COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION LEGISLATION COMMITTEE

Reference: Workplace Relations Amendment (Work Choices) Bill 2005

TUESDAY, 15 NOVEMBER 2005

CANBERRA

CORRECTIONS TO PROOF ISSUE

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Tuesday, 15 November 2005

BY AUTHORITY OF THE SENATE

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EDUCATION LEGISLATION COMMITTEE

Tuesday, 15 November 2005

Members: Senator Troeth *(Chair)*, Senator Marshall *(Deputy Chair)*, Senators Barnett, George Campbell, Johnston, and Stott Despoja

Substitute members: Senator Santoro to replace Senator Barnett

Participating members: Senators Abetz, Barnett, Bartlett, Boswell, Brandis, Bob Brown, Carr, Chapman, Colbeck, Coonan, Crossin, Eggleston, Evans, Faulkner, Ferguson, Fielding, Fifield, Forshaw, Hogg, Humphries, Hutchins, Johnston, Joyce, Lightfoot, Ludwig, Lundy, Mason, McEwen, McGauran, Milne, Nash, Nettle, O'Brien, Payne, Polley, Ray, Santoro, Sherry, Siewert, Stephens, Sterle, Stott Despoja, Trood, Watson, Webber and Wong

Senators in attendance: Senators Allison, Barnett, Brandis, George Campbell, Johnston, Joyce, Marshall, Murray, Nash, Santoro, Siewert, Troeth and Wong

Terms of reference for the inquiry:

Workplace Relations Amendment (Work Choices) Bill 2005

EDWARDS, Mr Eric, Workplace Representative, Association of Professional Engineers, Scientists and Managers, Australia

FARY, Mr Geoff, Acting Chief Executive, Association of Professional Engineers, Scientists and Managers, Australia

NOUD, Mr Russell, Director, Association of Professional Engineers, Scientists and Managers, Canberra

CHAIR—Welcome. Thank you for your submission. I invite you to make a brief opening statement before we move to questions.

Mr Fary—We very much appreciate the opportunity to be here. By way of background, I have had some 30-years experience in industrial relations and human resource management, working for industry, government and employee organisations. I have been in my current role for approximately two years. Mr Edwards is our workplace representative at CASA and he will take the opportunity to briefly give you a real life perspective, as it were, on negotiations in which he is currently involved.

Like you and your staff, we were very strapped for time in getting the submission to you to meet your deadline. I have to apologise for the uncharacteristic—even unprofessional—typographical errors that have crept into part of it. We do apologise for that. It is not our normal form but unfortunately I did not have time to proofread the submission before it was shot off to meet your deadline. Please bear with us when you see those glitches in the text.

Briefly, APESMA is an organisation which has in excess of 25,000 members. We have been in existence for more than 50 years. We are the organisation that represents exclusively the employment and career interests of professional engineers, scientists, veterinarians, surveyors, architects, pharmacists, IT professionals, private sector managers and transport industry professionals in general. The organisation is a progressive and forward-thinking employee association. It is not adversarial in nature. By the nature of our membership, and also by their placement in industry, we rely almost exclusively upon conciliation, negotiation and the institutions of industrial relations to achieve the objectives of our members.

The association recognises the need for changes in the industrial landscape. No society or nation can stand still. We recognise and support the need for Australia to be competitive. We recognise, for example, that there is a requirement for the harmonisation and rationalisation of the state and federal systems of industrial relations. There is a case that can be made for the modernisation of awards. Indeed, there is a case to be made for removal of some of the less desirable aspects of the unfair dismissals regime.

