UNCORRECTED TRANSCRIPT

REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON SOCIAL ISSUES

INQUIRY INTO THE IMPACT OF COMMONWEALTH WORKCHOICES LEGISLATION

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At Wollongong on Thursday 27 July 2006

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The Committee met at 11.30 a.m.

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PRESENT

The Hon. J. C. Burnswoods (Chair)

The Hon. Dr A. Chesterfield-Evans
The Hon. K. F. Griffin
The Hon. I. W. West

CHAIR: I apologise for starting a bit late, but I have been talking to the television people, as did the Hon. Dr Arthur Chesterfield-Evans. I am sure many of you would agree that a large part of this inquiry is about making sure that people are aware of what we are talking about and the impact of the WorkChoices legislation. So I think the more we talk to the media, the better.

I will say a couple of things before we start. I think most of you know about the background to the inquiry, which was set up a few months ago by John Della Bosca to enable us to look into the impact of the WorkChoices legislation in New South Wales. The Social Issues Committee, which I chair, consists of six members. Seated here are myself, Ian West, another Labor member, Arthur Chesterfield-Evans, our Democratic member, and Kay Griffin, a Labor member. We have apologies from our two Liberal members. You will realise, I hope, that Hansard are here so that we will have a transcript, which means that all members of the Committee will know what has been said today. That transcript will appear on the Committee web site and we will be able to use it later on to enable us to finalise our report to Parliament, which is due late in November.

Just a bit about today's procedure. We want to be as informal as possible, despite the way we are seated—all lined up and regimented. We will have formal witnesses, such as Arthur Rorris, who is appearing on behalf of the Labour Council. Welcome to you, Arthur. Then we have made provision for somewhat less formal five-minute segments for individuals who want to speak to us. That part of today's procedure, although a bit informal, is still recorded.

We need to make sure that you do not take it into your head to defame someone. So we ask you, if you want to talk about individual cases and mention an employer, or mention a company that you be a little bit careful. Bear in mind as well that, in the interests of fairness, if allegations are made about certain outfits or individuals, the Committee may well feel there is need to contact those people and give them some sort of right of reply. But we normally do not have any difficulty; people are sensible about what they say. That just about covers it. Please turn off your mobile phones, because they may interfere with the Hansard recording equipment.

You may have seen the earlier written program. We have moved things around because one witness who was going to come this morning is now not coming. We look forward to hearing from you and getting what is really our first non-Sydney perspective. We went to Penrith last week. I suppose it depends whether you count the Blue Mountains as part of Sydney or not. If you live in Wollongong, you might. But we are very keen to get a regional and a rural perspective, not only a Sydney perspective.

Over to you, Mr Rorris.

ARTHUR RORRIS, Secretary, South Coast Labour Council, Fred Moore House, Lowden Square, Wollongong, New South Wales, affirmed and examined:

CHAIR: In what capacity are you appearing before the Committee?

Mr RORRIS: My occupation is Secretary of the South Coast Labour Council, and I am here in my official capacity as Secretary and have the authority to represent that organisation in these proceedings.

CHAIR: Do you want to make an opening statement before we ask you some questions?

Mr RORRIS: If that is all right with the Committee. I think that might cover some of the general areas and may give Committee members some context on the economy in the Illawarra and South Coast, and introduce some of the types of issues that the Committee may want to explore with other individual witnesses. First and foremost, I will say a little bit about the Labour Council. We are the peak trade union body on the South Coast. We cover an area from Helensburgh in the north to the Victorian border in the south. We have some 29 affiliated unions, which in turn have up to 50,000 members in the Illawarra and South Coast regions.

Now for a bit of context about our region. When I say "our", in this sense I refer to the Illawarra. Unemployment rates in this region have hovered between 8 and 12 per cent over the past

ten years. The most recent youth unemployment statistics come in at around 36 per cent—that is, more than one in three young people who are not in formal study and are looking for work cannot find it. That is a massive figure, and it will form the basis for some of my observations on and criticisms of the WorkChoices legislation.

Fifty to 60 per cent of our communities—and I use the term in the plural because there are separate and distinct communities down the South Coast, through the Eurobodalla, Bega and other areas—are on or below the minimum wage. That is according to the last census figures. Later, I will gladly attach for the Committee's reference the statistical breakdown. Further, take the industrial zone of the Wollongong area from the Illawarra, and unemployment jumps to 12 per cent. This is at a time of a so-called boom in the economic cycle. I will attach some more historical information regarding the steel and related industries that account for the structure of unemployment in this region.

But, for the purposes of this inquiry, I come to the more pertinent issues regarding WorkChoices. What does this legislation tell us? It tells us that the relatively higher waged and skilled sections of the work force are, firstly, in the strategically important steel and related manufacturing industries and the mining industries and, secondly, in the university education and health fields. That is my first observation. It just so happens that they also tend to be highly unionised areas, organised areas of labour, and ones that have been able to negotiate—not through AWAs, because they did not exist—but through collective arrangements that won that wage outcome for their members.

What does WorkChoices do in this scenario? If you have a work force—or, more broadly, a labour force—characterised by high unemployment on the one hand and by a structural unemployment deficit on the other, you have a major problem in this region. Minimum wages account for 50 to 60 per cent of the population. The shining light in terms of this economy being steel and related manufacturing on the one hand and education and health on the other, you have a recipe for disaster. Why? We make three observations. The WorkChoices legislation is in effect a move against collective industrial arrangements. I can go into the detail on why I believe that, though I understand the Committee may have had plenty of evidence in that regard. I will taken that as a given for the purposes of my presentation here.

If you attack the ability or restrain the ability of organised laboured to maintain high wage outcomes in the strategic areas, you have a problem, not just for those individuals and their families, but for this economy that is so highly dependent on those strategic industries—that is, everything from the baker, the grocer and the department store through to the service sectors through to the leisure and entertainment areas.

As I understand it, the Committee has not gone any farther down the coast than here. Consider this: tourism down the coast can account for anything from 30 per cent to 60 per cent of the industrial base of many of those regional communities. The point we make is that in our communities it is not just the importance of those sectors for those families, as I have said, but it is also important for our community and the service sector here and all away down the coast. It is these high-wage outcomes that enable the one or two or three days stays down the coast in the Merimbulas and in the Begas—probably not so much those, but some tourism outlets on the Sapphire Coast that are known and are based on the tourist sector. So it is the immediate and the flow-on effects that are going to be massive.

Why am I focusing on this? It is because the Government has said all along that its chief reason for introducing WorkChoices is to bolster the economy and create jobs. The evidence I present today is to say that the way our economy is structured here and the very outcomes that are going to be hit hardest, at the lower end and at the high end, squeeze both options. They lead to low road, low wage economies which will have flow-on effects. I can elaborate on some of the macro aspects in my formal written submission, but moving onto some of the individual cases, I preface my statements by saying that, apart from any formal legal effects that this legislation may have on individual workers and their families, there is the environment of fear and intimidation that it creates.

I emphasise this today and I would like to place on the record our concern at the comments made by the Prime Minister yesterday when he announced the results of the so-called investigation. I say so-called investigation because our understanding is that the workers who made certain claims in union advertisements were never interviewed by the Office of Workplace Services. But when you

have the Prime Minister of this country attacking ordinary working people for having the courage to speak up about what is happening to them, it does not send the right sort of signal to working people elsewhere in terms of appearing before inquiries. I preface my comments by stating that on the record because I think it is symptomatic of the broader problems with this legislation. It is not just what is written in the law, it is what is assumed, the environment it creates, and if I could put it colloquially, it is the leave pass, which some employers feel they have, to do things even far beyond the legislation itself.

Some may say that that can be corrected by just going through the appropriate agencies and seeking remedies. The problem is that much of this legislation is dependent on confidentiality provisions, whether through Australian workplace agreements [AWAs] or other arrangements. In itself, an instrument creates a cloak of secrecy and fear. We are prevented in many cases from even finding out about some of the worst-case scenarios, often before it is too late. If it is all right with the Committee, noting earlier comments about procedural fairness in terms of employers, I will try to speak about specific cases without naming or potentially defaming employers, if that is a concern of the Committee.

One case that comes to mind that I would like to spend a bit of time on, of the time that is available to me, is the case of Craig. I will refer to him by his first name, Craig. He worked in Sydney in a major hotel which is part of a major chain, not a small enterprise by any stretch of the imagination. Craig was dismissed on Thursday 6 April this year. He was given no separation certificate at the time that he was dismissed and, owing to his family situation—given that they were originally from Nowra on the South Coast—he had no option but to take his two under school-age children and his wife back to Nowra and move in with his wife's parents.

I raised this issue for two reasons: one is to say that it is a myth to think that it is just some rogue small time employers who are taking advantage of these laws and arbitrarily sacking individuals. The second point is what happens to Craig. This is where you get a nexus or get the link between a welfare policy and WorkChoices which as an area of the Committee might want to explore. When Craig moved in with his wife's parents back in Nowra and went to the Centrelink office, he was informed that Centrelink could not do anything until he got a separation certificate. As I have said, the employer involved was a major hotel chain and it did not produce such a certificate for at least two weeks, which caused great distress to the family, as you can imagine, because they have no income support.

When the separation certificate did finally arrived, Centrelink informed Craig that he was not able to register for unemployment benefits because he had been deemed to have moved from a lower to a higher unemployment rate area. In other words, he was regarded as having reduced his chances of finding further employment. The fact that Craig and his family had no choice, given Sydney's rents and that he worked at a north Sydney hotel and the fact that they had no choice but to move in with their parents whence they originally came and had to leave because he could find no work where he originally came from, had nothing to do with it. As far as Centrelink was concerned—and it was not the staff in question because they were simply implementing policy—the policy was that if you go from a lower to a higher-rated unemployment area, he copped a six-month exclusion from unemployment benefits.

He had a double whammy. He was sacked on the one hand and on the other hand he did the right thing by his family because it was the only real option open to him, particularly without a separation certificate at that point in time. He then found out that it could not access unemployment benefits as income support. In fairness I think it should be noted that I do not think—from memory, from when I used to work for the organisation—it applies to family payments because I think there might be separate criteria. But it does apply to the employment benefit, which is the greater part. I raise that is one particular case that opens another area for some investigation about how the Welfare to Work and WorkChoices can combine to create and not-so-great outcome.

If the Committee is comfortable with asking questions at the end of my presentation, I will raise the second case which is one person who was terminated from a very large transport and security company in the country. This particular company dismissed one of their staff and then made it a condition of his receiving a redundancy—which he later found out to which he was entitled through his award in any event—that he signed a deed of settlement. That is unusual for something as

straightforward as a redundancy which is covered by other instruments. I will just go over a couple of the other interesting sections of it. It asks him to "Forthwith fully discontinue any and all actions or proceedings that have been instituted against the company". One could say that that could be straightforward, if it were required at all, but then it states "… shall not seek or accept any offer or opportunity of employment with the company or any of its contractors or its subcontractors".

We are talking about the transport business here. There would not be too many options outside of those. I quote the deed of settlement further. It states " … nor seek or accept, whether as a sole trader or in partnership or through an incorporated entity any offer or opportunity of engagement as a contractor or subcontractor of the company for a five-year period, save for any offer that may be formally made and with the express approval of the managing director." Now this company sacked this guy. It sacked him. In return for what is actually, as it turns out, an entitlement, they wanted him to sign a deed of release that had him committing not to work in his chosen field for any of their contractors or subcontractors, whether him, as a partnership, or through another incorporated entity.

In the transport game I would suggest there would not be too many options for this person. And all for what? For getting something that he is legally entitled to, which is that redundancy under his agreement. It goes further, "other than that for the period of cessation of the employment for six months"—and they refer obviously to State law where it is applicable—"will not in this State or any other State or countries that the company operates solicit, canvas, approach or accept any approach from any person who has at any time during my last 12 months with the company been a client of the company."

This is a major transport company. So apart from the contractors and subcontractors they have a relationship with, we are also talking about any of their clients, wholly or partly having some relationship—"employee with a view to obtaining the custom of that person either in the same or even a similar business". So it does not even have to be in the same related field. Without going through many of the other parts, obviously they wanted to keep all of this confidential, as I would too if I was trying to pull this one over someone's eyes. Obviously it goes on through the regular aspects that you would find in a deed of settlement. I raise this case not because it is legal—because in this particular case it is not legal. What is interesting about this is that it was even considered by the employer to put it on the table. I put it to you that if you are not in a position where you have on the one hand high unemployment, second, a climate of fear, third, lots of misinformation in the media as well, I have to say, about confidentiality, many provisions of which do not actually apply even with this legislation, you have a perception in people's minds, employers and employees, of a system that is skewed so far into the hands or into the area of the employer that almost anything goes, and this is an example of that.

I need to speak obviously to the individual involved but I am happy to pass on the necessary parts of this to the Committee as well as an attachment as evidence. The final one I want to refer to briefly is a club in the region that presented an extraordinary set of documents to its staff, basically as a condition for working in that particular club. Once again it is an example of just how extreme—and I mean the term quite literally; some of these provisions have been tabled. We are all used to seeing rosters, uniforms, even some aspects of personal grooming expressed in a general sense for consideration by staff, but I had not seen anything like this before. Apart from shoes being in good condition, well shined and fully covered, and if there is any doubt about the attire the person should be wearing the supervisor has the right to send you home, collect your missing items and dock your pay.

For males, the white, long-sleeve business shirts tucked in under the sleeves and not rolled down; undergarments under the shirt must be white. No other colour is allowed, and no visible logos or designs allowed. That is starting to stretch it a bit. The black cummerbund and bow tie, you could cop in a club I guess, and black enclosed shoes. Then you get to the women. The black skirt must be below knee length. It then describes many aspects of the black stockings, including no tights. The black button vest—they then even go into the undergarments for women, which I will spare you the details for. It then goes on to talk about further grooming—hair neat and tidy at all times, no extreme hairstyles or colours permitted at the discretion of the manager; moustaches and beards that must be fully grown and well groomed. If you wish to grow a beard or moustache it must be done during the periods of the absence such as holidays. It is stressed that all other male staff must be cleanly shaven at the commencement of the shift lest they be accused of attempting, I presume, to grow one during the shift.

Hair for the females, extreme hairstyles and colours are not permitted. I smile at the use of the word "extreme" in that particular case. Long hair must be tied back so that it does not fall in your face. I am sure a lot of women just enjoy hair being flushed around their faces but in any event. Hair accessories should be black and to a minimum. Then, extreme shades of makeup must not be worn. Heavily scented perfumes should be avoided. Good hygiene, including well-manicured nails, the lack of personal body odour lest they offend, a daily shower—and I am wondering how they would police that—and the use of a mildly scented deodorant and clean teeth. It goes further, not forgetting that for females only one earring per ear and that must hang no more than two centimetres below the ear lobe. Clearly, some members of this Committee may fall foul. Then we get to the aspects of wages and salaries. Of course, "your pay is a confidential matter". Fair enough! Then, "and should not be discussed with anyone other than the club's finance or assistant manager". That is an interesting one.

