors together, it will not only be a workplace that is unfair to many employees, particularly those who do not have any real bargaining power, but also it will not lead to greater productivity. Countries that have lower wages and standards do not necessarily have higher rates of productivity. Productivity is a far more complex mixture of training, the capital equipment that goes into the workplace and the commitment of employees to improve the operations. We want safe workplaces with ongoing analysis and improvement. If that approach exists in a workplace, then we will achieve highly productive workplaces. We will not achieve highly productive workplaces simply by lowering wages and the protections for workers. There is ample evidence of that around the world.

I have strayed a little from the bill. This bill must be seen in the context of industrial relations in this state and across Australia. At this time, the largest negative change that anyone can remember is being mooted by the federal government. The industrial relations system always endures an ebb and flow - it swings one way and then back the other. What this legislation proposes will, in many respects, take us back 100 years to the situation in which people did not have the ability to organise collectively, to represent and to uphold their rights and to advance their working conditions. When workers are on individual contracts, it is very much a master-servant relationship. In that climate, those people who do not have high level skills and bargaining power will see their wages and conditions eroded or, in some cases, drop quite dramatically. Against that backdrop, the opposition wants to pull the stunt of putting extra conditions on the ability of people to take sick leave.

**Mr T.R. Buswell:** To take sick leave en masse. You seem to have overlooked one small aspect of the bill - the use of sick leave.

**Mr J.C. KOBELKE:** I was making the point that there was a kernel of an issue that certainly needs to be addressed and we are aware of that. Members of the opposition are attempting to do far more than that with this bill. They are trying to put within the Minimum Conditions of Employment Act an additional requirement which will not serve the purpose that they think it will. They are worried about playing around with this provision at a time when the whole system of protection and standards of conditions is under an absolute onslaught and is being attacked by the federal government. This is where members of the opposition see the politics of the moment. They are very wide of the mark. Personally, I am not unhappy that they continue in this way because we are in politics. I am very firmly of the view that their position on this will not be carried by more than 20 per cent of the population. They will find that more than 80 per cent of the population absolutely abhor what the Howard government is attempting to do. If they do not want to stand up for the working people of this state, I am politically happy with that. The people of Western Australia understand what their rights are in the workplace. They understand enough of what the Howard government is trying to do. Fortuitously, the \$55 million it has spent on propaganda has totally backfired.

The most telling cartoon appeared on the front of *The Australian* some weeks ago. There were two people in front of a television with a yellow image, part of the "Work Choices" advertising campaign. One worker said to the other, "That TV ad of Howard does remind me about something; he's up to something tricky, isn't he?"

*Point of Order*

**Mr C.J. BARNETT:** Mr Acting Speaker, I am not being a smart alec or being difficult but am just listening to the member speak, with his badge on in this chamber expressing a political point of view. With respect, I do not think you, Mr Acting Speaker (Mr A.P. O'Gorman) should wear one while in the chair.

**The ACTING SPEAKER (Mr A.P. O'Gorman):** Could the member say that again?

**Mr C.J. BARNETT:** The point I am making is that there is some tolerance of bringing political propaganda into this chamber. I am not objecting to the minister wearing his rallying badge. While you, Mr Acting Speaker, are a Labor member - and I am not criticising you personally - when you occupy the chair, you should remove that badge.

**Mr J.C. KOBELKE:** The member might have a point if there was some issue of control, and if there were interjections and you, Mr Acting Speaker, had to make rulings that may seem to be biased. Everyone knows that the member in the chair is a Labor member. Whether he has a badge on or not, I do not think makes any difference.

**Mr D.F. BARRON-SULLIVAN:** This is no reflection obviously on the person in the chair at the moment, but what the Leader of the House has said is quite incorrect. When any member is sitting in that chair, he or she is performing a role as the independent umpire in this particular chamber. Not only must the person in that chair

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obviously be impartial, but also that person must be seen to be impartial. I think the member for Cottesloe has raised a valid point. It is no reflection on you personally, Mr Acting Speaker. I think it would set a very good precedent if it was decided that people in that chair should not be wearing any form of political propaganda.

**The ACTING SPEAKER (Mr A.P. O'Gorman):** I have sat and listened to this debate since four o'clock. I have not had to intervene or rule in any way on any of the comments that have been made. Nobody has raised a point of order. I will take the member's point of view on board and refer the matter to the Speaker and ask him for a ruling.

*Debate Resumed*

**Mr J.C. KOBELKE:** I was about to conclude. I think I have pointed out quite clearly why the government does not accept this bill. There are much bigger issues in industrial relations that need to be dealt with. This is simply a stunt. It will not advance the interests of employers or employees. We need to deal with the real issues, not with this type of legislative sledgehammer.

**MR A.D. McRAE (Riverton - Parliamentary Secretary)** [4.45 pm]: I stand to be corrected, but I believe this is the first piece of legislation introduced by the member for Vasse. If it is not his first private member's bill, I think it is the first piece of legislation he has introduced in his role as opposition spokesperson on industrial relations. I ask the member whether that is correct.

**Mr T.R. Buswell:** I suggest you may be right. I will have to go back to my records. I cannot quite recollect.

**Mr A.D. McRAE:** I am amazed that a member with a very long career of nearly 11 months cannot remember what he has done in those 11 months.

**Mr R.C. Kucera:** Remember those rockets we used to let off on 5 November.

**Mr A.D. McRAE:** Five-second spectacular. In looking at this legislation, firstly, I wanted to understand what it attempts to do in statutory terms. Secondly, what effect will that have in the industrial relations environment in which we are living and working? Thirdly - I guess this is reversing the order of those questions - what are the member for Vasse's priorities for advancing the wellbeing of employees throughout the state and the profitability and sustainability of businesses in Western Australia? The answer to the third of those questions has been revealed. We have revealed that his priority indeed is nothing to do with labour productivity. I do not see any mention whatsoever of what might be a productive enterprise. I do not see any evidence whatsoever in this legislation of his thoughts about what is necessary to increase the level of technological or capital equipment investment in businesses in Western Australia. I do not see any evidence of the member for Vasse's thinking about the skills shortage in Western Australia. I do not see any evidence in this legislation of how he will create flexible, responsive, export-oriented value-adding enterprises in Western Australia.

The first bit of work that the member for Vasse managed to contribute to this Parliament not only as an individual member but also as the opposition spokesperson on industrial relations, the person who is charged with providing an alternative view to the government's industrial relations scheme, is a blue flu bill. Even with the member's sense of importance of his role in all this, any objective measure by somebody observing this debate and having observed what this bill attempts to do would question whether that was a sensible use of his time and energy.

The Minister for Consumer and Employment Protection, the Premier and a number of other Labor members of Parliament have already commented in public and in the Parliament about their disagreement with anybody who would use sick leave, annual leave or any other form of workplace entitlement that has been arrived at and constructed over 150 years of struggle by working men and woman as an industrial tool.