Having said that, I would like to very briefly summarise some of our key concerns regarding the draft bill which is the subject of your consideration. Firstly, we have a concern about a key assumption that underpins the legislation: that more labour market deregulation will result in more employment. We believe that is not supported by an examination of the international statistics, particularly material that has been put out by the OECD. We are concerned that a radical stripping and rationalisation of awards could damage the career structure of professionals and exacerbate the current shortage of professionals—in particular, by the further attraction for Australian professionals to move offshore and by there being a disincentive for young people to enter technology based professions. We are concerned that an increasing of the threshold for unfair dismals to firms of 100 employees goes too far. It will remove the one tangible piece of regulatory leverage that is available when dealing with employers who are not wilfully ignoring their obligations and responsibilities but simply unaware of them. The fact that the unfair dismissals regime exists has enabled us to discuss and reach satisfactory outcomes with employers. What I would like to do before concluding my opening remarks is invite Mr Edwards—who, as I said, is one of our workplace representatives at CASA—to share with you his real life experiences in a negotiation which he is currently involved in about an enterprise agreement.

Mr Edwards—I am a professional working within the Civil Aviation Safety Authority. I have been there approximately 17 years and I have been active as a professional workplace representative for the best part of 10 or 12 years. I would like to outline our current situation. Our current certified agreement nominally expired in March of this year. Due to problems negotiating agreements over the past several iterations, we attempted to start negotiations on this particular one prior to Christmas. We are still negotiating. There seems to be no particular urgency on behalf of the organisation that runs CASA to conclude an agreement. We are at the point where we are concerned that they are deliberately prolonging the agony, so to speak, until the new legislation arrives so that they can take some of the unpalatable options that will be available to them as a result of those changes.

Our members are particularly concerned about the potential for the 90-day strike down, if you like, of a certified agreement, given that ours has been nominally expired for some eight or nine months anyway. We wonder what motivation there will be for any employer, given that ours has been at the table for 12 months, to actually conclude an agreement. At the end of the day, we have not actually made a pay claim; we are just looking for a continuation of the conditions we enjoy and a more robust workplace-management interaction that leads to efficiencies within the organisation. We are not out for extra holidays and we are not out for extra money; we would just like a stable workplace where there is some industrial democracy and we can move forward.

CHAIR—Thank you.

Mr Fary—I would like to conclude very briefly by making a couple of points. The predecessor legislation to the bill before you for consideration is the 1905 Conciliation and Arbitration Act, one of the most significant and historic pieces of legislation ever enacted by the Australian parliament. The effects of that act and its subsequent amended versions have resonated through generations in Australia. The underpinning of that act has made a substantial contribution not only to the Australian economy but to the very fabric and nature of what it is to be an Australian.

It is our submission to you that the bill before you could have similar magnitude both in the impact and in the longevity of its influence on our national economy and on the very nature and character of the Australian community. For that reason we suggest in our submission that the passage of the legislation, given its significance, should be delayed pending a broad-ranging public inquiry, which we believe could be a vehicle for a genuine attempt to engage all the parties in an intelligent and frank dialogue and, if I could use an old Australian colloquialism, in a fair dinkum attempt to chart a path forward which is not perceived to be divisive and lacking in balance but one which could enjoy the buy-in by all of the key players both in our national economy and in our community. Senators, thank you for your forbearance, and we are happy to respond to any questions that you might have of us.

Senator BRANDIS—I have one area of questions, arising, Mr Fary, from those observations you made at the very end about the 1905 Conciliation and Arbitration Act. Your point, if I may say so, Sir, was well made that that act not only created a legal regime; that legal regime in turn created a culture of industrial relations in this country. That was 100 years ago. I am not sure whether you are familiar with the journalist Paul Kelly's book, *The End of Certainty*. In that book Mr Kelly talks about the Federation settlement as being based on four pillars: one of them was industrial arbitration as reflected in the act that you have mentioned; another was tariff protection; the third was immigration restriction and, in particular, white Australia; and the fourth was what he calls the 'instrumentalist' view of the state.