I guess it must be just accidental, any sort of imputation there that it might not be a good idea to discuss it even with a union representative or anyone else should there be any discrepancy, but of course that would be argued out as something that will be taking care of in personnel matters. The reason I have read those things is, other than because they are mildly amusing, is to say that at the end where someone has to sign off—and it goes on for another 30 pages—that disobeying any of those things or the following list, which I will not bother reading through—a list which should in no way be considered exhaustive—and management may consider conduct, even the ones not listed below, as disciplinary action or dismissal. That includes use or possession of radios, tape recorders, cameras, mobile phones or other unauthorised devices in work areas; displaying or altering anything on the staff notice boards—might put the union representative at a slight disadvantage, I would have thought—distributing written, printed or electronically recorded matter of any description on the club premises without express permission, contributing to a hostile environment—the definition of that would be interesting—and purposely working slow or eating on duty and this "includes chewing gum".

So for the first person in that club who gets sacked for eating chewing gum on duty—and I hope it is not the one who is chewing their Nicorettes for trying to kick the habit because they are not allowed to smoke on the job—I would offer my full support and understanding. I want to leave the formal evidence there but I thought I would cover some of the different areas because I know you have other witnesses. If anyone doubted that it has created an atmosphere or environment where these sorts of things can be put on the table, this is the evidence, and that was officially handed out to staff. And they are serious. That is the worst part about it. They are serious; that is what they expect or they can sack you.

CHAIR: We might talk to you later about whether some of those documents or a version of them can be tabled but at this stage we will take up your invitation to ask you questions.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: A fellow told me last week that New South Wales is in recession rather than having a boom . What do you think about that—that we are having a boom in terms of selling iron ore to China? Are we really having a boom in New South Wales?

Mr RORRIS: I will give you the long answer or the short answer to that. In my view I do not think there is any doubt that current economic indicators would say that we are in the boom of a cycle. I do not think there is any doubt about that. The basis of that boom, I do not think there is any doubt about either, and that it is largely minerals driven and it has been for the past five, six years based on the back of a very strong property market. That is my own assessment of it. But I think economists would be right to say that we are still at that point. How long we stay there, I do not know, but I would say that it is in a boom on the back of minerals, certainly, but it is still there.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you do not think we are heading into recession now. I just wonder in terms of employment, people are far less secure about their employment and while there is a boom in certain sectors there is not a boom universally, is there?

Mr RORRIS: No doubt about that. If I can clarify those comments, our region, in my view, has not come out of a recession from 1979, 1980, 1981, with a downturn in the steel industry. We have accepted unemployment rates at twice the State and national levels since that time. When I say

"accepted" I mean that is what we have been fitted up with; we have had no choice in the matter, and those things need to be addressed. The point I guess I was trying to make in evidence is to say that the effects of extreme austere restrictive legislation like this are harder at times and in places of higher unemployment, and certainly the Illawarra and many of our regions fall into that category.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Your guy who had to sign all these things that he would not work for transport people, presumably that was against the Trade Practices Act, that cannot stop someone working in their industry. Would that be right? It does not seem to have any validity legally, does it?

Mr RORRIS: I do not think it holds much sway at all legally.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It would intimidate somebody, would it not?

Mr RORRIS: When you are talking about the effect of the legislation and the environment that it has created, that also remedies on the part of those—lots of illegal things happen in this town every day in employment, and we just scratch the surface. The reason we do not hear about many of the others, apart from the shame file as we have named it that I have described today, is because many of the workers understand also that under these laws their remedies are limited. Even if they prove their case, they can win the battle and lose the war. That is the way they would see it, and they would say the remedies are such that it is simply not worth taking out a mortgage, hiring a solicitor and going to court and proving your case.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yet you do not get the job back or the money.

Mr RORRIS: Exactly—you get neither back. And that is one of the fundamental inequities about the legislation.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You sort of intimated that people are intimidated from giving their stories at forums like this.

Mr RORRIS: Many are, and no-one moved behind me. I did not suggest that. I know of many cases and many instances where even 12 months ago we would have had a greater ability to bring forward many, many more witnesses. But when you are living in a town where you have 9 per cent or 10 per cent unemployment, or much more further south, and you know that in your industry you will have to go cap in hand basically to get another job from the one you have just been fired from unfairly, it is not the most conducive environment to actually come forward, go public and tell your story. That is for sure; there is no doubt about that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: He is the bloke who slagged his employer.

Mr RORRIS: Exactly. Basically, I have a lot of time and respect for people who come forward. The good thing about Wollongong is that we are able to equalise that one and make sure that not much of that happens. But the point I wanted to impress here is that when you are looking at the Shoalhaven, Milton Ulladulla, the far South Coast, the more isolated the communities are, the smaller they are. The degrees of separation of people knowing each other is obviously much smaller. It is a lot tougher for people to speak out. We are fortunate in that we have had—if it is okay with the Committee I can supply, and I am not sure if you are able to do this but the actual names of people on the condition that the Committee verifies their stories and not disclose their full names, and I am happy to do that if it is something that the Committee is prepared to consider—that might be one way for your purposes of getting some more direct or first-hand evidence.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are there fewer people coming to the unions now?

Mr RORRIS: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In the sense that the membership is falling and if there are not remedies anyway and if you are not allowed to intervene, you are not allowed to go on the premises or whatever, is that making it difficult for unions? Are they getting bypassed in a way?

Mr RORRIS: No. Interestingly, and it is a patchy story depending on which other industry you work in, many industries are showing a decent growth in these times. The irony I guess for the Howard Government is that by reducing some of these protections in law, which would have protected many of these workers at any other time, can now only be replaced by many of these workers joining unions to be able to get some protection through whatever collective action or expertise or other services a union may provide. That is one of the interesting contradictions. I stress that it is not across the board and it is patchy in its effect. The most common thing we get is the huge increase in people ringing our office at the Labour Council—a massive increase. We get them by the dozen, and it is the stories. You could almost script them: "Hi, I don't want to give my name because I would never get another job in this town. I have just been sacked unfairly." "I am sorry, there is nothing I can do for you unless I know who you are and who you worked for."

Many, reluctantly, do give that information—but on the basis that it is not publicised. Many more just say, "Is that the only choice I've got?" I say, "I am sorry, these are your legal entitlements. This is what you can do under this new legislation. If you are a member of a union, it may be able to do A, B, C or D. But there is little can be done unless you are able to come forward." What they say to me is, "Well, that's a pretty tough choice, isn't it? I take the risk. And, even if I win, I can lose." I say, "I've got to be honest with you; under this legislation, that is right. I cannot give any guarantee." They say, "But many of my friends have previously done X, Y and Z and gone to unfair dismissal courts." We have to explain to them, "You cannot do that any more. I'm sorry."

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: New ball game.

Mr RORRIS: New ball game. That is the new reality.

The Hon. IAN WEST: I was interested in your comments about the percentage of people who are effectively on the minimum wage rate, which is about $12.75, and the number of people who are being approached to trade off conditions for a wage increase. Are you getting many examples of that?

Mr RORRIS: Constantly. That is common, and many of the witnesses today will go into details. One of the key areas where that is occurring—and we had some incidents of this in Wollongong recently—is with apprentices, particularly in the hospitality industry. There, unfortunately, the employer, or the industry body in that case, has taken it upon itself to issue a patent agreement for many employers to follow. It is interesting that they call them Australian workplace agreements. The employer body suggests, "Do it this way." So they all happen to get the same agreement to put to employees.

One of the most common things is leave, of all types—sick, holiday or whatever. Also common is a flat rate of pay, getting rid of penalties. The reason that I raise the issue with regard to apprentices is that many of these young people, who are 16, 17 and 18, go to TAFE, do their formal studies and get skilled up, but while they are at TAFE they are also at the various restaurants and other places. One of the main reasons we have had an insight into that industry is that the TAFE teachers hear the various stories told to them by apprentices. If they hear of things that are blatantly illegal, they have to take some action, as they do. The most common thing we hear is, "Look, it's not a negotiation. These are your terms of employment. Please sign that you agree to them."

It is total fallacy that under this system somehow the individual workers and their employer bosses are getting together and working out what is best for them. It is the young and the most disadvantaged in particular who have most of those conditions removed from their agreements. They have no choice, and they are told, "This is it. This is not something we want to discuss with you or negotiate with you; this is something for you to sign as a condition of getting this job." That is the way it works.

Worse than that, to get back to the welfare area for a moment, are the unemployed, particularly the long-term unemployed. If they are presented with an offer of a job, it is not a case of negotiating with the employer. You get no unemployment benefit if you knock back a job, regardless of what the pay and conditions are. It is not contingent on negotiation. It is contingent on your signing on the bottom line, and that is directly against any notion of this legislation being about choice. I was hoping we would have someone from TAFE here today.

CHAIR: We do. We will be hearing from a TAFE teacher this afternoon.

Mr RORRIS: Great! I might leave it to our friends from TAFE to deal with the other aspect of that, which involves Federal Government funding, which affects not just apprentices but other examples of a take it or leave it option, with no choice in the work arrangement.

The Hon. IAN WEST: If there is an inability to negotiate or trade off, that is one difficulty. On the other hand, do you think there is a clear appreciation of the fact that an increase in an hourly rate of pay is evaporated by inflation, and that pay increases and traded off conditions are like comparing apples and oranges? You are saying that that luxury of trade-offs is not open because the individual does not have the ability to negotiate.

Mr RORRIS: There are three things happening. First, the notion of negotiation is a fallacy. It is just not there—not for those who are supposedly negotiating an AWA. Secondly, the Federal Government's own figures—borne out by the experience here and in other regions—demonstrate that the primary purpose of employers wanting to enter into AWAs, as is evidenced by the outcoming AWAs, is removal of one or more existing award or enterprise agreement conditions. That is borne out by the Government's own evidence.

Thirdly, as I noted earlier, where this hits hardest, and where the changes and cuts in award conditions are most pronounced, is in the lowest paid industries. So those most affected are those who can least afford cuts—those who are most dependent on that penalty rate, or that loading, or on other conditions that go to make up their living standard. Bear in mind that 50 to 60 per cent of those people in our region are on or below that minimum rate, and you can understand how profound that effect will be. That most of the AWAs are focusing on the lower paid sectors, and cutting more savagely into conditions, is a recipe for disaster, not just for those individuals but for the economy that depends on them.

The Hon. KAYEE GRIFFIN: You gave the example of a Sydney person who was sacked and had to move to the South Coast in order to maintain some form of security for his family. As there is a higher level of unemployment in these areas, how do you see the WorkChoices legislation impacting on people who, under Welfare to Work, possibly will not be able to say no to an offer of a job even if the rates are unreasonable?

Mr RORRIS: That is yet another pressure that will lower the rates of pay in areas like Nowra and the Shoalhaven. There are two things. Firstly, the Illawarra and the broader Illawarra is the greatest commuter corridor in the country. More than 23,000 people commute daily to Sydney. So the first point is that Centrelink did not ask whether this person was prepared to commute to Sydney. Merely by moving to the only place he could move, back home, led to him being cut off those benefits. That is the first point. Many others do commute. That is an unfortunate fact of life in the Illawarra.

The second point is that within the Shoalhaven people in such desperate situations have to accept the reality. This person wants to work. He and his wife want to support their family. What happens to pay rates as a consequence? They go down. They have to, because employers X, Y and Z quickly realise that with unemployment rates of 10, 11, 12 and 13 per cent they do not have to offer what they previously were legally required to offer. They can go down to the minimum rate.

I would argue that they are actually doing something else. They are actually going below the minimum rates and enter into sham contract arrangements. I am sure the Committee will have heard of other arrangements about contracting aspects too. There is other legislation that covers that. The combined effect of high unemployment, contracting arrangements that have been made possible as part of the industrial relations reforms, and the pressures on individuals on welfare, mean that there is

only way for wages to go, and that is down. There is only one legal minimum, and unfortunately that also will be affected by the fact that it does not have to be adjusted annually, and there is not even automatic referral to costs of living or generally to the consumer price index. I am not suggesting that it was previously linked, but it was a weighty consideration. Add all of those things together and you can see why I argue that it leads to a low wage, low road outcome.

CHAIR: I might add that we did ask a couple of employer groups if they would like to speak to us today, but none of the local groups did. It is interesting that some employer organisations that spoke to us at our hearings in Sydney have accepted what you are saying. They have said they fear the effect of competition within their industry will force even employers who do not want to go down the path you describe to do so, because in most places if one competitor in an industry moves down that path there is enormous pressure on others in the industry to follow.

Mr RORRIS: There are two things that I would add to that. One small business owner described it quite elegantly to me the other day when he said, "Well, these new employments laws are supposed to be good for the economy and increase work. How many more hamburgers will workers eat every day?" He was not being facetious. The implication is that there are other factors affecting his business much more than the $12 or $13 an hour that he would be paying his employee.

The second thing is that one of my roles as Secretary of the Labour Council is to negotiate multi-employer agreements in this region. Without naming names—because many of the processes are still under way—one is close to a $1 billion deal, and the other a $400 million or $500 million deal, with a couple of others with business somewhere in between. There are major economic issues for this region. It has been profoundly frustrating to negotiate a deal with employers who want to sign on the dotted line for something that they say behind closed doors they are happy to sign off on, but who say the Government and this new legislation will not let them.

If I could leave it on this note: How can this possibly be in the interests of the economy, or even in the interests of many of these employers, if they are saying to us they cannot sign off on a deal that we as unions and they as employers are happy to sign off on behind closed doors, when the only thing stopping them doing the deal is red tape? I am talking about deals worth hundreds of millions of dollars, one of them close to $1 billion. That is big money in this town. I am not suggesting that those deals will not eventually go ahead. But if you get an employer and unions representing workers agreeing on a deal, and not being able to follow through with something that they are both comfortable with for the simple reason the Federal Government says, "You can't have those things in your agreement," you have got to ask in whose interests this legislation really is.

The Hon. IAN WEST: Mr Rorris, I think you indicated that 50 or 60 per cent of people are employed on the national wage case amount.

Mr RORRIS: No. I think, in fairness, the census figures, as I understand them, are based on the total amount earned by individuals. It is possible—and I do not want to deceive the Committee—to have people working part time with a total amount earned being a certain amount. I just want to make that clear. However, even if that is the case, it is a pretty large figure to contend with, even accounting for that part-time component.

The Hon. IAN WEST: It is now being indicated that the manufacturing sector in Australia accounts for about 13 per cent of gross domestic product. In the Illawarra the majority of employment is in the service sector—such as tourism and health, the labour intensive industries that tend to be subject to national wage case rates of pay and the like.

From that, am I right in assuming that there is a great deal of pressure on those particular individuals who are employed in that area for vicarious employment towards contracting, subcontracting and franchising—those areas of employment?