If it is not apparent to the Deputy Leader of the Opposition just yet, I can inform him that one of the differences between the Liberal Party and the Labor Party is that members of the Labor Party believe that the right to strike is an absolutely fundamental human right. The right of individuals to withdraw their labour from their place of work and engage in an industrial dispute with their employer about conditions of work is a fundamental human right in a democratic and civil society. I know that the Deputy Leader of the Opposition disagrees with that statement for this reason: this bill is like the little toenail of Howard's legislation. The Deputy Leader of the Opposition's bill is so insignificant in the industrial relations debate that he has produced something that is as important as a toenail to Howard's body of industrial relations reform. The opposition is sending a signal to those who it thinks are its backers that it is with them. Without committing to Western Australians openly and honestly, the opposition is sending its backers a signal that the opposition is on their side and will put the boot into employees whenever it gets the chance. I am reminded of something that a Victorian director of the Executive of the Liberal Party said on *The 7.30 Report* some eight or nine years ago during a debate about the Victorian and Western Australian industrial relations laws. He made a remark that he wished a thousand times

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he had never said. He wished to put his boot and every other boot he could find into his mouth to get out of what he had just uttered. He said that a little bit of fear in the workplace is a good thing. That is the fundamental divide between the Deputy Leader of the Opposition and me, and the Liberal Party and the Labor Party.

There is a crying need to examine labour productivity, enterprise flexibility, investment in skills development and new technologies, investment in capital equipment, and the creation of flexible workplaces that are able to produce efficient goods and services that value add and produce export income for Western Australia and Australia. When all the complexities of those issues are stripped away, the Liberal Party's answer to those issues was revealed by that one comment: a little bit of fear in the workplace is a good thing. Does the member agree or disagree with it? The problem is that the Deputy Leader of the Opposition likes it all one way. Whenever members on this side are engaged in debate and the Deputy Leader of the Opposition interjects and demands a yes or no answer that is not forthcoming because the issue is more complex, the Deputy Leader of the Opposition goes to town on it. I am asking the member a simple proposition. Does he agree that a little bit of fear in the workplace is a good thing?

**Mr T.R. Buswell:** No.

**Mr A.D. McRAE:** Good. That has separated the Deputy Leader of the Opposition a little bit from the director of the Victorian Liberal Party eight or nine years ago.

**Mr T.R. Buswell:** Do you endorse trade union officials assaulting officials and managers on work sites?

**Mr A.D. McRAE:** No, of course I do not. It is a criminal act, and the Deputy Leader of the Opposition knows it.

**Mr T.R. Buswell:** Does the member accept that if one does that, one should have one's right of entry revoked?

**Mr A.D. McRAE:** I do not think anyone who commits a crime should get away with it without having to face up to the penalties for it. A person who is guilty should be subjected to whatever the penalties are. As the Minister for Consumer and Employment Protection has said, the problem with this legislation is that the opposition has focused on a small but important issue that occurred in the middle of 2005. It has not previously been a widespread issue and I doubt whether we will see it become a widespread issue in the future. I think there was a season of furious miscalculation of what is a good industrial tactic from a person who should have known better. I have told that person that that is what I think.

An opposition spokesperson gets the chance to raise one or two important issues each year after everybody else has had a crack at raising an issue that they believe is important. Members can lay down a scheme for the policy area for which they are responsible. This legislation is the toenail of the body of John Howard's industrial relations reforms. It is the shard of a toenail.

**Mr T.R. Buswell:** A shard? It is getting smaller and smaller!

**Mr A.D. McRAE:** It is. The more I think about it, the less important I consider it.

**Mr T.R. Buswell:** What will it be next - toe jam?

**Mr A.D. McRAE:** If the Deputy Leader of the Opposition had been wearing a ribbon, as I note many member on this side are, and the Acting Speaker is also wearing one in recognition of -

Several members interjected.

**Mr A.D. McRAE:** It is now called football.

**Mr C.J. Barnett:** That is entirely in order!

**Mr A.D. McRAE:** Where does that differentiation end?

**Mr R.C. Kucera:** I take it you are talking about the Socceroos.

**Mr A.D. McRAE:** Yes. Being a rugby tragic, I cannot help myself; I just refer to it as soccer.

**Mr T.R. Buswell:** Get back to your rhetoric.

**Mr A.D. McRAE:** It is not rhetoric. If the Deputy Leader of the Opposition thinks that what I am saying is rhetoric, he has not read his own bill. If he is trying to attach to it some other policy framework that I, frankly, cannot read in it, he must tell us in his closing address what it is. If there is some implied policy reform in this bill that represents the member's view of what is the industrial relations policy of the Liberal Party and what he is offering to the people of Western Australia as an alternative, I cannot read it. I bet that 95 per cent of the people on the street could not read it either. They would see it as one thing only; the Deputy Leader of the Opposition having an opportunistic shot. I do not begrudge him the opportunity to criticise what he considers to be wrong. That is absolutely valid. However to use one of his one or two opportunities a year to produce a

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flimsy, pathetic toenail of a document sells himself short. He has come in here with a lot more promise than that. I have heard people talk about the expectations and ambitions of the Deputy Leader of the Opposition that signal he has more to say to us than to talk about blue flu. It is a real disappointment.

I will deal also with a couple of matters that this legislation raises and which cannot be removed from the industrial relations context in which we are now living and working. At the behest of the Minister for Consumer and Employment Protection I went to Canberra on Monday to appear on his behalf with ministers from every other state and territory at the Senate inquiry into Howard's industrial relations agenda. Six ministers and two representatives from each state and territory attended the inquiry. As an aside, I have been involved with a number of state-based committees of inquiry. Other members of Parliament from Western Australia and interstate have appeared before us. I have never seen other government senators behave the way the chair of the committee and Western Australian Senator David Johnston behaved. I have never seen the type of behaviour I witnessed from those two from any other member of any committee during the five years I have been in Parliament, or indeed even before I entered Parliament. It was appalling, insolent, dismissive and rude behaviour.

**Mr R.C. Kucera:** Perhaps that is a taste of things to come.

**Mr A.D. McRAE:** While I was sitting and waiting for my turn to represent the Western Australian position that had been prepared by the minister and his staff, the Prime Minister's victory speech came to my mind when he said "guard against hubris". What did I see before me writ large in big, flashing neon lights? Hubris. That is all I saw. It was ugly and had no regard for the opinions of the people who are representing Parliaments in states and territories around the country.