His thesis, which I think is broadly true, is that those four pillars were the basis of the Australian economy, and indeed Australian society, for most of the 20th century, certainly until the 1960s. But, Sir, tariff protection is largely gone; immigration restriction, and in particular white Australia, is largely gone; and the instrumentalist view of the state is largely gone. My question to you, Sir, is: is it not time that that last of the four pillars of the old Australia, industrial arbitration, went the way of the other three so that we can complete the modernisation of our economy and change the culture correspondingly?

Mr Fary—In response to the first part of your question: yes, I am familiar with Paul Kelly's book and have read it and I am familiar with the propositions that he puts forward in that book. Indeed, at the outset of my opening remarks, I think I said that the association recognises that a case can be made for change in terms of harmonisation of the state and federal systems, that a case can be made for change for rationalisation and modernisation of awards and that a case can even be made for change to remove some of the less desirable aspects of the unfair dismissals regime.

I think our concern would be that the proposition which is before the parliament threatens to throw the baby out with the bathwater. The Australian conciliation and arbitration model is internationally recognised and a number of other nations, including nations which have emerged only relatively recently from years of colonial rule or years of white domination, such as South Africa, have based their system on the Australian model. The International Labour Organisation talks about and recognises the Australian model. We are not for one moment arguing that it should be set in concrete, stuck in stone and should never be reviewed. What we are arguing is—

Senator BRANDIS—But you are saying that it should not be fundamentally changed, are you not?

Mr Fary—I think we are saying that it should change by evolution, by dialogue and by constructive engagement between the parties. What we are seeing at the moment is a process—if I may say so—whereby a significant stakeholder is being marginalised from the process, that its input is not being genuinely sought and there is not an attempt to gain dialogue and input for the way that the system can evolve and move forward. What I am saying, Senator, is: don't throw the baby out with the bathwater.

Senator BRANDIS—I take it that when you speak about a major stakeholder, you are talking about the trade union movement.

Mr Fary—Primarily, my organisation is a part of the trade union movement in all of its forms and variations. But I think you will find that, in private moments, there are significant bodies of opinion within the employer community who have reservations and apprehensions about where aspects of this legislation are going. They are perhaps not terribly vocal in terms of the public commentary that they make but, certainly, they are privately expressing those views to organisations such as mine. I believe those organisations would also welcome an opportunity to participate in an independent public inquiry and review.

Senator BRANDIS—The natural human fear of the consequences of change is part of the way we human beings are built. Can you point me to one instance when the same sorts of arguments were not run against the proponents of freeing up various areas of the Australian economy, whether it was against Sir John McEwen when he was minister for industry, against Mr Keating when he was treasurer or against Mr Howard and Mr Costello today? Whenever an area of the economy which is highly regulated and rigidified is freed up, we always hear these arguments. May I put it to you that, if historical experience in this country is any guide, the arguments have always turned out to be wrong.

Mr Fary—You are a keen student of history—and I appreciate that.

Senator BRANDIS—That is why I make the observation: the fears have always turned out to be wrong.

Mr Fary—The crucible of the development of the unique system of industrial relations which we have in Australia goes back to the 1850s. In fact, it goes back to the achievement, for the first time in the Western industrial world, of an eight-hour working day in the 1850s—an achievement that was brought about by a combination of factors, including prosperity, the isolation and the shortage of alternative labour.

People at that time railed against that change and said it would mean the end of civilisation as we know it, not only damaging our prosperity. Senator, I am sure you have read the *Hansard* of debates that occurred around the introduction by Alfred Deakin and others of the Conciliation and Arbitration Act and of people who railed against those changes. I think one even went so far as to suggest it was against God's will to interfere in the sacred right of employers and employees to individually negotiate contracts without the intervention of third parties.

Senator BRANDIS—Yes, but one of the Labor Party opponents of that view also said that the parliament of the Commonwealth of Australia is jurisdictionally competent to repeal the laws of supply and demand.