Mr RORRIS: Certainly. From its heyday of 22,000-23,000 workers down to 6,500 directly employed in the steel works, you can double that in terms of those contractors and others. For every one directly employed, say at BlueScope in the steelworks, those other forms of employment are growing. You are not getting an increase in the direct employment—far from it. You are going the other way. The growth in atypical work forms, if you like—irregular and not only part time but also

casual, contract employment and others—are increasing. I can supply those figures as well at some later point.

However, the point of the question is: What does that mean under WorkChoices? What it means directly is that the little job security and security of standard of living for those people are reduced further. It is not just a question of the ability of larger employers, those with 100 or more to sack, but it is also the ability of those who relate to that industry or who work, as you say, in those atypical areas to be able to maintain their conditions. We have to be clear on this: For many of these people it is as simple as contractor one day, full-time employee the next.

The Hon. KAYEE GRIFFIN: Under WorkChoices, I know that there is a substantial amount in the legislation in relation to record keeping for employers in the future. Is there anything in the WorkChoices legislation you are aware of relating to a check on whether or not employers, either through record keeping or whatever, are going to be caught up or perhaps shown up—caught up is perhaps not the right term—if they are paying under the minimum rate? Are there any opportunities in the WorkChoices legislation for employers to be stood up and questioned or punished by way of the legislation for paying under that rate?

Mr RORRIS: It is interesting that you raise that question because, yes, there are aspects in WorkChoices which have added other responsibilities in terms of record keeping. Interestingly, though, the employer bodies have characterised those as overly onerous. I understand that the Government is prepared to actually remove those provisions. While there are lots of different aspects to record keeping, the key concern from our perspective is in relation to—how can I put this—occupational health and safety areas and in respect of employers paying the appropriate amounts and covering workers for workers compensation.

They are the forms of record that, under State law, employers have to be able to disclose to an authorised person under the Occupational Health and Safety Act. There are some areas there where we do have some concerns. Some employers are already saying, "We do not have to produce these things any more. You have no right to have a look at them as union officials." The WorkChoices Act is already starting to blur some of those responsibilities that employers may have under the Occupational Health and Safety Act of the States, which in this case is New South Wales. I did not put that is clearly as I should have.

CHAIR: We understand what you are saying.

The Hon. IAN WEST: I think it is very clear.

Mr RORRIS: I guess what I am saying is that there are things there that I think need to be kept. No-one wants to see more paperwork that the people need to provide. We are not in favour of red tape for the sake of it, but when it comes to occupational health and safety aspects, we are very firm on that. We would be a bit worried if the Federal Government, when looking at the legislation, takes out some of the record-keeping responsibilities. That may give employers a false idea that somehow they do not have to comply with State occupational health and safety law.

CHAIR: I think the record-keeping sections of the legislation also have a quite long staged introduction period.

Mr RORRIS: My understanding—and to be honest I have not gone through every aspect of that schedule—is that it is based on a seven-year rule, which I would guess has been taken out of the taxation department's standards in terms of record keeping. I could be wrong on that.

CHAIR: We probably should finish, although we probably could go on for a long time. You have given us some very interesting evidence, but we have other people here to talk to as well. Could I suggest, in relation to the things you have mentioned about which you could give us more details and the stories of the three case studies you have presented, that instead of us tabling them now, you speak to the staff about making them attachments to your written submission which you will give us. Therefore, if we want to keep some things confidential, we can do that. We do not need to do it today. We can talk to you in relation to its being, effectively, supplementary to your written submission.

Mr RORRIS: Certainly. I appreciate that opportunity. Thank you for the opportunity of addressing the hearing in Wollongong.

CHAIR: Thank you also for helping us with the arrangements for today and getting in touch with people.

Mr RORRIS: I do not want to claim many of them, I have to say, but that is no problem at all.

(The witness withdrew)

GORDON ALFRED BRADBERY, Administrator, Uniting Church—Wollongong Mission, P O Box 244, Wollongong, affirmed and examined:

CHAIR: Could you tell us whether or not you are appearing on behalf of the Wollongong Uniting Church or in an individual capacity?

Reverend BRADBERY: I am appearing on behalf of the Uniting Church—Wollongong Mission.

CHAIR: You want to make a statement to us?

Reverend BRADBERY: Yes.

CHAIR: And then we can ask you some questions after that.

Reverend BRADBERY: It will not be as lengthy as Arthur Rorris's, the previous speaker, in as much as he has covered quite a view things that I was going to cover. But I would like to add a little bit from the perspective of the church and also, more specifically, the social justice issues. First of all, I might explain just who I am. I represent the Wollongong Mission of the Uniting Church in Australia which in this neck of the woods has been very much involved in social justice issues and, more specifically, welfare issues—running things like soup kitchens—and also is responsible for Lifeline for the South Coast stretching from Helensburgh to the Victorian border. Within that period I have become involved in quite a few struggles, difficulties, and some of the issues that confront our community.

As has already been highlighted, we understand that on a very conservative estimate there is 8 per cent unemployment. What I am concerned about are the social stresses that are in this community as a result of high unemployment and the expected abilities of people, especially the people that are more vulnerable, to negotiate their employment contracts. It makes it almost laughable on the basis that we are not dealing mainly with a group of people who do not have the skills to negotiate, let alone the backing and support to negotiate from a basic position of human rights. There is a lack of basic education and understanding of how it is that one enters into contractual relationships and, more specifically, how to negotiate with someone who is often perceived as more powerful and has all the cards.

This is the sort of thing that we are asked to invite these people—and there are lots who are struggling, hurting and are at the bottom of the pile—to enter into such negotiations. It is almost laughable to expect a person who is applying for a job to work in a café to say to the employer, "Before I sign this, I would like to take it away to my solicitor to have it checked over", and more specifically to understand the language which is so often convoluted and is not easy to understand. What I am concerned about is these contractual issues without the support of collective bargaining or references to organisations such as unions to support people in their understanding and in finding employment.

I think it comes back to the basic understanding of our society at the present time and it is the notion of individualism gone crazy. Basically I see it as divide and conquer—that is, we will beat the workers down to a level where they basically enter the category of the working poor. I have noticed this locally because labour is a commodity which not only used to be negotiated nationally, but also even internationally now. When we are talking about employment here, we are talking about it in relation to the international market. I will give you two examples: We have a lot of our industries moving off shore and, where we do not have adequate numbers, we are importing.

For instance, in the service sector, the Uniting Church runs quite a view aged care agencies and activities in this area. We are importing African nurses from places like Zimbabwe and South Africa, which need their own medical staff. Because we create an opportunity where they can be employed for a little bit extra, they come to this country. We are not training up people to take the place of the deficits in the labour market. We are actually facilitating participation in a sort of international labour exchange system.

Basically I think that, as Australian citizens, we should have a bill of rights whereby everyone has a reference point to the basic resources that they need to survive as Australian citizens. We do not have the recognition that Australians have a right to food, shelter, health and education. All these things, the basic human rights, are negotiable. As a result, I see the system as heading back to some sort of basis on which the rich get richer and the poor get poorer, but there is no base line for negotiating the sale of your labour against certain standards and expectations. This is perhaps reflected not so much in my words but in the eloquent words of Bishop Kevin Manning, the Catholic Bishop of Parramatta, when he said:

> The whole notion of collective bargaining, once a key feature of the widely praised Australian system of conciliation and arbitration, has been dealt a knockout blow with this legislation.
>
> This is a very grave matter, but it should not surprise us because it is a logical consequence of a classical liberal philosophy—

He is speaking here not of a political philosophy but, rather, a philosophy in general.

> —a philosophy which makes the individual entirely responsible for his or her economic prosperity.
>
> It should come as no surprise that this legislation sets aside collective bargaining in favour of individual contracts. Those who have market power because they are highly skilled and because their skills are in high demand may do very well under the new regime, but the concern of the Church is for those who are most vulnerable and powerless.
>
> The very basis of our social justice teaching is for the poor. We live in a society in which the entire labour force is increasingly an instrument of wealth creation, with fruits of its creation enjoyed more and more by fewer and fewer. How many times have we read of record profits being realised by the banks, only to realise a few weeks later they have increased their fees and charges—all to the benefit of shareholders? The working poor do not share in these profits.

The trouble with this system is that it is, for me, a double whammy. I would not mind so much if we were invited to go out there and negotiate our employment contracts and we were given a level playing field. At the same time as the Government is requesting this of us, we are also in a situation where the opportunities to acquire education and skill are being diminished so that the basis on which one negotiates, especially for certain sections of our society on the lower level, is being taken away and even more reduced.

There is a lack of funds through education in all sorts or levels. As a matter of fact I believe there is an underlying malaise of dumbing down in our society.

There is a double whammy here. I am not saying these things to highlight or give a raison d'etre for the union movement, but I am talking about these things in the notion that we want a co-operative, supportive society where we do not alienate a portion of our society but invite all to participate and to enjoy its benefits. To me, the church and agencies such as ours, and also other welfare agencies in this area, are facing the same problems and would basically present the same issues. So I think in some respects, instead of repeating what has already been said by the previous speaker, that is where I will leave it at this stage.

The Hon. IAN WEST: Thank you for your contribution. I am interested to hear your comments on the issue that has been raised by the Prime Minister and his ilk that what needs to happen is sacrifice—sacrifice for the good of the economy. In your profession I thought you would have some thoughts as to those types of comments.

Reverend BRADBERY: In some respects I think in the light of the future of the world economy and more specifically its demands and costs on the environment, we will all have to make sacrifices. There will have to be a big rethink of the total way the industrial west has gone. I think that is on one level, but I do not think he was referring to that. It seems to me that it is great for the leadership to tell those who are under that we all have to make the sacrifices. I am concerned that there is no leadership on the part of those who are at the top; they do not appear to be making sacrifices when the head of the Macquarie Bank gets $21 million a year as a salary package. To me, that is just too much. I am sorry, I cannot accept that. He might be a great guy, and I do not want to demean him, but when it is at that level it is an absolute joke.

So for the Prime Minister to come out and make such statements about sacrifice, I find it very difficult. To give you an example of the meanness of the system, and I use this example, and I am sorry I did not take the details so I cannot supply you with names in this context—but conducting a funeral recently I was asked by a gentleman after the service, a member of the family, if I would write him a note to indicate to his employer that he attended the funeral so that he would not get docked or get in any form of strife. Therefore, I had to sit down after the funeral and write him a note like a cheeky schoolchild who was absent from class for a few hours. That was the first time I have ever in my whole ministry of 30 years been asked to do anything like that. I thought it was a rite for an individual to go and participate in the process of funeral rites and also to grieve.

The Hon. IAN WEST: I was always of the belief that everyone who participated in the economy was part of what is good for the economy so I would have assumed that in an economy like the Illawarra it would be vital for everyone to have good wages, good conditions and good purchasing power.

Reverend BRADBERY: With respect to the Prime Minister, the present philosophy, and with respect to other governments of Labour persuasion as well, worked on the basis that if the rich were rich there would be enough crumbs to fall from the table into the laps and mouths of those below. That philosophy—and I speak about Liberal philosophy—has been swallowed by your side of politics as well as those whom we in some respects are against. It is very important that Labour gets its act together if it is to represent the workers of this country, with all respect sir.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Have you as a welfare person—presumably you are running some welfare services in Wollongong—noticed any increase in demand secondary to this legislation?

Reverend BRADBERY: No, I cannot say that I have because we have always been busy. We serve about 80 meals a day at midday at the meals program and between 80 and 100 of the Sunday. We only have one day out and that is Saturday for the sake of the volunteers who run the program.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So that has not gone up since the legislation?

Reverend BRADBERY: Not noticeably, no.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Presumably that may take longer to kick in.

Reverend BRADBERY: But demand on welfare services, charitable, NGOs and so on, has increased dramatically.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Over how long?

Reverend BRADBERY: Put it like this, I cannot say that there has been a dramatic increase because of this legislation, but what I am seeing is a growth of dependence upon the charitable agencies to supply basic needs. That has been increasing and is not showing any signs of levelling out or diminishing in any way. For instance, the demands on emergency housing accommodation, and one of my pet issues is mental health services and things like that, are poorly catered for in this area.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: When you say it has increased can you say that it has gone up 50 per cent in five years? From what base to what level—what sort of orders of magnitude over what time frame are you saying?

Reverend BRADBERY: Over the past five years, and even probably longer it has gone up. I am sorry, I just do not have those figures available to me but I can say for sure that the demand has increased dramatically. It is just on a steady rise. Let me also say that Wollongong is an interesting city. Steel is a major employer and the spin-offs and consequences of it are a major employer. The university is the next biggest industry. But I always reckon the third biggest industry in this area is welfare because of that large underclass or those people on the lower levels of society. Let me say

this. One of the other reasons I believe there are high unemployment rates here is that we have a large group of people who are unemployable, that is, we have not put in place services to elevate the human condition of quite a few of these people. Mental health problems, people with substance abuse problems and in lots of ways there is a concentration, a distilling process going on because we are at the end of the line in some respects from the metropolitan area.

CHAIR: How do you see the welfare to work changes that came in on 1 July impacting on that group of people you have just mentioned?

Reverend BRADBERY: I see that as just going to push more and more people towards the charitable sector for sustenance and support because they are people who do not have the skills—and I think this is the underlying assumption behind a lot of these things; like even to negotiate a contract. Not all of us have the education or the skills or the verbal skills and reading abilities, literacy and so on required for that process. This is what Liberal philosophy is all about; it is an assumption that we are all working from one line. I can assure you that many people in our society are born well behind the line when there are two or three generations of unemployment there perhaps. What I am getting at is that these workplace agreements and all these sorts of things are putting expectations upon people who we do not invest in.

There is very little investment in our social capital, that is, that we put money into bringing people up to that ability to even want to go over into work, to be even stabilised on their medication to get up in the morning to go to work. The underlying assumptions and underpinning of these things are in the North Shore of Sydney or the beautiful middle class leafy suburbs of Canberra or Toorak. This is another world down here and I am glad that you are here but I do not mean to paint a picture of absolute neglect and so on. But this is the interface between some of these decisions and this legislation, and this is how it works out.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I hate to be awful but could you give us figures on the increase in welfare that you have been providing and indices of demand and supply? Would that be possible?

CHAIR: In other words, take it on notice and see if you can talk to the staff next week or something and see if it is possible to give us some indications, more or less from the work of your mission. We are not asking you to speak on behalf of others but it would be interesting if you have something more quantifiable.

Reverend BRADBERY: I will try to track it down, yes. I will give you a good example. We not only provide meals; we also provide food parcels. We provide food from various sources, donated as well as purchased. The demand for food parcels is so great that we have now had to limit it to one a month.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What—to each family?

Reverend BRADBERY: Yes, to each applicant, basically, because we just do not have the resources to share it around, and when we have dire circumstances we will draw on whatever cash reserves we have to go out and purchase. I think the best person to supply these figures, and I will talk to my colleague at the Salvation Army who could supply me with some more direct figures because they are also involved in distributing food and keep a more accurate empirical measurement of the poverty situation.