**Mr R.C. Kucera:** We saw the member for Vasse trying to demonstrate some of that this afternoon.

**Mr A.D. McRAE:** Yes, we did, and without any grounds whatsoever. The senators might argue that they have some grounds for it, but the member for Vasse certainly has no grounds for it. What connected me with this legislation when thinking about the presentation of that was the refusal of the conservative government in Canberra to recognise the reality of what has been presented, in particular in the submissions by the Minister for Consumer and Employment Protection, to those senate inquiries. The research that he was quoting earlier in this debate and that I presented on behalf of the state government in Canberra on Monday, shows that the Australian Centre for Industrial Relations Research and Training research and the hard, unarguable, grinding statistics that it produced -

**Mr T.R. Buswell:** That you paid for.

**Mr A.D. McRAE:** Is the member for Vasse suggesting -

**Mr T.R. Buswell:** The minister made the suggestion earlier.

**Mr A.D. McRAE:** It produced the data from real, lived experiences of Western Australian workers. The only response of the member for Vasse is to try to interject and say that somehow it was distorted or a lie.

**Mr T.R. Buswell:** That is what the minister said to me.

**Mr A.D. McRAE:** I have already said to the member for Vasse that I think this is a pathetic example of industrial relations policy from a person who gets one or two shots a year. The member is now confronted with the reality of research that is undertaken by a nationally recognised and highly regarded industrial relations research centre. This institute is highly regarded by employers, unions, workers, employees, governments around Australia and academics. The member for Vasse's only argument is that it was paid to produce -

**Mr T.R. Buswell:** That is not my argument. I was reflecting the argument that the minister put to me.

**Mr A.D. McRAE:** That is what the member just said. He cannot squirm out of it. When we say things in here they go on the record. The member cannot squirm out of it.

**Mr T.R. Buswell:** He said it, not me. Pick it out of *Hansard*.

**Mr A.D. McRAE:** The member for Vasse is too cute by half. When he suggested that it was paid for, he was suggesting that in some way the money produced the result that the government was after. That is not what the minister said. The minister has specifically rejected that proposition. Is that right?

**Mr J.C. Kobelke:** Absolutely.

**Mr A.D. McRAE:** Not only has it been rejected by the Minister for Consumer and Employment Protection in the Western Australian government, but that proposition would be rejected by employer organisations around the country as well. They would not argue that the data produced is a falsified representation of the experience of

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those men and women in individual workplace agreements under study in those industries. The only person arguing the validity of that research is the member for Vasse, because it is the only squirming spot he has got. It is wrong of him to do that for this reason: if we are serious about dealing with the world as we find it and producing the best outcome in lived experiences for the people whom we represent, we must deal with the realities. That ACIRRT report shows the stark reality of the experiences of people in Western Australia under the previous government's industrial relations reforms.

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

**Mr A.D. McRAE:** I am a bit perturbed by the member's attack on ACIRRT. He is wrong to do it, not only in the style in which he does it but also on the facts, and he will very easily be proved to be wrong on the facts.

The other points that I wanted to draw to members' attention are the three substantive clauses of the bill: the differentiation between genuine sick leave and the mass coordinated sick leave that is, in effect, industrial action; the penalties for employees who use this industrial action disguised as sick leave; and the definition of industrially motivated action. This shows again the narrowness of the member's focus. If this is an attempt to correct what is, in my view, a seasonal industrial tactic that was wrong as a tactic, wrong in law and wrong for maintaining an industrial system based on trust, this is not the way to attempt to do it. This is another example of where the member for Vasse seeks to create a better industrial relations system, in his words, by imposing greater conditions of fear and a loss of rights on those very people who have struggled for hundreds of years to accumulate those rights in their workplaces. The response of the member for Vasse is to strip away rights. The government's response is to add to the obligations for respect and good relations, and to make that very clear both in our policy statements and in our approach to the law. That is the difference between us. The member for Vasse failed in his objective even as he presented his bill.

The reason I characterise this bill as the toenail of the Howard body of industrial relations is that, in giving the nod to those whom the member regards as supporters, he has avoided as much as he can conveying to the people of Western Australia his attitude to the commonwealth industrial relations bills that are before the commonwealth Parliament. He has avoided declaring himself and he is pretending to those whom he regards as his home-team supporters that he is really on their side and he will give just a couple of little telltale indicators. That is not the way to generate good public debate and good public policy. It is not the way to get political credibility. All of us in this place end up having a bloodied nose for one reason or another as we learn the ropes. Coming into this place challenges people. Very few experiences, other than coming into this place, can prepare people for public life and having to stand on their reputation and how they present themselves. That is why I asked in my opening comments whether this was the member's first piece of legislation. I think that, in about a year's time, he will look back and see this as a wasted opportunity, apart from this one fact: through subterfuge the member has been able to give an indication to those who support him, and he has avoided fronting up to the people of Western Australia and saying that the opposition agrees with all the content of the Howard government's legislation but is opposed to the federal government assuming all the powers of the state in embarking on its industrial relations reform. Has the member for Vasse publicly told people that he is in favour of the content of the Howard government's reform?

**Mr T.R. Buswell:** You have already asked me that question. I have already given an answer to the question.

**Mr A.D. McRAE:** I am asking now. Has the member said publicly that he is in favour?

**Mr T.R. Buswell:** I have. I did it today. If you had taken the time to listen to the debate, you might have saved us all this drivel, because I have said it in this house many times. I have said it on the public record time and time again.

**Mr A.D. McRAE:** I thank the member for that confirmation. He will be able to dribble it out again in his third reading contribution.

**Mr T.R. Buswell:** I will not dribble anything out. You asked the question because you are ignorant.

**Mr A.D. McRAE:** One thing I am not is an inflated bully. If the member thinks he can get his way by those sorts of pathetic insults, he is mistaken. I am telling him right now. I have just asked him a civil question. He might not like having to go on the record again, but I am a member of this place and I am standing asking him the question. All he can do is get very defensive. I accept that he supports the Howard government's industrial relations reforms. I will make sure that people in my electorate understand that, because they will be interested to know it.

The other thing I wanted to say about his confirmation of his support for the industrial relations legislation being embarked upon by Howard is that the legislation is a complete charade. I have heard people say that it is about

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creating a unified national system and that is one of the great benefits for it. Has the member heard that argument?

**Mr T.R. Buswell:** I have and I do not agree with the argument.

**Mr A.D. McRAE:** It is interesting that the member does not agree with it, because it is a fallacy anyway. Without the support of the states it is impossible to create a unified national system. Even if the Howard government is 100 per cent successful with the federal laws that are part of the current reform program, something like 30 or 40 per cent - depending on the state jurisdiction - of all employees in each state will still be outside the federal industrial relations system and will be covered by state legislation.

**Mr T.R. Buswell:** Except Victoria.

**Mr A.D. McRAE:** Except Victoria, which no longer has its own jurisdiction. Therefore, the Howard government is not creating a unified system.

Another major claim that the opposition is avoiding in presenting this legislation, rather than presenting substantive legislation reflecting the opposition's real policy views, is that the bill somehow will simplify the current hundreds of awards and agreements throughout the country. The irony is that if the Howard government is successful with its legislation, it will actually create 13 million new awards and agreements, which will all be called individual contracts. There will then be 13 million separate contracts that will need to be administered. Far from being a simplified system, it will multiply the complexity of the system by thousands. Until now, as far as I am aware, the Deputy Leader of the Opposition has hidden from declaring his support for the Howard government's legislation. He has presented a bill that does nothing for workplace reform or workplace productivity.