Mr Fary—I am not sure I follow your line of argument, Senator, but those misgivings about the legislation at the time it was introduced more than a hundred years ago proved to be incorrect. I reiterate what I have said earlier on: this organisation does not take a position of blind opposition to change and to progress. In fact, we have been at the forefront of advocating change and progress in industrial relations. Some of the things that our organisation have done—for instance, the establishment of our own management education program, the establishment of our own employment agency—are indicators of the sorts of leading roles that we have taken in the advocacy of change.

We have currently, we believe, in excess of 30 per cent of our members on individual employment arrangements of one form or another, be they common-law contracts, be they self-employed or be they Australian workplace agreements, and we support the right of those members to enter into those arrangements. We provide assistance and support for them. What we are saying is that we believe that there should be a consultative way of moving forward with changes. As I said at the outset of my remarks, I practised in human resource management for most of my adult life, and much of that has had to do with the introduction of change. You successfully introduce change by bringing people with you, not by forcing it upon them.

Senator BRANDIS—I am sure that is true, but is not the very thing we are doing here today a consultative process? Surely it does not make it an any less consultative a process if there are stakeholders whose interests are threatened who protest volubly, hysterically and on occasions violently against it. It does not mean it is not consultative.

Mr Fary—It is a consultative process, albeit an abbreviated one, as I indicated at the outset of my remarks. The discussion that you and I have been having talks about the impact of legislation that has resonated for a hundred years or more. It is our belief that the impact of this legislation could be similar. We believe that there is no compelling argument to say that it needs to be rammed through an abbreviated process in a matter of weeks. This is something which could be the subject of weeks—months—of discussion and dialogue with the interested parties in the community.

Senator BRANDIS—I am sure it could be the subject of years of discussion, but I would point out to you that there have been years of discussion, particularly in the Senate, since the election of this government in 1996, when various aspects of this package have been debated in the Senate and knocked back.

Mr Fary—Indeed.

Senator MARSHALL—Mr Fary, you are here representing your members. Could you indicate how many members you have?

Mr Fary—Yes, we have got 25,000 full members of the organisation and an additional 15,000 or so associate members. Our organisation is very active on campuses where we offer membership to people who are completing their studies in preparation for entering the professions that we represent. There are 25,000 full members and about 40,000 members in total.

Senator MARSHALL—Are you confident that you are presenting the views that are generally held by your members?

Mr Fary—We are. At times we have been accused of polling and canvassing the views of our members to within an inch of their lives. I am sure Eric will attest to the fact that frequently there are polls that come from APESMA seeking their members' views on various aspects which are before the association. We have indeed polled our members on their attitudes towards workplace changes over the years.

Senator MARSHALL—Have you done some polling on the present bill and, if you have, could you explain to us the results?

Mr Fary—We did some polling earlier this year when the bill was in its embryonic form, and I can share that with the members of the committee. People indicated their concern about various aspects of the then proposed industrial relations changes which were before the parliament. Generally speaking, the response regarding it as negative was running in the high 60s. These were the bills that Senator Brandis mentioned before. They were various bills in seriatim before the Senate, before the total package was announced.

However, that result—which I am happy to share with the committee—dates from April of this year. We are currently undertaking a further survey of our members and should have the results in the next week or so of their attitudes towards the current Work Choices legislation. We expect the results of that to be available to us by early next week, and I would be happy to share those results with the members of the committee.

Senator MARSHALL—Thank you for that. Some of the concerns I have had about the impact of this legislation have gone to low-paid, low-skilled workers. The members you cover are at the other end of that: they are professionals; they are highly educated. One would think they have plenty of confidence and a lot of additional skills that would make their ability to negotiate individual contracts much easier than people at the unskilled end. I am a little bit surprised that there is such major concern from your members about the impact of the bill. Could you explain some of the reasoning behind their concerns?

Mr Fary—We would not pretend for one moment that our members were amongst the lowest paid in the community. In fact, our members will often say to us, 'The levels of remuneration that we have been able to achieve over the period of time that the association has been in existence are meritorious.' What they also say to us, though, is that, whilst they welcome the reasonable remuneration levels that they are on, they have grave concerns about the culture of long hours and the lack of work-family balance in their lives. In a recent survey that we did, in excess of 50 per cent of our members reported coming home exhausted at the end of the day as a result of their endeavours.