CHAIR: If that would not be too much work for you.

Reverend BRADBERY: No, no problem. I would be very honoured to track it down for you.

CHAIR: On the question I asked about the welfare to work changes, given what you have said about many of the recipients, you do not really see those people becoming effectively competitors at the bottom end of the labour market because you think many of them are not capable of effectively competing for jobs.

Reverend BRADBERY: No. We are talking about a section of our society that do not have the skills to do that. As I said, the underlying assumptions are very flawed.

CHAIR: So given that benefits will be taken away from these people, the only answer left would be charity.

Reverend BRADBERY: That is right, yes, and we will see more pressures put on the charitable sector to care for those who do not comply or fail to comply. Admittedly, there are some safeguards and checks and balances there, but at present the onus is on the individual to front up and have the skills to plan and to live. We are talking about simple social skills that are assumptions that we are to make that are there, but for a lot of these people they are not there.

The Hon. IAN WEST: In terms of the number of small business people that you would come across and the purchasing power of people in the Illawarra to enable those small businesses to survive, are you finding that because there is a reduction in the purchasing power of the people in the Illawarra there is more and more strain on the local business community to survive?

Reverend BRADBERY: In response to that, I think there are a couple of observations that I think could give us a bit of insight. We have had a lot of complaints about, for example, the retail sector down here not being able to provide for our area and therefore a lot of people travel up to Miranda Fair. Those are the people who are capable and so on, et cetera, because their needs are not met. That in some respects detracts from the local market, but that is simply because there is not the critical base there for those sorts of commodities. The other thing that I have noticed as well is that the cheaper shops flourish. With all respect, I do not know if I mean your Targets and your Lowes, et cetera— no disrespect intended there. Also, second-hand clothing shops flourish here.

The Hon. IAN WEST: It seems that in large areas of the United States of America there was a driving down of wages, and Wallmart seemed to go very well. The thinking in the community seems to be that a similar response may occur here and that a number of small businesses will have difficulty surviving against that push.

Reverend BRADBERY: Specialty shops and so on are diminishing. Unless they plug into a niche area that satisfies that lower end of the market in terms of spending abilities, they go under.

CHAIR: We might leave it there. Thank you very much. You might like to talk to Katherine or Merryn about getting back to us on quantifying some matters.

Reverend BRADBERY: Yes. Thank you for the opportunity to speak to the Committee.

(The witness withdrew)

ANNA WATSON, Organiser, United Services Union, Level 8, 321 Pitt Street, Sydney, and

RUDI OPPITZ, Organiser, United Services Union, Level 8, 321 Pitt Street, Sydney, sworn and examined:

CHAIR: Mrs Watson, in what capacity do you appear before the Committee?

Mrs WATSON: I am an organiser with the United Services Union, and I am appearing on behalf of the United Services Union.

CHAIR: Mr Oppitz, you also are an organiser with the United Services Union.

Mr OPPITZ: That is correct.

CHAIR: Anna, do you want to start with a statement and then we can ask questions?

Mrs WATSON: In my position as a union official I have carriage of several regional councils of varying size. I intend to speak to you today about a changing Australia. We would not think that someone who supposedly holds democracy close to his heart could inflict such undemocratic laws on Australians. I do think there is anything democratic about attacking our freedom of speech, denying our right to an independent umpire, and stripping back our awards and replacing them with AWAs.

I would like to talk to you specifically today about Shoalhaven City Council. The council covers 4,660 square kilometres and 49 villages. The projected population in 2011 is 102,620. At the moment it is just under the 100,000 mark. Approximately 800 of those constituents are employed by Shoalhaven City Council. Its workers vary from administration officers, to weed control officers, gardeners, childcare workers, engineers, lifeguards and people employed in waste management, road crews and more. The council is the backbone of the Shoalhaven, as is any council with its community.

For years now the Shoalhaven City Council and the union have had a fair working relationship regarding industrial relations. The Local Government State Award—now NAPSA—has served the council and its employees well. Shoalhaven City Council has previously taken on board the advice given to it by the Local Government and Shires Association in relation to issues as and when they arose.

With the introduction of WorkChoices, Shoalhaven City Council is now proposing the use of AWAs within some of its areas. Many members that I have spoken with feel cheated. They say they did not vote for John Howard to attack their conditions of employment. Outdoor workers who work on weekends could lose penalty rates. These are penalty rates on which they rely to pay their mortgages.

The Shoalhaven is a growing area, with new housing developments coming on almost overnight. When you drive around and look at the new homes being built, families on the front lawn, and the car parked in the driveway, you realise that this way of life is a result of the union movement's efforts over the past hundred years to provide Australians with a decent standard of living—a standard that pays them sufficiently to enable them to build a home and buy a family car. It is a fair standard. But what standards will Shoalhaven City Council employees have with the introduction of AWAs?

What experience does a rates clerk have in negotiating an industrial agreement? What about the truck drivers, the tip operators, the labourers, and the road crews? There will no longer be an equal playing field for them. It is ludicrous to think that a worker has any bargaining power when an organisation is aware of the job market in a regional area. Families are already suffering with record petrol prices, increased health insurance premiums, children's sports costs—and let's not forget the GST! The implications for workers at Shoalhaven City Council will be devastating for them, the community and their families.

However, AWAs go much further than lower wages, little conditions and no rights. Employers will now have a monopoly of power within the workplace. And as history has repeatedly

shown, a monopoly of power leads to the misuse and abuse of power. What the Federal Government has done is create workplaces in which you will work harder, for longer, for less. It boils down to that. It cheapens Australian workers, in a race to the bottom that we can never win. It is a step down the road to low or no economic security.

The employees at Shoalhaven City Council have asked for a fair go. They do not want their community weakened by extreme industrial changes. AWAs do not give workers a real choice. As a society, we seem to be losing that human touch. Council management have been asked on a number of occasions to sign a referral agreement. On each occasion it has declined. When asked why, the response was, "We like to keep our options open." We have been advised that Shoalhaven City Council has had some form of contact with or assistance from anti-union lawyers.

The United Services Union is, of course, opposed to AWAs. The evidence continues to show that employees are worse off under these arrangements. In a regional area such as the Shoalhaven there is less of a job market. There are simply fewer jobs than there are in metropolitan areas, and there is not as much turnover in those jobs. Regional Australians know that it is not easy to pack up and move on. AWAs are a simple way for an organisation to compete on the basis of the wages that they pay, instead of on the services that they provide. Once standards of service begin to fall, ratepayers no doubt will be rethinking their vote at election time.

Healthy communities are surely a result of strong, fair, equitable and sustainable councils that can provide well-maintained community services, without detriment to its employees and the community. This feeling is shared by the members at Shoalhaven council. The union will continue to hold discussions with the Shoalhaven City Council management team to look for flexibilities that do not impact employees' wages or conditions of employment. There must be other flexibilities on which we can come to some sort of agreement without affecting their wages or terms and conditions of employment. If Shoalhaven City Council does go ahead with these extreme industrial changes, I doubt very much that the employees will have little choice other than to accept them. The union will launch a campaign to continue to oppose AWAs at Shoalhaven, with the support of community groups, employees, the general public and the South Coast Labour Council.

At Wollongong recently the same issue arose. The union was successful in negotiating with the ALP caucus in staving off AWAs. If the Shoalhaven City Council does decide to go down this road, that will have a huge effect on the local community. I would like to refer to what Arthur Rorris said earlier: these are small communities, and there are not a lot of jobs in them. Organisations will be competing on the wages that they pay, not on the services they provide. We certainly do not want an Australia like that. I would like to thank the Committee for the opportunity to address it. I am happy to take questions after Rudi Oppitz has spoken.

CHAIR: Shoalhaven council is based in Nowra?

Mrs WATSON: It is.

CHAIR: As Arthur Rorris said earlier, Centrelink is using it as an example of a high unemployment area.

Mrs WATSON: It is a very high unemployment area.

CHAIR: Mr Oppitz, did you want to say something now, and then we will have questions for both of you?

Mr OPPITZ: If that is all right with the Committee.

CHAIR: That is fine. It is up to you.

Mr OPPITZ: My submission will be brief. It goes to the introduction of AWAs into the workplace. I will give the Committee an example, but I will not name the employer. This is a larger employer within the Illawarra, with up to about 450 employees. Its work force is predominantly female, in a clerical and administration capacity. For the past 20 years the union has negotiated enterprise agreements or awards outlining the terms and conditions of employment for those

employees. Recently, we successfully negotiated an enterprise agreement for wages staff, and it saw an increase in wages of up to 11 per cent, an increase in superannuation, an increase in paid maternity leave, paid paternity leave, and also some protections with respect to hours of work. We were able to do that for that one section of the work force.

At the conclusion of those negotiations, the union had a deal with the employer that we would then enter into negotiations for another agreement to cover what they termed salaried employees. These are not low-income employees. These members of ours would have incomes between $35,000 and up to $65,000. They would be termed middle management. This was to be an agreement that mirrored the agreement that we negotiated for the wages employees. Management had told the union at the time that the intent was that the only alteration to the agreement would be a request that the salaried employees would offer the company a little bit more flexibility in the hours of work.

After the introduction of the Howard Government's employment legislation the employer no longer wanted to negotiate a collective agreement with the union or its members. It now wants to introduce AWAs—to approach its salaried people on an individual basis and negotiate individual workplace agreements. This will do a number of things. First, it will certainly divide the work force. Second, although these are to some extent professional employees, and quite a lot of them are quite highly qualified, the difficulty they have in negotiating with this particular employer is that, as I said earlier, these employees are predominantly married female, with children registered in schools and so on, so that they are based in Wollongong. Their ability to negotiate increased wages and better terms and conditions is limited because they cannot say, "If I cannot get a deal here, I will go somewhere else." That would mean they would have to move or commute to Sydney in order to remain in their current professional stream.

Also, because they are middle management, they are expected to toe the line regarding what management wants to take place. So their ability to negotiate with the employer at that level is also constrained, because they do not have negotiating ability; they are told what their terms and conditions will be, and what is expected of them, and it is a case of either like it or lump it.

The process has already commenced in certain sections with this employer when the suggestion of AWAs being introduced was made. When our members rejected the notion of AWAs, they used the legislation to restructure. They changed minor parts of their role, called it a restructuring, and they no longer have rights to address unfair dismissal. The position may still exist because it has been altered in only a very minor manner, but they do not have the rights to go along and raise the case in the commission because the restructuring has been done under "operational needs".

We are not only talking about the effects that occur in low-income areas. It also happens in middle-income areas and also with skilled employees who, it would appear, the Howard Government believes are in a position to negotiate. The reality is that on an individual basis, they do not have the ability to negotiate. Their ability to move from one job to another job is not as simple as it is purported to be. In the Illawarra, it would mean a substantial shift to move up into Sydney which would have a substantial effect on families and those sorts of things. My submission basically is that the AWAs not only affect the ability of low-income workers but also has an effect and is being introduced more and more widely for middle-income employees as well.

The Hon. KAYEE GRIFFIN: With the Shoalhaven City Council and the question of bringing in AWAs, had the elected members discussed bringing in AWAs? What sort of classifications are they proposing AWAs for? Just as they choose, or—

Mrs WATSON: We have not got that information yet. We are seeking to get that at the moment. In terms of the council's actually discussing it, as far as I am aware of the make-up of the council down there it is mostly Independent and Liberal and they are looking for productivity gains between 10 per cent and 20 per cent. My understanding is that the actual councillors are in favour of offering AWAs in certain areas.

The Hon. KAYEE GRIFFIN: And basically making a policy decision about it?

Mrs WATSON: Yes.

The Hon. KAYEE GRIFFIN: And then having the general manager introduce it, who, under the Act, of course is in charge of the day-to-day running or operation of the council.

Mrs WATSON: That is correct.

The Hon. KAYEE GRIFFIN: You said in a submission that there are a number of community groups working with the United Services Union in relation to opposition to this legislation. What sort of discussions have there been out in the community?

Mrs WATSON: So far our campaign has not kicked off. We are waiting for more information from the general manager. The community groups that we will be involving will be groups such as the Pensioners Association and sporting groups and different sorts of community groups that the actual employees, the members themselves, are affiliated with. Until we have more detail from the general manager himself as to the classifications and how this will work, we are a little hesitant to launch into anything just yet.

The Hon. KAYEE GRIFFIN: I think you said that by 2011 there would be over 102,000 people living in the Shoalhaven.

Mrs WATSON: Yes.

The Hon. KAYEE GRIFFIN: Apart from the substantial numbers of your members who work at the council, I assume the council provides children's services and a range of other services as well, apart from the traditional local government services.

Mrs WATSON: And they do have a small area of children's services within the local government area, but it is not very widespread. It is nothing like you see in Penrith where they have around 57 different centres.

The Hon. KAYEE GRIFFIN: In the Shoalhaven, what other occupations are there outside local government?

Mrs WATSON: There are the essential services, such as the firies, the police and those sorts of services. Dairy Farmers was a big operation down there that has recently closed down and also the rubber factory.

Mr OPPITZ: There would be retail and tourism.

Mrs WATSON: There would be retail and tourism, but mainly tourism.

CHAIR: Is the Department of Local Government down there?

Mr OPPITZ: Yes, they are down there as well.

CHAIR: But it is not huge?

Mr OPPITZ: No. It is not large, not in the context of the Shoalhaven council.

Mrs WATSON: No.

CHAIR: So the Shoalhaven City Council would be overwhelmingly the biggest employer?

Mrs WATSON: Without a doubt, yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: When you talk about 10 per cent to 20 per cent productivity gains, this is management jargon, is it?

Mrs WATSON: It is.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Presumably the same tasks get done and the objective is to get them done 20 per cent cheaper. Is that not what it is really about?

Mrs WATSON: Well, that is my interpretation of what it is really about.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: We are not going to produce 20 per cent more council widgets, are we?

Mrs WATSON: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What are we talking about here?

Mrs WATSON: I think with the 20 per cent gains, what they are looking at is reducing the penalty rates by putting the outdoor workers who work on weekends on AWAs. If they can take penalty rates away, that is where they will get their productivity gains from. That is our argument. It should not be the council or any other organisation competing on wages that they pay. It should be on the services that they provide.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: They are not planning to increase services by 20 per cent on the same money?

Mrs WATSON: No.

The Hon. KAYEE GRIFFIN: I would not think that 10 per cent to 20 per cent productivity gain would be achieved just by looking at issues of whether outdoor staff receive penalty rates at weekends, but I would assume that it would impact on the rostering system that they already have and a range of other things. But it would be very difficult to gain 10 per cent or 20 per cent productivity, unless they expect a huge number of people to move into the area and a whole range of areas opening up. Obviously that is not going to happen, although there is an increasing population.