By the way, I do not know whether the Deputy Leader of the Opposition picked up from the Minister for Consumer and Employment Protection that on the latest figures Western Australia has the highest gross state product per capita in Australia. The argument in 2001, when the minister introduced the legislation to re-establish fairness in industrial relations, that it would destroy productivity and the way in which Western Australia works, has been revealed as a complete lie. This minister has overseen the reintroduction of fairness into the workplace and the positioning of Western Australia as the most productive state in the country. The opposition's bill is a sham, its policy is a sham and it really could do better.

**MR A.P. O'GORMAN (Joondalup) [5.11 pm]:** I just put my badge back on, as I had to remove it while I was in the chair. It is appropriate that this badge is prominent - "Your rights are workers' rights". That is the truth. The Deputy Leader of the Opposition has introduced this bill on blue flu in such a manner that he has made out that we are facing a huge epidemic across the state and that the Parliament must take up its time legislating to ensure that it does not happen time and again. I suggest that it is not so much of an epidemic as a symptom of something much more sinister. The Deputy Leader of the Opposition's wording in this bill would have us believe that every worker in this state would stoop to being dishonest just to get a point across in an industrial dispute, and he wants to legislate against that. Why would workers across the state be motivated to take such extraordinary action? Why would workers make themselves liars and turn themselves into dishonest people? The only reason I have been able to come up with is that there was some greater injustice or persecution of a particular class of people, in this case workers.

**Mr T.R. Buswell:** It's called Joe McDonald coming around to the building site. Geez!

**Mr A.P. O'GORMAN:** So because of one union organiser, the Deputy Leader of the Opposition is proposing to persecute every worker in this state.

**Mr T.R. Buswell:** Go and talk to him.

**Mr A.P. O'GORMAN:** Does the Deputy Leader of the Opposition know what it is? It is pure, outright bad management. It is typical of what members opposite do; they continually protect bad managers. Rather than encouraging bad managers to learn how to do their job properly, members opposite legislate to lock them into the system so that they can continue to be bad managers, instead of learning how to properly manage their workplaces.

The greatest reason that we can see that is motivating this legislation is the persecution involved with the ridiculous industrial relations legislation that has been introduced into the federal Parliament by the Howard government in the past few days.

**Mr T.R. Buswell:** Rubbish!

**Mr A.P. O'GORMAN:** It is outrageous and persecutory! The federal government, along with unscrupulous employers across the country, wants to foist it on our community.

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I came to this country in 1981 and one thing I have not been able to figure out since then is why conservative parties when they get into government just do not learn that unions are not out there aggressively attacking employers. They are an integral part of the community. They are part of the fabric on which the structure of the community is built, not only in Australia but also right around the world. It would be much better if conservative parties worked with them, as the Labor Party does, to improve productivity, improve real wages, improve worker security and remove fear from the workplace.

This little blue flu legislation seeks to put fear into the workplace, particularly the proposal to fine people for taking a day off work when it is perceived that they have done that unconscionably in some respect during an industrial dispute. There is a method for dealing with such conduct, as the minister outlined earlier. The employer can ask the employee to produce a medical certificate if the employer suspects that the employee had cheated. If the certificate is not produced, the employer can refuse to pay that day's wage. That has happened time and again across this state. That provision is in the act, so there is no need for this legislation. With good management practices, unions and employers can deliver, and have delivered, excellent economic outcomes for all Western Australians.

Western Australia at the moment is recognised throughout the world as a prime example of how cooperation between unions, government and management has produced unprecedented economic growth by a state. This has not happened by chance. It is the culmination of years of planning -

**Mr T.R. Buswell:** What sector has that cooperation occurred in? Mining?

**Mr A.P. O'GORMAN:** Is the Deputy Leader of the Opposition saying that it can just happen with arguments taking place?

**Mr T.R. Buswell:** What?

**Mr A.P. O'GORMAN:** Is the Deputy Leader of the Opposition saying that the unions, government and management can be at constant loggerheads with each other and yet produce the outcomes that we are seeing in this state? They cannot.

**Mr T.R. Buswell:** The fact is that the state industrial system is shrinking the growth sector. Mining is in the federal system.

**Mr A.P. O'GORMAN:** No, it is not.

**Mr T.R. Buswell:** Yes, it is.

**Mr A.P. O'GORMAN:** This has not happened by chance; it has happened with years of planning and good management by the state government working in concert with unions. Integral to the whole process has been the inclusion of the relevant unions.

**Mr T.R. Buswell:** Tell me one that is not in Western Australia. There aren't any.

**Mr A.P. O'GORMAN:** There are. The Australian Manufacturing Workers' Union on the Burrup Peninsula is one example of a union.

**Mr T.R. Buswell:** What mine site is it on?

**Mr A.P. O'GORMAN:** I said the Burrup Peninsula, as the Deputy Leader of the Opposition would know if he had listened. That is where we have had great success, not only in economic outcomes but also in training outcomes.

**Mr T.R. Buswell:** Down in Collie, that's for sure!

**Mr A.P. O'GORMAN:** The Deputy Leader of the Opposition has an irritating habit of prattling. He is just as bad as the member for Nedlands. He is just like her in prattling on. Can he just settle back?

This attempt by the Deputy Leader of the Opposition to introduce this legislation has been seen for what it is: it is just another way of being a lapdog to Howard's IR legislation.

**Mr T.R. Buswell:** You want to get someone to put your notes in a bigger font.

**Mr A.P. O'GORMAN:** Yes?

*Point of Order*

**Mrs D.J. GUISE:** Mr Acting Speaker, under standing orders 94 and 95, I would like you to address the constant interruption from the Deputy Leader of the Opposition. He is disrupting the member on his feet.

**The ACTING SPEAKER (Mr M.J. Cowper):** The fact remains that the member for Joondalup is engaging the Deputy Leader of the Opposition. If the member for Joondalup is having some difficulty, I would ask him to

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address the Speaker's position and he will be afforded the protection of the Chair. However, there in essence is the problem of engaging a member. If the member for Joondalup does that, he must expect some degree of interjection. However, if the member would like to proceed, he should address the Chair.

*Debate Resumed*

**Mr A.P. O'GORMAN:** Thank you, Mr Acting Speaker. This industrial relations reform that has been foisted on us by the Howard government and a group of employers will not make us and the workers of this state back off and be subservient to a group of employers. It will actually make us stronger. That has been borne out by history. I will give a little history lesson. In the 1890s, employers launched a major offensive against workers in the form of freedom of contracts; that is, employer-controlled individual contracts. This resulted in the defeat of the shearers, maritime and mining unions due to an unprecedented alliance between the government and employers that used the full force of the state against workers. It was similar to the legislation that is being proposed by Howard. Strike leaders were imprisoned and the media was used to isolate unionists from the general population. Even though it appeared that the unions were defeated at that time, they still came back and that resulted in the formation of the Australian Labor Party. The Howard government is just making workers and unions stronger. This should be a warning to all on the opposition side. 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. I can prove this by going back 800 years when ye olde countries were invaded by overseas people. It makes people more and more angry and determined and they will fight. Those opposite might win this round, but they will not win in the long term.