We are finding from surveys that a number of those members are being attracted to positions offshore. Not our surveys but KPMG's—and I think this is mentioned in our submission—show that something like 74,000 Australian professionals have moved offshore in recent decades. The community is generally aware that there is a skills shortage at the moment. They are perhaps not as aware that there is a grave shortage of professionals, particularly technology based professionals, and that it is only going to get worse in the period

immediately ahead. What is happening is that a number of professionals are leaving Australia, attracted by the greater work-life balance which is available to them, particularly in Western Europe.

Senator BRANDIS—You don't think that might have something to do with tax rates, too, Mr Fary?

CHAIR—Order, Senator Brandis.

Mr Fary—Some of them admittedly leave with the intention of returning in a few years but many of them elect not to return for most or all of their working life. At the other end of the scale, an enormous amount of churn is going on: firstly, people are not being attracted to technology based industries—and that is of grave concern to us and to the employers with whom with deal—and, secondly, people are moving in and out of the professions very rapidly. A lot of people obtain professional qualifications to work in the professions that we represent and then spend only a relatively short time before being attracted to another profession or calling. One of the reasons is to obtain a better work-life balance.

Frankly, one of the concerns that we have is that, unless there is some sort of regulatory level playing field, it is unreasonable to expect, with the best will in the world, that individual employers will take the initiative to introduce work-life, family balance initiatives in isolation.

Senator MARSHALL—Let me ask you specifically about that. Given what you have just said, I would have thought that the skills shortage gives your members an improved bargaining position. Secondly, supporters of the bill actually argue that this would be the opportunity for your members to actually negotiate that work-family balance. As Senator Campbell has indicated, it is bandied around the place that it is a worker's market at the present point in time. Explain to me why your members believe they will not be able to take advantage of the Work Choices legislation in that respect.

Mr Fary—It is patchy. Some of the professions that we represent—for instance, the architectural and surveyors professions, in the industrial jargon, very much rely upon minimum rates. For other professions, such as project engineers, environmental engineers and the like, market rates are moving ahead at something like eight per cent per annum whereas actual enterprise agreement rates and award rates are moving at figures much lower than that. One of the outcomes of that is a tendency towards what we call deprofessionalisation—that is, because there is a shortage of people to fill these professional roles, pressure comes on to actually bring people in who do not have the qualifications or the formal training to take over the roles that the professionals are unavailable or unwilling to fill. That leads to a diminution in the quality of the professions over a period of time. The concern that we have is that, without the comprehensive award and classification structure in place, that process will accelerate.

Senator MARSHALL—I am interested in hearing from you about why you feel that your members will not be able to negotiate an appropriate work-family balance.

Mr Fary—They simply report to us that they have frequently been able to negotiate better remuneration outcomes, but employers have been unwilling to agree to better work-life-family balance initiatives because, in agreeing to it for their professional cadre of employees, they agree to it across the board.

Senator MARSHALL—Mr Edwards, your agreement has been expired for 12 months. You indicated that nine months of negotiation have not led anywhere. Do you believe that CASA will put everyone onto an AWA once the bill is passed?

Mr Edwards—The numbers are not quite right there. The agreement has been nominally expired for nine months and we have been trying to negotiate for 12 months. I am not sure that they will try and put everybody on AWAs straight away. Certainly, that has not been suggested. What has been talked about is that all new employees certainly will be on AWAs. Again, that is not a formal position that has been put as part of negotiations. We have actually moved a long way from where we started. It is just an incredibly slow process.