Mrs WATSON: That is right. The other side of that coin is that I do not think they would be ruling out outside contractors bidding for, maybe, the parks and gardens, roads, maintenance and those sorts of things. That is where they would be able to gain a real productivity savings, in those areas, which is another problem again.

CHAIR: We had evidence in Sydney last week from the Local Government Association and also from the union. We heard quite a lot about the big issue yet to be resolved partly by the High Court as to whether local government is or is not a constitutional corporation and the extent to which councils are or are not covered by the WorkChoices legislation. From what we were told, councils have been advised not to make major changes in the short term until a lot of that is clarified. Is Shoalhaven very much the exception—the odd person out?

Mrs WATSON: There is a group. I believe it is either the Southern Region of Councils [SROC] or the Illawarra Region of Councils [IROC], which is the group of southern councils that meet on a regular basis. So far, although I did briefly discussed Wollongong Council with you which seems to have settled down, from what we can gather Shoalhaven is the only council at the moment that is talking along these lines.

CHAIR: Are you suggesting that it is more of a political move on their part, given the make-up of the council?

Mrs WATSON: I think that has a lot to do with it, definitely. I think that there are probably a lot of people on council with their own agendas, maybe. I think that is a very big part of it. It is political. As far as the rest of it goes, it is anybody's guess really. Until we get further clarification from the general manager, which is not very forthcoming—we have been waiting for some time now for it—we cannot really make guesses, I suppose, as to what drives them and what is driving these changes, especially given that in recent times they have taken on board the advice from the Local Government and Shires Associations [LGSA]. Now they have gone outside that and they are getting advice from other areas.

The Hon. KAYEE GRIFFIN: Has Shoalhaven had an enterprise agreement, or has it strictly paid on the award?

Mrs WATSON: The majority of the organisation is based on the award, but there are separate agreements, for instance, with the call centre. With the contact centre, there is an agreement there, but 99 per cent of it is the award.

CHAIR: Mr Oppitz, I think you were going to say something before, and we moved on.

Mr OPPITZ: Just on council's attempt to produce a reduction in costs of 10 to 20 per cent, what we have seen in councils, particularly down in the southern region, it is what is occurring more and more. Vacant positions are not being filled, which is another way of gaining a reduction in costs. The effect of that is obviously that other employees are having to pick up the work, which is then causing increased stress levels and all those sorts of things. We are constantly battling those types of issues.

My experience is that there are councils within the southern region, particularly like Shoalhaven and further south and south west, who are holding off and have made it quite clear that if the opportunity exists for them to introduce AWAs or to go along and use the WorkChoices legislation, they are champing at the bit, some of them, waiting to see what the High Court challenge does. As soon as that clarity comes in, I think in local government, particularly for employees there, we will be in a hell of a lot of difficulty where there will be a tax on conditions of employment across the southern part of the State, particularly.

The Hon. KAYEE GRIFFIN: Just to go back to one of the comments, is the council really looking at a 10 to 20 per cent productivity increase, or is it just using that as the excuse to look at saving money, particularly in employee costs and therefore having a better budget bottom line?

Mrs WATSON: I think that, you know, they would be looking at the 10 per cent productivity based on the rate increase that has just come through. They were not happy with the amount that was put to them. I believe that, as Rudi was just saying, with the job redesigns, it will give them the opportunity to incorporate that as part of their strategy. I think that they are really looking at the bottom line. Councils traditionally have been there to provide a service to the community, not to make money.

Mr OPPITZ: What has happened in the Shoalhaven previously is, where there have been requests for flexibility and increased productivity, there has been involvement by the union and by the employees and delegates to actually negotiate with the council to achieve those outcomes. The statement by them that they want to lower costs by 10 to 20 per cent is more along the lines of, in my view, softening the workplace up to get them thinking along the lines of what the council is looking at doing so that once they start rolling out these changes, that is what they are going to be relying upon as the reason behind it—to knock down the costs. It is arguable whether or not that is the real reason or whether the motivation by this particular council and where it is located in a Liberal-type area is really to have the ability to introduce these workplace changes. I would say the latter would be the case.

CHAIR: Rudi, can I come back to the evidence you gave about the company with 450 employees? I guess because people today have stressed higher than average unemployment and so on in the Illawarra and further south, we have not specifically addressed some of the things in our terms of reference about groups of vulnerable workers. That is what you have gone into. You mentioned that the women you were talking about—the predominantly female work force—are more vulnerable because they really have few options in terms of looking for other jobs. Are there any other comments you would like to make, either of you, about some of the particular groups mentioned in our terms of reference, such as women, workers with family responsibilities and rural and regional workers, which I guess by definition we are talking about today?

Certainly, for the last 13 years of my being a union organiser, the membership I have represented has been predominantly female members working in the clerical and administrative area, which is a female dominated field. Particularly with the employer that I was referring to, the issues

surrounding not only the people that were able to secure the agreement with but those who we were not able to, their fears are that an increase in the span of hours that they work—at this stage the employer works Monday to Friday and they want to increase to Saturdays and Sundays. They want to bring in a 24/7 roster. When you look at the employees, the demographics would be about 80 per cent of those employees would be women.

CHAIR: Mostly with families?

Mr OPPITZ: And with families. They are at that age where they have families. So you have issues surrounding carers responsibilities. You have issues surrounding the ability for them to participate in ordinary family life if you are working on a 24/7 roster. It goes back to what I was saying earlier that if you are in this middle management area and you are attempting to climb up the corporate ladder, so to speak, and you are in that middle area and you are indicating to your hierarchy bosses that you are not prepared to participate, what happens to your career aspirations? All of a sudden they evaporate; they are no longer there. You just remain down at the lower end of it.

CHAIR: Is there any sign that the employer in question is aware of any of this and is prepared to look at flexibility for women with family responsibilities for instance?

Mr OPPITZ: At this stage there is no sign that they are prepared to look at taking those sorts of things into consideration. The issue goes back to what I said earlier. Where they attempted to introduce an AWA or alterations to the hours of work and their members said no, they are now in the middle of going through a restructure to redesign their positions. They are having to reapply for their positions, and it is likely that out of the four or five people who are directly affected at least three of them will no longer have a job. They will then employ someone on the outside with the new flexible hours at a different rate of pay, and they will be put into a position that our members could do. The union's hands will be tied because our ability to run and detail a case of unfair dismissal has evaporated. We cannot do that because it will be under operational needs.

CHAIR: And the employer is presumably confident that they can find replacement workers.

Mr OPPITZ: The rumour that is coming back at this stage is that they are not necessarily finding it that simple and that they are not necessarily finding an individual who can take up that position. I believe that that will not stop them from continuing down that track.

CHAIR: Would it be fair to sum up and say that all the cards are in the employer's hands in this particular case, that the whole power balance has shifted?

Mr OPPITZ: Most certainly, and I think that by raising the fact that in this particular example we are dealing with people who are highly qualified, highly experienced, very skilled, yet they find themselves in similar circumstances as we find our work mates at councils and that sort of thing. So the legislation has an impact right across the work force.

CHAIR: Which is contrary to what some people have said, that if you have the level of education and skills you will be okay.

Mr OPPITZ: Most certainly.

CHAIR: The impact will be on the more unskilled end but you are saying that perhaps in an area such as the Illawarra that is not the case.

Mr OPPITZ: That is right, and also I would add that it will have more of an effect on female employees who have carer responsibilities and where employers are not prepared to introduce some type of flexibility to take into account the carer responsibilities.

Mrs WATSON: And I think women are much less likely to stand up and complain or say anything. They will tend to go more quietly and say, "I need my job. If I say anything, if I rock the boat, I will not have a job." At the end of the day, with carers responsibilities, it falls onto the grandparents to provide the care for those children and if not very expensive child care.

The Hon. IAN WEST: So it is not a question of skills to negotiate; it is the skills to know that you have no ability to negotiate.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you are saying that the job is sticky in the sense while you might be able to get a better wage somewhere else you have to uproot and move to that, and the fact that if the employer chooses not to put your skill level at the same wage level as the other place where you might go, you still cannot go there because you have to buy a new house, get a new husband, get rid of your kids. It is impossible to do that. In the social situation you are not directly comparing that job to this job, are you?

Mr OPPITZ: That is right. My experience has been, certainly through dealing with our membership, is that as you progress in the private industry, as you progress through the middle management stream, in the Illawarra there is obviously a ceiling to where you can actually achieve, where at the end of the day if you want to get any further you will need to go to Sydney to get further up that corporate ladder.

CHAIR: But we are not actually recommending that you find a new husband.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I am saying that it is impossible in a practical sense.

Mr OPPITZ: That is right because you have the responsibilities of your family, husband, children and a house and all those sorts of things. So the ability to commute to Sydney as a female employee, it is finding your way up the ladder, when you had to leave at 5.30 in the morning to get to a job that might start at eight or nine o'clock in the morning and you do not get home until 7 or 7.30 at night and your husband may be working as well, where do you leave the kids? No child care facilities are open late nights. All those sorts of things are not taken into account. My experience, more so now than previously, has been that employers are taking less regard to the carer responsibilities of employees.

The Hon. IAN WEST: Historically, with productivity issues relating to technological change in the main as opposed to wages, I am interested in knowing the effects on productivity of an environment where your loyalties are tested, your enthusiasm for the actual job you perform. Are you finding that productivity is being affected by the enthusiasm for performing the actual tasks?

Mr OPPITZ: My experience in the private industry, and certainly talking to my membership, more and more their enjoyment at work where the employer respected the employee and there was a sense of togetherness and mutual respect, those sorts of things are going away. More and more the old wording of "you're just a number" is coming in more often, which then sees that you have a more transient work force. Certainly I have posed questions to employers exactly along the same lines as a happy work force is going to be a more productive workforce, rather than one that seems to be coming round more and more where they are becoming more and more unhappy. I suppose economists will at the end of the day determine those sorts of things.

The Hon. IAN WEST: And they will usually work that all out to late.

Mr OPPITZ: Yes.

(The witnesses withdrew)

(Luncheon adjournment)

(The witnesses withdrew)

ANNA SZWEC, affirmed and examined, and

MAVIS STARCIC, sworn and examined:

CHAIR: It is your choice whether or not you give your full name. Are you appearing as a worker, and do you want to go into any more detail as to why you are here, or should we just leave it at that?

Mrs SZWEC: Just as a worker.

CHAIR: Would you like to start by making a statement?

Mrs SZWEC: I would, thank you. Honourable members of the Committee, ladies and gentlemen, my name is Anna Szwec of Fairy Meadow, New South Wales. I am employee of Spotlight and I will have worked for Wollongong Spotlight for three years this coming November. I appear before the Committee today to describe my workplace, to explain the impact of the Commonwealth's insidious WorkChoices legislation to date and to express my anxiety for the future.

I live in the Wollongong region with my dependent husband, who receives a disability support pension, two semi-dependent sons who live at home, a mortgage and all the ordinary financial responsibilities of raising a family and looking after a household. The WorkChoices legislation has not provided me with any security or certainty. It has not provided me with better wages. Nor has it improve my employment prospects. It has, however, already undermined my family's living standards and its future. I am not relaxed and comfortable and I did not vote for these radical laws.

From tomorrow, 28 July 2006, I will be working for a lesser minimum wage than those shop assistants in New South Wales not covered by WorkChoices. The Howard Government's WorkChoices laws are now directly responsible for the $20 per week wage freeze imposed on those New South Wales shop assistants within its reach, including myself and every other Spotlight employee remaining on the Shop Employees (State) Award.

I recently sought advice from my union, the SDA, regarding the status of the recent $20 State Wage Case decision. The union confirmed that the recent $20 increase applies exclusively to those shop assistants under the New South Wales award who have escaped the claws of the WorkChoices legislation. This wage increase is now available to those workers on or after the first full pay period commencing 28 July 2006. It is no longer a legally enforceable minimum rate payable to Spotlight shop assistants and myself. The fate of our wage increase hangs in the balance until November this year, when the so-called Fair Pay Commission determines how much of an increase it will award, if any. This is unfair and wrong.

I ask the Committee to consider the fairness and justice of these perverse laws, which deny ordinary workers and their families a modest $20 per week increase. This wage freeze is at the whim of the Federal Government to satisfy its ideological obsession with destroying fair and decent wages and working conditions. This obsession will now cost my family every week until at least November, when the newly established Fair Pay Commission is expected to hand down its decision. The Federal Government's WorkChoices legislation will cost me $16.33 per week—including superannuation—from next week, every week. I am not confident that the Fair Pay Commission's decision will compensate my family for four months of lost earnings as a result of its wage freeze.

I now turn to the Spotlight AWA. Before the introduction of the WorkChoices legislation every shop assistant in my workplace worked in accordance with the terms and conditions of the Shop Employees (State) Award. In addition to a very modest ordinary hourly rate of pay of $14.28 per hour, the Shop Employees (State) Award provides for minimum terms and conditions of employment such as: a 25 per cent penalty for work on Thursday nights; a 25 per cent penalty for work on Saturdays; a 50 per cent penalty for work on Sundays; a 150 per cent penalty for work on public holidays; overtime rates of pay; comprehensive rostering rights; maximum or minimum daily shift lengths; maximum and minimum weekly hours of work; a minimum break between shifts; rostered days off for full-time employees; paid rest pauses; a picnic day; meal, uniform or first aid allowances; and a 17.5 per cent annual leave loading. These are important conditions of employment. I would be unable to meet my

family's financial obligations without these entitlements and would almost certainly be forced to sell my home or work more hours to maintain our modest standard of living.

The Spotlight AWA strips so-called "protected award conditions" of employment. Since the commencement of the legislation, Spotlight has engaged new employees at my workplace and others across New South Wales on Australian Workplace Agreements [AWAs], which strip away all these award rights to penalties, loadings, allowances and decent minimum rostering conditions in return for little or no compensation. Where compensation has been provided is has been a miserable extra 2¢ per hour. The Federal Government has described many of these conditions as "protected award conditions". How are these conditions protected if new employees may be required to sign an AWA excluding most of these conditions? I and other work colleagues feel that we have been misled and deceived by the Federal Government's slick and empty promises. The Commonwealth's WorkChoices legislation not only allows but also encourages my employer to do this. It encourages Spotlight to employ new staff on the condition that they accept and sign an Australian workplace agreement containing none of these important conditions of employment.

At the time of writing I am already aware of new employees in my workplace who have been engaged on these AWAs. I understand that these jobs are casual. But I do not think it can be argued that any new jobs have been genuinely created at my workplace as a result of this legislation because the company ordinarily increases its labour at this time of year. If the legislation did not exist I am confident that these new employees would have still been hired, but on significantly superior Award conditions and not the substandard AWA. Under the WorkChoices laws it is now simply cheaper to employ new staff at my workplace to fill seasonal vacancies, to fill vacancies for existing permanent positions or to appoint existing staff to fill promotional opportunities when managerial vacancies arise.