**Mr J.E. McGrath** interjected.

**Mr A.P. O'GORMAN:** The good conditions are hard fought for and won by the unions. If the member knows his union history he will know how far back that goes.

There was another attack on the workers and unions in the post-war period between 1945 and 1967 when governments introduced a range of penal powers in an effort to control and discipline unions. We did not let that beat us either. We have come back stronger again. That campaign culminated in the jailing of a unionist called Clarry O'Shea. The union response took many years to build into a campaign, but eventually we won outright again. In the past 15 years we have seen a concerted effort to remove workers' rights. We have moved from a centralised wage-fixing system to a system based on enterprise bargaining, which was a good way of negotiating between employers and employees. With a collective there were great outcomes for employers and employees, but we are now looking at moving back to what happened in the 1890s. It will not be a good thing for the country to go back more than 100 years. The state and the country have moved on. We are a lot more flexible in how we do things, and introducing individual workplace agreements will not provide greater flexibility. That will probably slow us down. As the member for Riverton said, instead of having awards that represent groups of workers we will have individual contracts or awards for every single worker in the workplace. Some people might think that is a good thing and that it will make things nice and easy, but it will make things more difficult. I have a case in point in my electorate in one of the community organisations with which I am involved. Just prior to the 2001 election every worker in this organisation was on a workplace agreement, which was great, the organisation thought, because it was paying the employees a paltry sum an hour - about \$11 an hour for some of the workers in that area - and the organisation was running along nicely and building up a nice amount of money in reserve. However, in November 2001 when we had a look at the workplace agreements there was no provision for reviewing them at the end of the term. Under the Industrial Relations Act, which was introduced by Kierath, those agreements should revert to the award, just for protection. Even Kierath recognised that employers cannot get away from awards. The Industrial Relations Act stated that employers must go back to the award to determine what should happen at the termination of a workplace agreement. That organisation wound up paying in excess of \$25 000 in back pay to those workers, because the award rate was much higher than the rate included in the workplace agreement. Incidentally, that workplace agreement was drawn up by a lawyer who was also a former member of this place and he did not even understand it.

I hear some employers who run their advertisements on the radio say it is a great thing to have individual contracts, and they then criticise the metalworkers award, which consists of 96 pages, saying it is really difficult to read and understand 96 pages. However, when there are seven or eight million workplace agreements, how will companies understand and keep track of the situation and not have to pay heaps of back pay as that other organisation did? That is a huge risk for community organisations and it could run those organisations out of business.

This bill refers specifically to the building industry.

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**Mr T.R. Buswell:** Do you know why? Because that is where it happened.

**Mr A.P. O'GORMAN:** We must also look at why employees are doing this. We now have an industrial police force in the building industry called the Australian Building and Construction Commission.

**Mr T.R. Buswell:** What about BISPI?

**Mr A.P. O'GORMAN:** The member can abbreviate it if he likes. It has hundreds of inspectors wandering around building sites working against the unions and the workers, and in many cases against the employers, because they set up a great mistrust between the employers and employees. As an employer myself for many years and also an employee, one of the greatest things to have in an organisation is trust between employers and employees. As soon as that is gone it is time for both to part company. It does not matter which side they are on, the greatest thing is trust, and the Australian Building and Construction Commission diminishes or removes that trust. I have building workers in my electorate who are fearful of even making a telephone call because they fear their telephones may be tapped. The fines workers can receive under that legislation are up to \$33 000, and their unions can face fines up to \$110 000. That is no way to run an industrial relations system or a business. In the long run this so-called blue flu epidemic and the member for Vasse's response to it is a complete and utter overreaction to a one-off incident -

**Mr T.R. Buswell:** It happened about eight times!

**Mr A.P. O'GORMAN:** It is a minor incident in the overall working relations of this state and we will possibly never see it again. I hope we never see it again. However, in this situation the conservative parties are taking a sledgehammer to crack a quarter-inch nut and it is about time they started using -

**Ms M.M. Quirk:** Spoken like a true "metally".

**Mr A.P. O'GORMAN:** Spoken like a true "metally". One cannot get away from one's roots, even in this chamber.

I am opposed to this bill. I will not only vote against it in this chamber, but also I will talk publicly to incite people to work strongly against it. I refer to not only the blue flu legislation, but also the ridiculous Howard industrial relations regime that he is hoping to bring in, which will not create one extra job. We will in fact lose jobs and skilled people will go overseas where they will get a much better deal, in not only pay but also conditions. We will see a huge brain drain and skill drain from this country. Employers are far better off working with unions to develop the types of apprenticeships and training that the Gallop government has managed to achieve in the past couple of months. I will firmly vote against this bill.

**MR R.C. KUCERA (Yokine) [5.29 pm]:** I oppose the stunt that has been brought on for debate today and was introduced a couple of weeks ago by the member for Vasse. This bill highlights the lack of trust that conservative parties generally have for the relationship between workers and their employers. I know many good employers and many bad employers. I also know many people within the work force who exploit their working conditions and I know employers who exploit the people who work and make money for them.

It was interesting to hear the member for South Perth say that a person who takes sick leave when he is not sick is cheating. I will run through a hypothetical situation and will ask members to comment on whether it falls into the category that the member for Vasse is talking about. I will use the example of somebody who worked for a major government agency and who, for whatever reason, decided to take sick leave without advising the employer of the exact nature of the illness. This illness went on for almost a year. Despite repeated attempts by the employer to quantify the nature of the illness, the employee did not go to see the employer. As I say, this is a hypothetical situation. Let us say that this person was a lawyer who worked for a government department. During the time spent on sick leave, this person became quite well known as someone who was strongly involved with a political party, was attending meetings of that political party and was applying the experience of the profession that that person had proudly earned.

**Ms M.M. Quirk:** With some rigour.

**Mr R.C. KUCERA:** With quite some regularity. This person was so ill that on one occasion this person had to stagger to a meeting and work as a lawyer to represent a member of the political party.

**Mr T.R. Buswell:** Was it industrial action?

**Mr R.C. KUCERA:** Absolutely. This person was so stricken that, after having been dragged from a sick bed on Cottesloe Beach in a bathing costume and with a towel draped over one shoulder, this person could not complete that meeting.

**Mr D.A. Templeman:** You are making me weep!

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**Mr R.C. KUCERA:** This is a hypothetical situation. This person had a rare form of illness, and was so debilitated that this person could not attend work.