I would just take up on the point that Geoff and you were discussing a moment ago. We are not out pushing for wages and conditions in this agreement. We are looking for a professional relationship. We are currently at 92 per cent staffing levels in our place. The work-life balance is a joke. How can you establish a work-life balance when you are running eight per cent to 10 per cent below staffing levels? All of our professionals are flat chat. There is just no time. For many years CASA has been below establishment in staffing.

Senator GEORGE CAMPBELL—Mr Edwards, do you work for CASA?

Mr Edwards—I do.

Senator GEORGE CAMPBELL—Is the approach of CASA in offering AWAs to new employees now becoming a common practice across the public sector?

Mr Edwards—I could not speak for the rest of the public sector.

Senator GEORGE CAMPBELL—Mr Fary, is this approach of CASA of offering all new employees AWAs now becoming a common approach across the whole of the public sector in respect of your membership?

Mr Fary—I would not say that it is a common practice yet. There are certainly instances of where that is happening. Perhaps one of the most celebrated instances—and it is still part of the public sector for the time being—is Telstra, where any new graduate recruit is required, as a condition of engagement, to enter into an Australian workplace agreement. It is literally 'take it or leave it'. Telstra has indicated an unpreparedness to negotiate any aspect of the template Australian workplace agreement which is offered to new entrants. That is not yet a common practice. I think Telstra is even finding that they are encountering some resistance of new graduates who have said, 'Well, if that's a condition of engagement, thanks very much, but I'd prefer not to work for the organisation.' We have seen indications of that elsewhere.

Senator GEORGE CAMPBELL—Your organisation, as well as being a registered industrial organisation representing the industrial interests of your membership, in many respects is a semiprofessional organisation representing some of the other issues of your various professions. I understand that a lot of the professions that you represent actually work as individual contractors for a variety of companies—the auto industry is a classic example of that, with engineers. What is the impact of this bill, particularly in relation to the contracting side of employment? What impact will that have on your organisation and on the individuals who are currently working as contractors?

Mr Fary—Probably the largest single impact that this bill will have on those people is the removal of access. We calculate that some 95 per cent of them will be removed from access to the commission for remedy in the event of unfair dismissal. Whilst they are on contract at the moment, in many cases they still have access to the unfair dismissal remedies of the commission for harsh, unjust or unfair termination of their employment. That remedy and the attendant ability it gives us to engage in intelligent dialogue with their employers will no longer be available to those people. That is probably the most fundamental impact. The other, of course, is the variation of the no disadvantage test, which currently applies to Australian workplace agreements, which is no less advantageous when taken as a whole than in the underpinning award. That will no longer be the case, as I understand the bill. In fact, it will be the standard for minimum conditions. They are the key issues that, as we see them, will impact upon our members who are contractors.

Senator GEORGE CAMPBELL—What about their membership of your organisation?

Mr Fary—Those members have remained remarkably loyal to the organisation over the years. We have many self-employed members who joined as employees. Because of the professional services that the organisation has on offer—the education, the advocacy and so forth for their profession—they have remained full fee paying members of the organisation. Our membership has remained relatively stable over the last three or four decades—sorry, I should say that over the last three or four decades it grew remarkably and for the last four or five years it has been relatively stable. We have recently noticed that there has been a pleasing increase in the number of people making application to join the association.

Senator GEORGE CAMPBELL—Thank you.

Senator WONG—The one issue that I want to raise is skills based classification. In your submission you raised concerns about the potential impact of broadbanding or the reduction in skills based career paths. You made reference to the award review task force. The proposition that has been put to this committee is that the classification structure is a matter of discretion for the Fair Pay Commission. In those circumstances, could you tell me whether you retain your concerns about the maintenance of an appropriate classification structure applicable to your members?

Mr Fary—We believe that we have not yet seen sufficient detail for us to be able to form a considered opinion on that matter. Some of the proposals that we have seen floated would suggest, for instance, that the award rationalisation process would see a single salary level in awards and that would be the graduate recruit level. For our members in particular, given their nature and placement in industry, that has the potential to have a devastating effect on career progression within the industries and within their professions.