The Spotlight AWA reduces wages. Not only does the Spotlight AWA remove these so-called "protected award conditions" it also reduces the wages new Spotlight workers on the AWA earn compared to any corresponding award. For an example, consider my working hours and wages. I am employed by Spotlight to work part time and I am currently scheduled to work a rotating fortnightly roster of 30 hours in the first week and 17 hours in the following week. I work every weekend and every second Thursday night. Under my award this rostered work entitles me to $439.72 per week, including superannuation, on average per week, before tax.

The real test of these laws is a comparison of my current award earnings compared against the earnings from the Spotlight AWA based on the same hours of work. New Spotlight workers engaged in New South Wales, such as those in Mount Druitt and Coffs Harbour, on the Spotlight AWA would receive on average $73.42 less per week, including superannuation, or $3,639 less per year—including superannuation, sick leave, annual leave and annual leave loading—for the same rostered work. The difference in earnings between the award and the Spotlight AWA for my current roster is detailed in the attachment to this statement for your reference.

New employees working my current roster would take an equivalent to 16.7 per cent pay cut on the Spotlight AWA. I rest my case. I am utterly exasperated and angry that the Federal Government has promoted and encouraged this state of affairs. I blame the Federal Government for this shameful inequity whereby my new work colleagues can be directed to work side by side, in the same workplace performing the same work, and yet earn less wages. Unfortunately, Spotlight appears to be merely using all legal avenues at its disposal. I understand it has not breached the law. I also blame the Federal Government for drafting and promoting these obscenely one-sided laws. I condemn the Federal Government for encouraging my employer to exploit these retrograde laws.

The awful threat hanging over our head is the future unilateral termination of our award in three years. The WorkChoices legislation operates to terminate our award and impose the Federal Government's new five minimum standards in less than three years, on 27 March 2009. These laws will ditch every significant condition of employment which either supplements our basic wage or provides the rostering fairness and certainty that I and other workers depend upon. Without an award we will be forced into the equivalent of the despised Spotlight AWA—no choice and no agreement, no penalty rates, allowances, loadings, rostering entitlements, nor other minimum decent standards of employment, just the Federal Government's pitifully unsatisfactory five minimum conditions of employment.

In the meantime, any further infestation of AWAs in our workplace will cause reduced productivity and increasingly will marginalise those employees who are entitled to superior award conditions. I am very concerned that any further use of these AWAs will encourage reduced access to additional hours for all award-based employees—for example, no overtime rates of pay for AWA-based employees; the re-rostering of hours, with preference to employees receiving AWA conditions of employment—for example, cheaper to employ on weekends; and an unproductive us and them workplace environment where people are treated differently on the basis of their conditions of employment and not their work ethic and performance.

Ordinary working people and their families are entitled to be treated with dignity and fairness, not pitted against each other in a race to the bottom of wages and conditions. I am not a skilled mechanical or mining engineer whose skills are in high demand and who can readily dictate terms of employment plus a handsome six-figure salary. I am an ordinary part-time shop assistant who earns less than $23,000 per year with a family to support and who deserves a fair go. These laws attack the vulnerable and reward the strong. The strong will always prosper whether these laws exist or not whereas the vulnerable are entitled to protection and a decent living. What possible reason exists for our Federal Government to attack ordinary workers in this matter? That is not what my community and country should be about. I thank the Committee and its members for offering the opportunity for me to tell my story.

CHAIR: Thank you for your statement and for the attachments as well. Mrs Starcic, do you want to say something first, or should we ask Anna questions first?

Mrs STARCIC: It is up to you.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Your award is quarantined for another two years, is that right? For how long are you quarantined on this difference between you and the Spotlight AWA?

Mrs SZWEC: Three years.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it is three years from 28 July?

Mrs SZWEC: From 27 March.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Then presumably you would go to whatever AWA there is?

Mrs SZWEC: Yes. Then we will have no choice.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And you are worried that in the meantime they will knock off your weekends and nights because the others are cheaper than you.

Mrs SZWEC: For sure.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you will lose the wages—or maybe worse.

Mrs SZWEC: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Because you will not get the shift at all, not even at the base rate.

Mrs SZWEC: Definitely. And because I work every weekend—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It will be worse for you.

Mrs SZWEC: It will be. I work every weekend because I need that loading to bring up my wage. Without that, especially with my husband being sick—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It is rather courageous of you to come here, is it not? I mean, it is increasing your vulnerability, perhaps?

Mrs SZWEC: Well, possibly. But, you know, you have got to stand up for what you believe in, and I believe that these AWAs are just not right. They are wrong. They should just be gone.

CHAIR: You have no "right" to the weekend work if the employer chooses to remove it from you. That could be done?

Mrs SZWEC: If they do decide to do that, yes.

CHAIR: They can do it next week, if they want to.

Mrs SZWEC: Yes, if they decide to give it to someone who is on the AWA—for sure.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Can they sack you, or is that quarantined as well?

Mrs SZWEC: I am not totally sure about that.

CHAIR: Because you are under the award.

Mrs SZWEC: I am under the award.

CHAIR: And the outfit is a big outfit?

Mrs SZWEC: Spotlight is, yes. I am hoping they will not, but who knows?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Sure.

The Hon. IAN WEST: It may be possibly a little unfair to ask this question, if it is not something you are aware of. On 27 March, will the award over that period be able to be upgraded, or will it stay at the rates of 27 March for three years?

Mrs SZWEC: I am not sure.

CHAIR: It already has, in effect, because the $20 increase from the State Wage Case has not flowed into it.

Mrs SZWEC: That is right. It is not going to flow.

CHAIR: That is what you are saying. As of tomorrow, you are actually –

Mrs SZWEC: I will not be receiving that, no.

The Hon. KAYEE GRIFFIN: Anna, you work part time?

Mrs SZWEC: Yes.

The Hon. KAYEE GRIFFIN: If you had to change your hours of work, I assume that you choose to work part time otherwise it would impact on your family responsibilities?

Mrs SZWEC: No. I would prefer to work full time, but as they are not employing any full-time employees at present, I work part time. That is why.

The Hon. KAYEE GRIFFIN: But basically in your family, your husband is on a benefit.

Mrs SZWEC: Yes.

The Hon. KAYEE GRIFFIN: So you are the only wage earner.

Mrs SZWEC: I am the only wage earner, yes. That is why would prefer to work full time because it obviously would better our lifestyle.

CHAIR: So it is not your choice to work 35 hours one week and 17 hours the second?

Mrs SZWEC: No, it is 29 one week and 17 the next, and that rotates.

CHAIR: And that is not your choice? That comes out of Spotlight's arrangements, does it?

Mrs SZWEC: Yes.

CHAIR: So you would rather, say, work the same number of hours each week?

Mrs SZWEC: If I could, but that is not how they set it up.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And you would like more hours?

Mrs SZWEC: Definitely.

The Hon. IAN WEST: Are you aware whether or not, at the end of the three-year period on 27 March 2009, you would have a choice as to whether you pick an AWA or the award?

Mrs SZWEC: I am sorry, could I just have the question again?

The Hon. IAN WEST: At the end of the three-year period, do you believe that you will have the ability to choose whether or not to stay on the award or whether you go on to an AWA?

Mrs SZWEC: From what I gather, when the three years is up, we will not have a choice. I think the AWA will just automatically come in.

The Hon. IAN WEST: It will automatically apply?

Mrs SZWEC: Yes.

CHAIR: Mrs Starcic, do you want to make a statement and we can ask questions of either of you?

Mrs STARCIC: Okay. Honourable members of the Committee, ladies and gentlemen: My name is Mavis Starcic of Balgownie, New South Wales. I am currently unemployed. As a very recently unemployed person, I am neither thankful more optimistic about the Federal Government's WorkChoices legislation. Until this week I was employed as a shop assistant at Harvey Norman Warrawong. I was employed to work as a furniture department salesperson at the store for about 5½ years. I was full time until January 2005 when I became part time, working 22.5 hours per week. I was terminated on Wednesday 26 July 2006 for reasons related to a workplace injury suffered while I was moving furniture as part of my duties.

I was paid $15.67 per hour in addition to commission and spivs payments for sales made. In most weeks I would earn an additional $200 to $500 in commissions and spivs. I did not receive penalties or shift loadings payable under the award. To the best of my knowledge, I believe that these award conditions of employment were purportedly offset in my contract of employment against the payments received for over award commissions and spivs.

CHAIR: You have to tell us what a spiv is.

Mrs STARCIC: Because I worked in the furniture department, if I sold a leather lounge and I sold a leather package, which was a warranty against your leather, I got a spiv. If I sold a fabric lounge and I sold a scotchguard with it I got an extra spiv with that. So they gave me like a bonus.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What is the difference between a commission and a spiv?

Mrs STARCIC: Commission is on your gross profit. You get a certain percentage.

CHAIR: And a spiv is for talking a customer into something they do not really need.

Mrs STARCIC: A spiv is for your scotch guarding and cleaning of your leather and your warranty.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it is accessories over and above the furniture component?

Mrs STARCIC: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: A commission on?

Mrs STARCIC: On your gross profit. Commission is on the gross profit of your sale, and that spiv is a bonus.

CHAIR: A flat rate.

Mrs STARCIC: Yes, a flat rate. It depends on what package you sell them.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you sell them a package of other goods beyond the furniture.

Mrs STARCIC: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Insurance or warranty.

Mrs STARCIC: Yes, insurance, and on your fabric is your warranty. In the course of my employment I was injured on 13 September 2005. I injured my arm in the course of moving furniture as part of my duties and subsequently lodged a workers compensation claim. My employer's insurance company accepted liability for the injury and I have been in receipt of workers compensation benefits for the last nine months. For the vast majority of this time I have been completely off work. On two occasions during that time I have attempted to return to work on restricted duties and reduced hours. Unfortunately those attempts were unsuccessful and only lasted two and three days respectively.

I have received numerous necessary medical treatments over this time, covered by my workers compensation claim, and I await further necessary medical treatment, as I currently remain unfit to return to full duties. I received written notice on Friday, 21 July 2006, from my employer that I was terminated effective yesterday Wednesday, 26 July 2006. My employment was terminated on the basis that my doctor was unable to confirm when I would return to pre-injury duties. I am now therefore unemployed and need a job. I have a husband, son, daughter and son-in-law who live together in our home. I work not only to supplement our family income and to maintain a decent living standard for our family but for the satisfaction, creativity and relationships that it brings.

Due to circumstances beyond my control, I will now seek new employment in a hostile environment where any employer covered by WorkChoices can demand as a condition of employment that I sign an AWA that strips away everything except: $14.28 per hour (in the retail industry); 38-hour week (potentially averaged over year); 10 days sick leave/carers leave (plus two days compassionate leave); four weeks annual leave; and 52 weeks unpaid parental leave. This AWA could legally exclude weekend, evening and public holiday penalties, shift loadings, allowances, annual leave loading, paid rest breaks and base rostering rights, to name but a few fundamental award entitlements. I am advised that this may apply to any permanent full-time job under WorkChoices.

I also understand that any unemployed person in receipt of social security benefits, such as the Newstart allowance, if that person qualifies, may be obliged to sign such an AWA in this new dog-eat-dog WorkChoices environment or potentially forfeit welfare benefits for up to eight weeks. I beg

the Committee to question why I, and others like me, should be treated as second-class citizens. I did not choose to be injured at work. I did not choose to be terminated as a direct result of the injury and my inability to return to work. I also did not choose these laws. My work choices under this malicious, retrograde and punitive legislation are unemployment or inferior wages and conditions from any prospective employer who seeks to implement its full force. This is simply not fair.

I do not think that our community and its leaders would accept that ordinary working people should be forced to accept inferior wages and conditions due to circumstances beyond their control. Any fair and decent law should protect vulnerable injured workers such as myself and ensure that new jobs guarantee fair and decent minimum wages and conditions of employment and not shoddy, stripped-down individual contracts based on unfair and detested laws. Without the protection of a job, I am not only compelled to sign an AWA if offered to secure new employment under these laws, but the terms of that AWA may now be legally inferior to minimum award conditions. This is no way to treat any worker, let alone an injured worker who has lost their job following a workplace injury.

I can only hope now to find a job with an employer who recognises and applies fair and decent minimum community standards, such as the award, as opposed to another employer embarking on the Federal Government's race to the bottom with shoddy, substandard AWAs imposed on vulnerable unemployed workers. I urge the Committee to adopt any effective measures available to protect New South Wales workers and their families from other disturbing effects of the Commonwealth's WorkChoices legislation and, in particular, to shield us from Australian workplace agreements.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Were there no light duties? Is selling furniture not mainly talking to customers about the fabric and the solid construction of the furniture and whatever?

Mrs STARCIC: Yes. It was just that the employer did not want to come to the party. That is what it boiled down to.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Presumably if your arm is still crook and you cannot lift the furniture, that would not have been a huge part of the your job, would it? Are there no other people to do that?

Mrs STARCIC: No, that was part of our job.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you had to move the furniture as well?

Mrs STARCIC: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That is pretty heavy work, is it not?

Mrs STARCIC: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And there are no furniture removal persons to do that?

Mrs STARCIC: No, it is the furniture staff who must do it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But presumably they could have some spruikers and some movers, could they?

Mrs STARCIC: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Everyone is treated equally.

Mrs STARCIC: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So they could not make an arrangement where you spruiked and someone else carried for you?

Mrs STARCIC: No. Because it is commission based, no-one was going to carry me.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The sale does not relate to the carrying, does it? Surely that is a function at the end.

Mrs STARCIC: Yes it does because while you are moving furniture you are missing out on speaking to people and trying to make a sale. Who will do my job and lose money when they can be out there making money?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But they could have had a person who could not talk too well but who was fairly strong and they could divide the job could they not?

Mrs STARCIC: No.

CHAIR: They would have to have both of them not on commission I suppose.

Mrs STARCIC: Yes. Each man for themselves.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you are competing against the other store people. So if I go into Harvey Norman I can rest assured that they will all come flocking—

CHAIR: Because they not only want the commission; they want the spiv as well.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Let me speak to him first. Is that the way it is?

Mrs STARCIC: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It is dog eat dog more or less.

Mrs STARCIC: That is right.

CHAIR: Are you still on workers compensation?

Mrs STARCIC: Yes I am.

CHAIR: What does your doctor or anyone say about how much longer?

Mrs STARCIC: They do not know. My injury was up in the air because they cannot understand why the inflammation has not gone. So I am waiting for approval to be put into Prince of Wales Hospital to have a procedure done, which takes about three to four days, and hopefully that will fix my problem.

CHAIR: So the two attempts that you made to return to work, were they unsuccessful because of the sort of questions the Hon. Dr Arthur Chesterfield-Evans is asking you, that to return to work you would have had to lift and move furniture?

Mrs STARCIC: No, because I was on restricted duties. I could not answer the phones because they would not give me a head set. It caused a bit of problem. My arm is in a brace and it was swelling and it was very painful.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If you had a head set you could have answered the phone?