**Ms M.M. Quirk:** How long did it go on for?

**Mr R.C. KUCERA:** It went on for 10 months. There was nothing really political or industrial involved in what was going on, apart from the fact that the same person sought preselection with a political party at the time. In fact, this person was so ill as to be unable to carry out the duties for which the government was paying that person. This is all hypothetical, of course. I am sure that this is the kind of thing that the member for South Perth would call cheating.

**Mr J.E. McGrath:** You heard what I said before.

**Mr R.C. KUCERA:** I agree that this would be cheating. This person did this for 10 months. This same person, hypothetically of course, was able to represent a colleague from the same political party. I am not sure how many golf days they went on during that period with the Chamber of Commerce and Industry of Western Australia, or how many times the chamber of commerce rang this group of people to say that they would talk about the wonderful things that were happening on the wharf while they were playing golf.

**Mr T.R. Buswell:** Did you hear the hypothetical about the police officer who went out for hamburgers?

**Mr R.C. KUCERA:** The member for Vasse does not like it! I was a proud member of a union for 35 years. Before that, I witnessed the miners' strikes in Wales, where people railed against the kind of thing that the member for Vasse wants to introduce. My colleague talked about this bill being a toenail on the toe of John Howard's legislation. The member for Vasse talked about toe jam. I do not think it would qualify as toe jam.

I will continue with my hypothetical example. It must have been a terribly rare form of sickness. The nature of the illness was such that during this period of sick leave - this is hypothetical, of course - this staunch worker was dragged from bed to support political and industrial colleagues. At the same time, this person was able to prepare written defences from a sick bed. I come back to my original question. I agree with the member for South Perth. Does the member for South Perth consider that this hypothetical example involves an employee cheating on an employer?

**Mr J.E. McGrath:** You heard what I said before.

**Mr R.C. KUCERA:** We do as well. The political stunt that we are dealing with today cheats on the workers of this state and the people of this nation.

I had a unique opportunity when I was a police officer, particularly during my last couple of years in the job, to see brother set against brother and father against son. We had to confront thugs in balaclavas. The crime rate will go down if the Howard legislation is passed, because crooks and robbers will no longer be able to afford to buy balaclavas. The balaclavas and dogs will be with the people who work on the wharves and in the workshops, which this person wants to create. That is where all the scabs and everybody else will be. The federal government can create a Fair Pay Commission, but explain that to the young mothers in Balga who are trying to support their kids, to the 5 500 refugees in the northern suburbs of Perth who cannot get work, and to the 500 000 refugees who came from the kind of regime that Howard is trying to create.

Mr Acting Speaker (Mr M.J. Cowper), you should have been a proud union member, and I hope that you were. I hope that Mr Acting Speaker stuck up for the things that his colleagues stuck up for. I know that when he was in his comfortable position in Pinjarra he did not have to stand between -

*Point of Order*

**Mr D.F. BARRON-SULLIVAN:** It is totally inappropriate for a member to engage the member in the chair, regardless of that member's political persuasion.

**Mr R.C. KUCERA:** I take that direction and thank the member for Leschenault for pointing that out to me. I will allow you to answer the point of order, Mr Acting Speaker.

**The ACTING SPEAKER:** The point of order is sustained. One should not engage the Chair on a personal level. It is fine to do that when the member is sitting in his or her own place, but the Chair must be respected.

*Debate Resumed*

**Mr R.C. KUCERA:** Thank you for pointing that out to me, Mr Acting Speaker. I was simply reflecting on your proud membership of the union that I often refer to and once belonged to.

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The member for Riverton summed things up pretty well. Nobody condones people cheating on their employers, doing things in the wrong way or taking something that rightly belongs to somebody else. People are charged with fraud for doing that.

This legislation would probably do workers a favour in many instances, because the CCI and similar organisations, as well as the Australian Medical Association and unions like that, could not exist without corporate golf days or long lunches at which they could discuss the industrial issues of the day and the conditions they wanted to impose on the workers within their organisations. This is a nonsense piece of legislation. The member for Riverton quite rightly pointed out the serious and worrying part of the bill. We can laugh and joke about it being a toenail. We can laugh and joke about those things. However, bit by bit this type of legislation will undo the fundamental rights that Australian workers have fought for over the past 150 years. The next time members visit the Esplanade Hotel in Fremantle, I ask them to walk across to the wonderful old building that was converted and restored by a number of construction workers. I refer to the old Trades Hall, which is opposite Paddy Troy's benches where the wharfies used to meet. I ask members to look at the "888" emblem emblazoned on the front of the building. That emblem is the symbol of the Australian worker and was revered right across the world. It means "eight hours we labour, eight hours we rest and eight hours we have for ourselves and our families". There is no doubt about it; this is the thin end of the wedge. This political stunt simply highlights the sorts of issues that everyone in the nation is talking about. The girl on the front of the brochure that I am holding is a lovely young kid. What will her working conditions be like in this brave new world?

Does the Deputy Leader of the Opposition still own small businesses?

**Mr T.R. Buswell:** Yes.

**Mr R.C. KUCERA:** How many workers does he employ?

**Mr T.R. Buswell:** Approximately 28.

**Mr R.C. KUCERA:** What awards are they on?

**Mr T.R. Buswell:** A variety of awards. Some are covered under the boarding house award.

**Mr R.C. KUCERA:** Does the Deputy Leader of the Opposition pay award rates?

**Mr T.R. Buswell:** I most certainly do.

**Mr R.C. KUCERA:** Are some of his employees on AWAs?

**Mr T.R. Buswell:** Some workers are on AWAs.

**Mr R.C. KUCERA:** And the Deputy Leader of the Opposition has about 28 workers.

**Mr T.R. Buswell:** Correct.

**Mr R.C. KUCERA:** Is his business only in boarding houses, or does he have transport vehicles?

**Mr T.R. Buswell:** Yes.

**Mr R.C. KUCERA:** Does he pay workers in that industry the award rate?

**Mr T.R. Buswell:** Yes.

**Mr R.C. KUCERA:** Do they work the proper hours?

**Mr T.R. Buswell:** I would imagine so.

**Mr R.C. KUCERA:** The Deputy Leader of the Opposition is their employer; do they work the proper hours?

**Mr T.R. Buswell:** If the member for Yokine wants to be smart -

**Mr R.C. KUCERA:** I am not being smart; I am simply asking the Deputy Leader of the Opposition some questions.

**Mr T.R. Buswell:** They are employed by a corporate entity.

**Mr R.C. KUCERA:** I see - a corporate entity!

Several members interjected.

**Mr R.C. KUCERA:** It is just a corporate entity!

Several members interjected.

Mr John Kobelke; Mr Colin Barnett; Acting Speaker; Mr Dan Barron-Sullivan; Mr Tony McRae; Mr Tony O'Gorman; Ms Dianne Guise; Mr Bob Kucera; Mr Mick Murray; Mr Troy Buswell

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**The ACTING SPEAKER (Mr M.J. Cowper):** Order, members! I call the member for Riverton to order for the second time. The member for Yokine engages in across-chamber debate as part of his tack. However, in essence that causes disruption to the house and is not in keeping with the type of conduct that the people of Western Australia expect from us. I ask that members conduct the business of the house in a proper fashion.

**Mr R.C. KUCERA:** I was simply seeking information. If the Deputy Leader of the Opposition wishes to provide that information, that is fine. If he does not, we shall no doubt find out about it ourselves.

I had a taste of the brave new world we are trying to create in my previous occupation as commander of the city. I watched 25 000 people walk up St Georges Terrace. They were led by my son, whom the Deputy Leader of the Opposition constantly refers to during interjections in this chamber. We know very well that the Deputy Leader of the Opposition is well versed in mentioning members' families during debates in this house in an absolutely despicable way. We know what the member is like. These things will come back to haunt him. There is an unwritten rule in this house. I am proud of my son. He is probably the best industrial lawyer in this state, if not this nation. I am proud of my son, regardless of who he works for and what he does. I have seen both sides of the sword. I sat in the public gallery of this house when the previous government rammed through the worst piece of legislation this state has ever seen. I was very proud to be a member of the Labor Party when the Minister for Consumer and Employment Protection introduced a bill to vote down that legislation. As long as my feet allow me to stand in this house, I will object to and fight against this kind of legislation. This is a political stunt that deserves to be put in the rubbish bin of the future. This legislation is about implementing the kind of working future that none of our kids will want. I would be very interested to learn what the Deputy Leader of the Opposition pays his workers. I would be very interested to see what the award rates are, how many hours a week his drivers work and the type of money they earn. No doubt we will look at other members on the opposition benches who employ people in their business to ensure that they are looking after their employees properly. It is a great shame that the member seeks to remove the rights and traditions that everyone in this country has worked for over the past 150 years.

**MR M.P. MURRAY (Collie-Wellington) [5.46 pm]:** I firstly pose a question to members opposite: has any member opposite ever taken a sickie that is deemed illegal under the opposition's proposed legislation?

**Mr T.R. Buswell:** No.

**Mr M.P. MURRAY:** Certainly the Deputy Leader of the Opposition will not be eating his tea tonight because of the blister on the end of his tongue.

I refer to the member for Murdoch. I recall having heard stories from some of my friends about football Mondays when the member for Murdoch did not turn up for work. Is the fact that the member did not turn up for work on a Monday because he pulled a sickie to go fishing with his Fremantle football mates not worthy of a \$500 fine? The member for Murdoch is saying that it never happened. Come on! Maybe the member went down the pub and played pool.

**Mr T.R. Sprigg:** That is more like it.

**Mr M.P. MURRAY:** Just a minute ago the member for Murdoch said he had never pulled a sickie! No doubt he did that plenty of times to drown his sorrows because of the team he played for.

**Mr T.R. Sprigg:** We won 29 flags.

**Mr M.P. MURRAY:** Yes, over 105 years! That is not a very good average.

I am trying to point out that sometimes these things happen. I do not condone people walking off the job to disrupt their place of employment. However, people have sick days, sometimes because of an accumulation of stress, and go down to the pub without having to say where they have been. That is a part of the award system. Under most awards, a person has to produce a sick ticket for their second sick day.

**Mr T.R. Buswell:** What about when everyone is sick on the same day?

**Mr M.P. MURRAY:** I have just said that. Obviously the Deputy Leader of the Opposition is not listening. His mouth is open, not his ears.

I refer members to the training levy that was introduced a few years ago. A training levy was introduced to upskill workers across Australia. It was abused by employers all over Australia. We often talk about the Hawkesbury River run. One day, a group of employers utilised the money from the training levy to hire a boat and a band and take their friends and others up the Hawkesbury River. Members of the Liberal Party did not suggest that we introduce legislation to fine those people for that abuse. They commented that it was awful, but they did not seek to introduce legislation to control those people. I refer to today's salaries. The Liberal Party is not introducing legislation to pin salaries for those who absolutely abuse their positions. People involved in the

Mr John Kobelke; Mr Colin Barnett; Acting Speaker; Mr Dan Barron-Sullivan; Mr Tony McRae; Mr Tony O'Gorman; Ms Dianne Guise; Mr Bob Kucera; Mr Mick Murray; Mr Troy Buswell

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finance brokers scandal abused their positions. No member of the Liberal Party has suggested that we stop that kind of abuse and that we pin the salaries of those who pay themselves a \$9 million or \$10 million salary and who walk away after sending their company broke. The Liberal Party would not make that kind of suggestion because it is in bed with big business. That is what is wrong with its legislation - it picks on the bottom end of town.

**Mr T.R. Buswell:** No, it does not.

**Mr M.P. MURRAY:** It certainly does. It is directed at the little blokes in town.

**Mr T.R. Buswell:** Do you think Kevin Reynolds and Joe McDonald are the bottom end of town?

**Mr M.P. MURRAY:** They certainly are not from the top of end of town, are they?

Several members interjected.

**The ACTING SPEAKER (Mr M.J. Cowper):** I remind members that when they refer to other members across the chamber, they must do so by using members' proper titles. Now that passions have cooled, I would like to hear the member for Collie-Wellington continue his debate.

**Mr M.P. MURRAY:** I will try to resist. I will go further. We talked about the abuse of employers with regard to the training levy. There was an instance in my electorate where 120 people resigned from their jobs. The employer tried to take them to the industrial court and send them back to work but they resigned. Is that the next move the opposition wants? Does it want a situation where people cannot resign from their jobs; where they are shackled to their jobs? The opposition is supporting these types of people. It was well reported in the press how they resigned en masse because the conditions were not acceptable to those 120 people. Is that the step the opposition wants to take, so that people cannot resign? I do not hear an answer. Maybe it is the 38-hour week that the opposition will try to take away next. Maybe it will take all sick leave off people so when they are sick, they do not get paid.

As most members have said, this motion is the thin end of the wedge. We on this side of the house have to be vigilant that we do not allow those sorts of things to happen. There are unscrupulous employers out there who will abuse this system. I do not think anyone who has a sickie should be fined \$500. If there is some abuse to the system, it should be sorted out on the job. As the member for Joondalup said, if there is trust between the employee and the employer, there will not be a problem. For example, we may have a bird flu pandemic next week. Employers could say, "They're all off, we'd better lay them all off and fine them all \$500 each as well because they all have bird flu." What if someone is genuinely sick while other people walk off on a so-called blue flu day? That person will be fined for staying home as well because everyone is included. There will be no distinction; it will be just a case of the employer saying, "You're in that whether you're sick or not." An employee could have a broken leg or something. The employer could say, "Let's fine them \$500 because that's the way we want to go. We must punish the awful workers who have made the state do the best it ever has." The workers will be doing their best to make sure that they go home safely and take home a reasonable wage, something members of the opposition are trying to deny them.