Mrs STARCIC: Yes. I could answer the phone but then once the customer was asking me where their goods were I could not use my right arm to access the computer. I needed a head set that

they agreed on but when I went back to work they did not agree on. They said they would not get me one.

The Hon. IAN WEST: I assume you have been through the process of speaking with a rehabilitation provider of your choice.

Mrs STARCIC: No, not of my choice, of their choice.

The Hon. IAN WEST: Their choice—you did not get to choose your provider as you are able to under the Act.

Mrs STARCIC: No.

The Hon. IAN WEST: I assume that the provider they picked sent you to an insurance company doctor.

Mrs STARCIC: Yes. I have been to two insurance company doctors.

The Hon. IAN WEST: What are those doctors saying?

Mrs STARCIC: I do not know what the one in Wollongong said but when I went to the one in Parramatta he virtually said that I had this injury and I needed to go and see a doctor at the Prince of Wales, and when he saw my injury and how it was very sensitive and flared up and swollen and the rest, he wrote back to the insurance company and said that I needed to go. And that is how I got to have that assessment.

The Hon. IAN WEST: So the insurance company doctor says you are unfit; your doctor says you are unfit. They have difficulty about the timing. You are terminated by your employer. Have you been to the industrial commission about some form of conciliation for unfair dismissal?

Mrs STARCIC: No.

The Hon. IAN WEST: Is that being looked at?

Mrs STARCIC: Yes, it will be looked at.

CHAIR: Because under the rules, after only nine months and with this medical stuff still going on it seems on the face of it that they had no right to dismiss you.

Mrs STARCIC: Yes.

CHAIR: Would that be right, unless there are other circumstances?

The Hon. IAN WEST: I assume there will be all sorts of debates about whether or not you were dismissed for not performing your duties to their satisfaction. They have not said that but it may be best that we do not comment on all that.

CHAIR: But it is within the period. There is a two-year period, and it is within the period that it is certainly arguable and that will be happening.

The Hon. IAN WEST: The question of hours, do your fellow workers at Spotlight in terms of the hours they receive, is there a degree of underemployment? You are suggesting that you would like more hours. Is that fairly general?

Mrs SZWEC: Yes. They just send out a roster and they give you the hours that they want assigned to you. You do not have a great say in how many hours you do.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is it fair to say that they could actually have more people, all of whom want more hours, so in a sense all the employees are

competing for more hours? Is that the situation? Would a high percentage of the employees like more hours?

Mrs SZWEC: Yes. From ones I talk to, yes, there would be.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So in fact they could hire more people, each for fewer hours, rather than have a whole lot of full-time people, which might make them vulnerable to people getting sick or whatever?

Mrs SZWEC: Possibly, yes.

CHAIR: I am looking at the table of your hours and so on. Are you happy with that Monday on which you work only three hours?

Mrs SZWEC: No.

CHAIR: Is it hard on you, given that three hours is a very short time to be at work, given travelling time and so on?

Mrs SZWEC: Yes, it is. It is a waste of time. I do it because it builds up my hours, but a three-hour shift is not good for anybody.

CHAIR: I wonder whether this is a pattern that is fairly typical for other workers as well—with one day with three hours, one day with four hours, and one day with five hours, and then a couple of longer shifts. But the longest days are the two Saturdays, at 7½ hours.

Mrs SZWEC: I worked the four Saturdays at that time.

CHAIR: Has the company explained why it is so inflexible in saying, "Here are the hours we want you to work"?

Mrs SZWEC: No. They just give you the hours, and you either accept them or you do not.

CHAIR: What do they say if you say, "I would really love to work three hours on Tuesday and four hours on Monday"?

Mrs SZWEC: They more or less ask you to think about it, to take the roster home and have a look at it and see what changes you would like to make. But, basically, what it comes down to it, when you come back and you say, "I prefer to do these hours," they more or less say, "No, that's it."

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Could you link up with somebody else and say, "I will take your three hours on Monday if you take my three hours next day"?

Mrs SZWEC: Yes, you can.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So that you both get six hours that day, rather than three hours on each of two days?

Mrs SZWEC: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You cannot combine your two periods?

Mrs SZWEC: No. Say I worked three hours on a Monday and somebody worked three hours on the Tuesday, if I wanted to swap that day, we could do that. She would work the three hours on the Monday and I would work the three hours on the Tuesday.

CHAIR: But you cannot join them together?

Mrs SZWEC: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You could not get somebody to work your afternoon on Monday and say, "How about we work every second Monday?"

Mrs SZWEC: I wish.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You cannot do that?

Mrs SZWEC: No.

CHAIR: Are these hours designed to increase the number of people there at busy times for Spotlight? Is that what it is all based around?

Mrs SZWEC: I think that is right.

CHAIR: So, on Monday for instance, they do not need many people?

Mrs SZWEC: No. They have got me from 2.30 to 5.30 because they have to have two people there for closing.

CHAIR: So the roster is designed to fit in with Spotlight's needs, either because they are busy or because New South Wales has laws that say there has to be that number there for closing, locking up of tills and things?

Mrs SZWEC: Yes.

The Hon. IAN WEST: I understand from your submission that there were comprehensive rostering rights in the Shop Employees (State) Award. I assume those comprehensive rostering rights have gone from the AWAs.

Mrs SZWEC: Yes.

The Hon. IAN WEST: So you have this rather complex situation where you are under the Shop Assistants (State) Award, and you supposedly have these comprehensive rostering rights, but you are mixed in with people who are on AWAs, who I assume are told on the day whether their hours will increase or decrease. I am trying to visualise how those two lots of employment conditions work.

Mrs SZWEC: It is only a few months since they have had the two workers, one on AWAs and one on the award. One works in the dock and the other works on the floor.

The Hon. IAN WEST: They would be casuals.

Mrs SZWEC: Yes.

The Hon. IAN WEST: You are a permanent part-time employee?

Mrs SZWEC: Yes. And I do not work on just one floor; I work on three floors. To make up my hours, I work on manchester, furnishings and the craft floors.

The Hon. IAN WEST: So the casuals would be told from day to day what their hours would be?

Mrs SZWEC: More or less, yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So they cannot plan when to take the kids to the movies? It is a case of come tomorrow or don't come tomorrow, or is it the case that the phone rings on the morning? Is there that degree of casualness?

Mrs SZWEC: I am not totally sure. I cannot tell you with absolute certainty that that is exactly how it works with the ones that are on AWAs. But, basically, some casuals do get told that they work certain days.

CHAIR: So they can predict?

Mrs SZWEC: They can sort of predict. But they also get rung up and told, "We need you today."

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If somebody is sick or whatever?

Mrs SZWEC: Yes.

CHAIR: Anna, I am assuming that at Spotlight the overwhelming majority of the workers are women, and probably most with family responsibilities.

Mrs SZWEC: Yes.

CHAIR: Mavis, what is the position particularly with moving furniture and so on?

Mrs STARCIC: They are mostly mature-age women.

CHAIR: Is that across the whole of the Harvey Norman store?

Mrs STARCIC: Yes. The computer store has mostly men, white goods have women and brown goods have men.

CHAIR: Does work in all of those sections involve moving items around, such as white goods, as part of the job?

Mrs STARCIC: No. I think it is more furniture and bedding.

The Hon. IAN WEST: Mavis, was there a rehabilitation co-ordinator at Harvey Norman?

Mrs STARCIC: Yes.

The Hon. IAN WEST: Employed at the workplace?

Mrs STARCIC: No.

The Hon. IAN WEST: Has the rehabilitation provider given you a return to work program?

Mrs STARCIC: They did.

The Hon. IAN WEST: What does the company say about that?

Mrs STARCIC: They agreed on it, but when I went back it was a different story.

The Hon. IAN WEST: They just said no?

Mrs STARCIC: Yes.

CHAIR: As you said, these are matters that presumably will be pursued through the commission and so on.

Mrs STARCIC: Yes. I was back at work two days before my boss even said, "Oh, you're back. How's your arm?"

The Hon. KAYEE GRIFFIN: Anna, I think you said there are no full-time employees at Spotlight.

Mrs SZWEC: There are full-time employees, but they are not putting on any more full-time employees at present.

The Hon. KAYEE GRIFFIN: So there are a number of people who work on the floor who are employed full time?

Mrs SZWEC: Yes, there are.

The Hon. KAYEE GRIFFIN: When you agreed to work permanent part time, did you agree to a certain number of hours each fortnight, or was it over a longer period?

Mrs SZWEC: It is a rotating roster. We do 17 hours, then 29, then it goes back to 17 and 29.

The Hon. KAYEE GRIFFIN: So it is basically a fortnightly roster, with different hours each week?

Mrs SZWEC: Yes, rotating over a month.

The Hon. KAYEE GRIFFIN: How much notice are you given of a change in the roster regarding the days that you are working?

Mrs SZWEC: They let us know a couple of weeks in advance if they are going to change the roster, but they do not let us know what our hours are going to be until we actually get our new roster. Then they give us a statement to sign, and we sign it because—

The Hon. KAYEE GRIFFIN: But are you actually working the same hours each fortnight?

Mrs SZWEC: Yes.

The Hon. KAYEE GRIFFIN: That does not change?

Mrs SZWEC: No.

The Hon. KAYEE GRIFFIN: But the days that you might be doing some of those hours do change.

Mrs SZWEC: No.

CHAIR: If you look at the chart, it is basically 17 hours one week, 29 the next.

Mrs SZWEC: Yes, and they do not change. That stays the same. On the week that I work the 17, I occasionally might be called in to do some extra hours.

The Hon. KAYEE GRIFFIN: That might have been where I was confused. You have set hours each fortnight set out in the roster?

Mrs SZWEC: Yes.

The Hon. KAYEE GRIFFIN: If you are called in, when is that?

Mrs SZWEC: Only on the week that I work 17 hours, because we cannot go over 30 hours.

CHAIR: And you always do three hours on a Monday, from 2.30 to 5.30, and so on?

Mrs SZWEC: Yes.

CHAIR: All of that is set out in the table you attach to your submission.

Mrs SZWEC: Yes.

CHAIR: You say they are not taking on any more full-time workers. Is that tied to the introduction of the WorkChoices legislation?

Mrs SZWEC: No. That was before.

CHAIR: So why are they not taking on full-time workers?

Mrs SZWEC: I have no idea. They have just said that they are not going to. I have asked, of course, and the answer is always no.

The Hon. IAN WEST: Anna, do you have any idea what the hourly rate is for the people who are employed on AWAs?

Mrs SZWEC: No.

The Hon. IAN WEST: You do not know whether they are receiving less or more than your 28 or whatever?

Mrs SZWEC: I am pretty sure they are probably getting a few more hours than I am, because, from what other people have told me, they seem to be working a lot.

CHAIR: But their hourly rate is less, is it?

Mrs SZWEC: If you mean is it more than I am making, I have no idea.

The Hon. IAN WEST: Has anyone tried to find out? Has the union attempted to find out, that you are aware of?

Mrs SZWEC: I am not sure.

CHAIR: And those workers are bound by a confidentiality clause anyway.

Mrs SZWEC: I think so.

CHAIR: I remind you that because your evidence has been given under parliamentary privilege, that protects you in that the evidence is public according to our rules. If you feel that anyone is quizzing you or doing anything about your evidence, please do not hesitate to let us know immediately, because we do offer you that protection. I thank you both for coming along and telling us your individual stories.

(The witnesses withdrew)

ROBERT LONG, New South Wales Teachers Federation, Foleys Road, Wollongong, affirmed and examined:

CHAIR: I believe you are appearing on your own behalf as a TAFE teacher, and you are not appearing on behalf of TAFE.

Mr LONG: I am the Teachers Federation representative at Wollongong campus. So I am a TAFE teacher, but I am also the Teachers Federation representative.

CHAIR: I am not sure whether you were planning to talk to us in any case about general matters, but I think you want to make some comments about the point made by Arthur Rorris about apprentices and so on, and that apprentices were being offered lower rates of pay and so on. Feel free to make a statement, because there are probably a number of areas you want to speak to us about.

Mr LONG: I am happy to take questions. But the two areas I would like to discuss are the use of the Federal Government's funding strategies that are linked to its industrial relations policy, and also some incident discussion about my relationship with students and discussions with them about employment and changes in employment I have seen over the past six months or so. Under the last funding agreement between the Federal Government and TAFE NSW, the Federal Government provides approximately 30 per cent of the funding for New South Wales TAFE. It has never before linked funding to industrial relations. It was similar for the Federal Department of Education's funding of universities. They had never previously linked industrial relations to the funding requirements.

In the latest funding agreement that had to be signed off—my understanding was on 30 June and my date could be incorrect but it was roughly around that date—the Federal Government said that the New South Wales Government had to include industrial relations components in the funding agreement. So specifically at first my understanding was that they had to offer an AWA but I think the Federal Government got it slightly wrong technically because we were not employees under a Federal award so we could not be offered an AWA.

I got an email dated Friday 30 June—I have it here if people want to see it—from Marie Persson who is the deputy director-general of the Department of Education and Training New South Wales. She sent an email to all employees, offering individual employment agreements for permanent and temporary employees. I have worked permanently for TAFE since 1996 and was a casual from 1993. I have never seen anything like this before. The motivation is indicative of why this was sent to us:

> As part of the Federal Government's Skilling Australia's Workforce Initiative, workplace reforms, designed to introduce more flexible employment arrangements, will soon be introduced.
>
> From July 1 this year individual employment agreements will be made available to all staff assigned to work for TAFE NSW.

I think that says that it was not an initiative of the New South Was Government, and it definitely was not an initiative of the Department of Education and Training. This has come from the linking of funding to industrial relations. Fundamentally that skews the relationship between the Federal Government and the State Government where the Federal Government is now inflicting not just requirements of funding and requirements on the basis of education, but inflicting, obviously, its predisposed industrial campaign and, by stealth, bringing in WorkChoices on Government employees. It goes on to say:

> The IEA—

They cannot call it an AWA. It is an individual employment agreement.

> —will be a common law agreement applied for terms and conditions of employment which are governed by New South Wales State law.
>
> Under New South Wales State law, the IEA cannot provide conditions or terms of employment less favourable than the relevant award.

So we were lucky. After hearing from Mavis and Anna, I feel really lucky. We were lucky enough to be in a reasonably strong position. I feel lucky that I am a member of the New South Wales Teachers Federation and that we had some protection under being a State employee. What that means in the future is what a lot of teachers who come to me are obviously very concerned about. What does that mean in the future? We appear to be not under any threat in the short term but a lot of teachers are obviously concerned about the long term.

In relation to the specifics of the individual employment agreement, it appears to be no worse than our award conditions. To be honest, I am not an industrial lawyer so I am not 100 per cent sure of what the difference is on a close look at it. In my discussions with fellow teachers and also my colleagues within the Teachers Federation it appears that what the Department of Education and Training has put into the individual agreement, which it also had attached a copy of, basically the change is that there is no change in our rate of pay and there is no real change in our working conditions, except that if we agreed to the individual agreement we will be directed to take up certain hours of work rather than an agreed negotiation.