I return to resignations. Are members of the opposition interested in taking away long service leave next? I think I saw a nod over there; no, it was just a yawn. The member for Leschenault is yawning away. I am worried about him because he might be sick tomorrow. He may have the flu and be deducted a day's pay and have to pay \$500!

I will be brief. This motion is the thin end of the wedge. We have a very good awards system and it has been updated. Awards run for two or three years under the enterprise bargaining agreement and they are updated on a regular basis. Sometimes it is very difficult to get awards updated in our industrial system, which I think is second to none in the world. It gives the worker rights and it gives the employer rights as well. We have won a few and lost a few on the way. The opposition should stick to a system that works. We have an economy that is booming. We are going gang busters as a state under a very good government and we are moving forward and all the opposition wants to do is attack the workers. Give them a go, give them the due rights that they deserve. I do not want to see people in Australia follow the American system where people go to work for a minimum wage and beg for tips, because that is where we are headed and that is why I oppose this motion very strongly.

**MR T.R. BUSWELL (Vasse - Deputy Leader of the Opposition) [5.53 pm]:** I have pages and pages of notes that I could go through but unfortunately time will not allow that. I will tell the member for Joondalup some facts. He asked what this motion could be a symptom of. What would happen if hundreds of employees on Western Australian work sites went off on the same day and put in sick leave forms? Perhaps Joe McDonald, a convicted criminal, would stand at the gate and encourage people to leave. Maybe they are in a non-protective bargaining period and they know they cannot go on strike. Maybe they are trying to negotiate an EBA.

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I have listened to this debate. I have listened to the member for Riverton talk about the gross state product and the amazing burst in productivity in Western Australia. Yet the simple fact and the absolute irony of every single argument that has been put is that the growth in gross state product in Western Australia has by and large been driven by the mining boom. The vast majority of employees in the Western Australian mining sector, with the exception of Collie, are covered under the federal system and work under Australian workplace agreements. The hypocrisy of the member for Riverton's argument is proved in that simple statement.

I want to conclude by talking about relevance. Relevance in the industrial relations debate as it stands in modern Australian workplaces is something that the member for Riverton has rapidly lost sight of through his dogma and his philosophical attachment to the past. I say to the member that in 1998 there were approximately two million Australian workers in trade unions and 1.6 million self-employed Australians. In 2004 there were 1.9 million self-employed people in Australia and 1.8 million unionists. Workers in Australian workplaces understand the need to be free individuals, to exercise choice and to go about managing their own affairs. They are turning their backs on organised labour.

Yesterday in this chamber we heard the Premier bumble on. It sounded like he had swallowed a university student's politics book of the 1960s from Berkeley campus. It was pathetic. He rambled on about the need for collective action and this, that and the other. Yet in Australian workplaces, people are choosing to leave trade unions and take up their issues as individuals because people in this society want to be free individuals. They want to exercise their liberty as individuals. They do not want to be spoken to and kowtowed to by a trade union. The member for Riverton spoke about freedom. He should look at the report of the Cole royal commission to see how Joe McDonald and Kevin Reynolds treat their members. They stick them on lifts on the fourth floor and give them a switch so they try to fall out. That is the member's idea of freedom in the workplace.

Mr Acting Speaker, I draw your attention to a very interesting set of statistics that deals with a matter called union coverage. In the 1970s, about 50 per cent of the work force in Australia belonged to trade unions. By 1993 that figure had declined across Australia to 37 per cent. In 1993 in Western Australia trade union coverage sat at 34.5 per cent of the work force.

Several members interjected.

**The ACTING SPEAKER (Mr M.J. Cowper):** Order! I call to order the members for Kimberley, Collie-Wellington and Joondalup.

*Point of Order*

**Mr M.P. MURRAY:** I request that the member for Vasse, who is quoting from a magazine, I think - probably a comic strip - table what he is quoting from.

**Mr T.R. BUSWELL:** I am happy to, Mr Acting Speaker, although I am sure you will find that the minister has a copy. I am referring to Australian Bureau of Statistics figures taken from a speech I gave to the Western Australian Industrial Relations Commission.

**The ACTING SPEAKER:** Order! I call the member for Bassendean to order as well. This is getting out of hand. The member for Vasse is in the home straight. We have a few moments to go. I believe that the document he is referring to is an ABS document. It will be placed on the table for the remainder of the day for members to access.

[The paper was tabled for the information of members.]

*Debate Resumed*

**Mr T.R. BUSWELL:** I want to finish by saying that in 1993 in Western Australia 34.5 per cent of the population belonged to trade unions. That figure has now fallen to 19 per cent.

Question put and a division taken with the following result -

Ayes (13)

Mr C.J. Barnett  
Mr D.F. Barron-Sullivan  
Mr T.R. Buswell  
Mr G.M. Castrilli

Mr J.H.D. Day  
Dr K.D. Hames  
Ms K. Hodson-Thomas

Mr J.E. McGrath  
Mr P.D. Omodei  
Mr A.J. Simpson

Mr G. Snook  
Mr T.R. Sprigg  
Dr G.G. Jacobs (*Teller*)

**Extract from *Hansard***  
[ASSEMBLY - Wednesday, 16 November 2005]  
p7410b-7429a

Mr John Kobelke; Mr Colin Barnett; Acting Speaker; Mr Dan Barron-Sullivan; Mr Tony McRae; Mr Tony O'Gorman; Ms Dianne Guise; Mr Bob Kucera; Mr Mick Murray; Mr Troy Buswell

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Noes (26)

Mr J.J.M. Bowler  
Mr J.B. D'Orazio  
Dr J.M. Edwards  
Dr G.I. Gallop  
Mrs D.J. Guise  
Mr S.R. Hill  
Mrs J. Hughes

Mr J.N. Hyde  
Mr J.C. Kobelke  
Mr R.C. Kucera  
Mr F.M. Logan  
Ms A.J.G. MacTiernan  
Mr J.A. McGinty  
Mr M. McGowan

Ms S.M. McHale  
Mr A.D. McRae  
Mr N.R. Marlborough  
Mrs C.A. Martin  
Mr M.P. Murray  
Mr A.P. O'Gorman  
Ms M.M. Quirk

Ms J.A. Radisich  
Mr E.S. Ripper  
Mr T.G. Stephens  
Mr M.P. Whitely  
Mr D.A. Templeman (*Teller*)

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Pairs

Mr B.J. Grylls  
Dr S.C. Thomas  
Mr R.F. Johnson  
Ms S.E. Walker  
Mr M.J. Birney

Mr A.J. Carpenter  
Mrs M.H. Roberts  
Mr P.W. Andrews  
Mr J.R. Quigley  
Mr P.B. Watson

Independent Pair

Dr J.M. Woollard

Question thus negatived.

*Sitting suspended from 6.02 to 7.00 pm*