For example, recently I worked on a special project with students. Under an agreement with my head teacher, I worked one week of the last holiday and will take time in lieu at some other time just because it was a busy time with my student project. That was by agreement. I was not directed. I started the negotiation on the change of hours. The change in this individual agreement seems to say—and this seems to be really the only change which, again I say after listening to Anna and Mavis, makes me feel lucky—that the wording in the individual agreement says that you can be directed to do those sort of hours rather than under negotiation.

CHAIR: Obviously at this stage that is the only change that you can perceive.

Mr LONG: It appears to be, from my reading of it and from my discussions with my colleagues and people from the Teachers Federation. But we only got it on 30 June, so it is only two weeks old. It has not been tested, or whatever. The only other real change appears to be that it says for the agreement to be terminated, it must be by mutual consent. I do not fully know how that would go in practice. Does that mean that if you choose to go back on the award conditions, you are not allowed to, unless the employer says that they agree as well? That has not yet been tested as well, but I do know that the Teachers Federation is talking to the department about whether that was the intention of the agreement or not. That is something that I am not clear on.

CHAIR: In terms of the brief of this Committee and our terms of reference, the issue you are raising is that, regardless of New South Wales law, a High Court decision or any of the other legal argy-bargy that might go on, the power of the purse means that the Federal Government could force a State Government to change industrial relations practices.

Mr LONG: Yes. Well, has forced.

CHAIR: Has already, and can do so in the future. What you are saying, in effect, I guess is that it is not sufficient for this Committee to look at what is written in black and white at a Federal level and at a State level because the power of funding can actually force people to make a decision that they might not otherwise have made.

Mr LONG: Well, that has happened, yes. In your terms of reference you are looking at the impact of WorkChoices legislation and I think it is wider than just that one piece of legislation they are using. It is the universities as well. I do not know if they are doing it in health yet—I do not think they are using it in health yet—but I do know that it is with the universities as well. The Federal Government used its funding to inflict industrial relations changes on us, on teachers.

The Hon. IAN WEST: It is being used in roads.

Mr LONG: Roads as well, is it? Right.

CHAIR: That is right. It has, yes.

Mr LONG: And I suppose in construction firms as well?

The Hon. IAN WEST: Construction, yes.

Mr LONG: What happens after March next year when there is a State election on, I am not sure. I suppose none of us is. It appears that Mr Debnam has changed his mind on what he is going to do with teachers. Teachers are very concerned about changes that may occur after the State election if we then are sent to a Federal award. Tell me if this is not really related to your brief, but TAFE teachers are very, very concerned that we are going to be regarded as a corporation, not public servants, and that we may, after March 27, have been seen as a corporation and may have gone under Federal law, but that did not happen. We are not under any short-term threat of being under WorkChoices legislation.

CHAIR: I do not know whether you were here before when we discussed that briefly with the union in relation to local government.

Mr LONG: No.

CHAIR: There is a lot of uncertainty as to local government because some of its entities are trading and may well be defined as corporations.

Mr LONG: That was the concern that TAFE has because about 30 per cent of funds come from what is called TAFE Plus, which is the commercial arm of TAFE, whereas primary and high schools do not have that.

CHAIR: If members want to ask are more questions about that, we may do it and then go on to the issue of apprenticeships and other issues relating to what you hear from your students.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Just to clarify, it is more or less blackmail. They say if you want any money, it you have to do X. That is really what you are saying, is it not, and that industrial agreement is X.

Mr LONG: I do not know about blackmail because I do not know what would happen to the State Government if it said, "We are not going to do it." I personally would really like them to say, "No, we are not going to do it. We are not going to offer our employees individual contracts. We think we have a good relationship with our staff and we are not going to do it." I would just be interested to see what the Federal Government did because of the backlash. Your word was "blackmail", but it was, you know, who was going to blink first, I suppose.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You would argue that the States blinked?

Mr LONG: Well, yes. But I think: Would the Federal Government have withdrawn funding at a time of skills shortages? I do not know.

CHAIR: Some years ago there was a Minister for Education who said no to something and the Federal Government actually took the same number of millions of dollars off something else.

Mr LONG: Right. I do not know that answer, but I just think about the climate at the moment, when there is such a wide awareness of the skills shortage problem in Australia and when TAFE is really—although there is lots of talk about other providers providing it—teaching 90 per cent of vocational education students in Australia. Whether you could withdraw a third of New South Wales TAFE's funding and handle the political heat, I do not know. But anyway, that is another issue.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: They might give you the money for that and take it from something which is a bit less politically sensitive.

Mr LONG: Possibly, yes.

CHAIR: Do you want to go to the issue of apprenticeships and training from the point of view of your students, I guess?

Mr LONG: I take no formal stand, mainly because I am a representative of the Teachers Federation with students and I never advise them one way or the other what to do. But what I have noticed over the last six months in discussion with students is that employers appear to be very uncertain about what they can and cannot do. Some employers appear to be getting some bad advice and inflicting conditions on students that they appear to think are legal but are not. There was one case which I was not really closely involved in but which I know occurred where I presume—and I do not know the person personally—that the restaurant believed they were doing the right thing by their employees, and believed they were getting good advice.

They put their employees on an individual contract at a rate of pay which I believe was higher than the set rate of pay, but what that rate of pay did was take away all penalty rates. From what I was told, it took away all holidays and the employees got no holidays or any sick leave. One of the students was at TAFE and was physically unwell. It was a 17-year-old kid and he was saying that he was stressed by what was going on. He was working 65 hours at a flat rate. Again I do not want to slander the employer because I think he was probably getting bad advice, but that is the climate of what is happening now.

We are all in flux and the outcome is, particularly from my experience with my students, that younger people are the ones who are vulnerable in this. Arthur Rorris this morning mentioned patent agreements and I thought that was quite ironic. But a lot of employers are getting advice and are using a bland set agreement that is being done by industry bodies which possibly do not exactly relate to their workplaces. But a lot of small business people do not have the expertise to start writing individual agreements. I think a lot of employers are very confused about exactly what they should do and what they should not do.

The reality is that my students tell me that there is no negotiation. They do not sit down and sign an individual contract. All of these individual workplace agreements are the same for all of the students that I work with and they either sign it to get a job, or they do not, and so there is no choice.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Presumably from an employer's point of view, you could not have 20 or 30 staff or on different agreements, could you? You could not sit down and say, "How are you on Wednesdays? How are you are on weekends? What about your Mum?"

Mr LONG: But is that not the idea of this? Are they not meant to be individual and so you work with the individual's skills or attitudes? That is my understanding of the reading of WorkChoices, but the reality is that it is not like that. You are right. It is too complex for the employer.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It would take an immense amount of time and complexity, would it not?

Mr LONG: Yes. It is too complex for the employer to have an individual agreement with individuals. Possibly where you have a specific skill—and I think Anna said that—if you are a highly skilled person who has a unique skill, then that is probably the reality. I teach in the tourism and hospitality section. There are no individual agreements. They are all the same agreement and the students are signing to get the job.

CHAIR: Although you say your role is not to advise students in this area, I guess it would be true to say that young people who do not have for instance a TAFE teacher to turn to or to seek advice from would have been even worse off in terms of lack of knowledge. Their youth and inexperience means that they are not in a position to negotiate as effectively as older and more experienced people but they would have few people to ask.

Mr LONG: I do not think there is any negotiation at all. That is my take of it, this idea that this was meant to be a choice and you choose the working conditions with your employer. From the limited stuff in the six months and the students I have talked to, there is no negotiation with that. My 15-year-old daughter recently got employment in hospitality and she did not even read the agreement.

They just said, "You have to sign this to get the job." She did not even read it—I mean, she did not understand it. It was about 30 pages long, and she wanted the job and she just took it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So she knew she would have to sign it or not. Presumably she could not say, "Hang on, sit and wait while I read these 30 pages to tell you to rack off". It would have been a bad start.

Mr LONG: They did let her take it home. I think they are quite a good employer. They treat her very well. I think the legal stuff behind the relationship between the employer and the staff is what is wrong. The idea that a 15-year-old can do it by themselves, we all know that that is just ludicrous and it is not going to be fair.

(The witness withdrew)

BRYAN SMITH, Organiser, LHMU, sworn and examined:

CHAIR: Are you appearing on behalf of yourself?

Mr SMITH: No, on behalf of our non-English speaking members in our cleaning industry, on behalf of the LHMU.

CHAIR: Would you like to make a statement?

Mr SMITH: The statement I would like to make today is in regard to our non-English speaking members in our cleaning industry. In the Illawarra my membership is approximately 1,500, with that being 60 per cent of an ethnic background. The impact of this legislation will be a race to the bottom in the cleaning industry as predominantly cleaning is done on a contract basis for a certain period of time up to three years. The majority of cleaning companies employ from certain ethnic backgrounds and contractors tender on a price basis of square metreage. For a contractor to be successful there are only two ways to become a successful contractor, one, by cutting the time required to clean the site or, two, cutting wages and conditions. This legislation will allow them both.

Firstly, let me address the time factor. If a contractor cuts the required time to clean the site, this will become an occupational health and safety issue and such a risk to cleaners will be cleaning spillages; electrical hazards, being electrocuted as a majority of cleaners work alone in major buildings; heavy lifting and lack of training. The cleaning staff would rush to get the job done and in less time, which would create higher workers compensation premiums, if they have workers compensation on the employees, as this would be a cost-cutting measure.

Cleaning staff are dedicated employees of contractors and will often stay later, not being paid to clean the site. This legislation will allow for no penalty rates for cleaning staff in shopping centres, where staff often work on a roster of weekends and public holidays. It is my belief that the general public thinks that the fairy godmothers have been in overnight to clean the site. This will also be a risk to the general public with unhygienic toilets, needles in toilets, dirty change rooms, and if the owner of the complex sees that they would terminate the contract with the cleaning company, with no fault of the cleaning staff. This would allow cleaning contractors to offer AWAs, which the majority from an ethnic background would not understand the indications of what they were signing and in most cases would be inferior to the relevant award. This would make them subcontractors and not knowing they would have to have their own public liability workers compensation, ABN numbers and supply their own chemicals.

Once a cleaner signs, the others would follow. As in most cases they would belong to the same ethnic society, such as Macedonian, Portuguese or Spanish. Once a cleaner signs, the others will follow. The cleaning contractors would not care if they would exploit the rising unemployment in the Illawarra. Some case studies done, a cleaner working in Sydney must work a 12-hour day to survive, getting up at 2.00 a.m. to drive to the site, starting work at 4.00 a.m. for three hours on one site and then drive to another site for another nine hours, just to make a decent living standard for his family. Another cleaner working at a major site worked for 9½ years, Monday to Friday, 7.00 a.m. to 3.00 p.m., and was asked at the change of contract to change his shift. He was then asked to work from 11.00 p.m. to 7.00 a.m., including weekends, with no change in his rate of pay. This same employee missed out on long service leave by six months.

I would now like to address the wages within the cleaning industry. The individual average income for a cleaner is $8,200, this being $16,400 for a family. In most cases both members of the family are cleaners. The poverty level for an individual is $15,288; for a family, $32,864. You may ask why this is. This is because the cleaning industry is mainly made up of casual staff and in most cases with no casual loading applied, or permanent part-time employees being employed for 15 hours a week. Full-time positions within the cleaning industry are as scarce as rocking horse teeth. Most cleaning staff are under the poverty line, with no occupational health and safety supplied to them. Cost to maintain a major site in Sydney is made up of 62.5 per cent of operating costs. Of this, 25 per cent are made up of statutory costs and only 6.5 per cent a made up of cleaning costs. The other 5 per cent is made up for security.

Buildings cannot function without good cleaning staff and their supply is an integral part of running a building. Yet the impact of WorkChoices will encourage a low road approach to the terms and conditions being offered to cleaning staff. Cleaning employee numbers average 95,000 across Australia. At least 40 per cent are of an ethnic background and would be vulnerable to WorkChoices. Thirty-three per cent of cleaners rent their homes. The majority of cleaners left school at the age of 15 years. WorkChoices legislation impacts on cleaning staff will be uncertain surroundings to the terms and conditions of the employment, such as hours, wages and leave entitlements, and increased risk of injury and illness in the workplace. WorkChoices will also be costly for both the property owners and contract cleaners. The legislation will force contractors to drop hourly rates, lift the work load of cleaners and allay the turnover and standards in buildings will drop.

CHAIR: Not a nice picture.

Mr SMITH: It is not a nice picture, no.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you have any figures on the existing change? I would say that the standard of cleaning in hospitals has dropped dramatically and even in office buildings from the days when there were permanent cleaning staff in government offices for example.

Mr SMITH: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And certainly in hospitals. Can you comment on the hours of work of cleaners in those industries, say, government offices?

Mr SMITH: I do not cover hospital cleaners but in government buildings, since 1998 there has been a reduction by the State Government for an attempted reduction in hours for cleaners and hours across-the-board. We now have an assurance from the State Government that there will be no future cuts. But there has been a drop in the cleaning staff in schools, government sites mainly, with cleaning staff finding it very hard to keep up. With the new tender process, it makes it very hard with the new operating procedures that they have here.

CHAIR: It may be that the problem I am referring to is in non-unionised areas but cleaning is often nominated as an industry in which children are employed. I mean people under 15, but a lot of people who are 15, 16, 17-years old. Can you make any comment on that?

Mr SMITH: I do not know of any children. I know of young people. I know of a lot of ethnic backgrounds where cleaning contractors will use a specific nationality, Thai or Vietnamese, whatever, because they get their families and other people involved. It is mainly in the commercial cleaning side of it, which is very hard because he may have a contractor there for 12 months, they disappear, you are trying to track them. They do not know who their employer is half the time. A lot of them also do not realise that they are subcontractors. At times they will get them to sign a contract and they make them do an invoice, which makes them responsible for the site a lot of times.

CHAIR: Is there are a lot of exploitation of young people and of the families in those circumstances?

Mr SMITH: Yes. Over the years since I have been employed I have seen that they use a lot of illegal immigrants and they will use them up. They will give them a training period of one month with no pay, then they let them work for another month and then they just say "bye"—they do not pay them anything or they will go to the immigration department and tell them that they are illegals and have been working and they get rid of them, send them back home.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What — with no money at all?

Mr SMITH: No money at all.

CHAIR: So it is a pretty harsh industry on the edges.

Mr SMITH: It is a very harsh, hard industry, especially the commercial side of it. The government side of it is not too bad. Hospital cleaning is covered by another union, the HREA. I think they are having a hard time of it. We mainly cover contract cleaning.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But is contract cleaning not replacing permanent cleaning in hospitals?

Mr SMITH: Yes, in a lot of hospitals, nursing homes and private centres as well. We have noticed that the home care industry as well is using people to clean as well.

(The witness withdrew)

(The Committee adjourned at 3.30 p.m.)