Senator WONG—Thank you.

Senator ALLISON—I want to go back to the work and family issues that were raised a little earlier. I want to ask you about the AIRC decision in August 2005, the Family Provisions Case, and your 'profound disappointment', if I can quote your submission, that that decision is not reflected in the Australian fair pay

conditions standards. Can you offer the committee a view about how far that sets back the capacity of professional women to engage in the work force whilst having children?

Mr Fary—Very considerably we believe. Unfortunately the professions that we represent are still underrepresented in terms of female participation, we think on average by around 15 per cent. Those women members tell us that they have even greater difficulty than their male counterparts in being able to negotiate individual family friendly type provisions. For that type of safety net to be removed from them, we think, will be a retrograde step.

Senator ALLISON—What is the effect on your skills shortage in the professions? If this is a discouragement of women coming into those professions, engineering, architecture, IT and so forth, is that going to exacerbate your skills shortage or not?

Mr Fary—Yes, absolutely. That is the crisis which faces the professions that we represent at the moment. If you look at the age profile of our professions, a vast majority are ageing baby boomers, like me, who will exit the professions in the next four, five to 10 years. We have recruitment companies from Europe trawling our membership constantly offering people year-long or two-year long project work based in Europe on remuneration packages and conditions, which are substantially superior to those which apply in Australia. There is a strong temptation for folk who have reached preservation age in terms of their superannuation benefits to preserve those benefits and to take the option of working in Europe for a couple of years. This is happening at a time when major infrastructure development and major mining development is coming on stream. It is also happening at a time—I think as a nation we face a crisis here—when kids are not being attracted to maths and science studies in secondary school, are not being attracted to the technology based professions in university and, consequently, are not entering the professions. The companies that we deal with tell us that at the moment they are only just managing to meet their existing work sheets let alone that which is likely to come on stream in the not too distant future. If this nation faces a challenge for its economy, a very high, close to the top, priority would be the attraction and retention of skilled professionals.

Senator ALLISON—Your submission also draws attention to the fact that 60 per cent of professional women surveyed wanted flexible work arrangements in place. What progress has been made in your sector in providing flexible workplace arrangements? What would you recommend to the committee by way of amendments to this legislation to progress that flexibility?

Mr Fary—The progress which has been made in our sector varies. Some of the larger companies have engaged with us and with other employee associations and have a range of innovative, flexible arrangements in place. The vast majority of our membership, however, are employed in situations where they are one out or work for small companies and there has been far less progress there. In response to your question, our recommendation to the committee would be to enable the Australian Industrial Relations Commission to continue to exercise the sort of test case decision making that it has done in the past, which has enabled those sorts of initiatives to be introduced across industry.

Senator ALLISON—You recommend—in fact it is your only recommendation in bold—that there be more time to look at the impact of these proposed changes on the social fabric of Australia. In, as you say, the hasty preparation of your submission, what were you not able to explore? What would be necessary for us to understand fully the impact on family and work?

Mr Fary—We were also constrained by the terms of reference of the committee. As I understand it, you were precluded from looking at a number of bills, which Senator Brandis previously referred to and which had been introduced and not passed in the Senate. If we had had the luxury of time we would have presented you with a range of views on unfair dismissal, the powers of the commission and the rationalisation and simplification of awards. We believe that the mechanism which we have been repeatedly calling for all year, which is in our specific recommendation, is a mechanism which could enable us to move forward in those sorts of areas.

Senator JOYCE—What is the average salary or wage of your members?

Mr Fary—We cover an extraordinary range of different professions. For the pacesetters the average remuneration level would probably be in the order of $80,000. That is for people who, for instance, are experienced professional engineers and the like. There would be others who are earning in excess of that. For graduate recruits entering professions such as architecture or surveying, the entry level salary is probably in the low forties.

Senator JOYCE—So basically the average is $80,000. Is it trending up or trending down?

Mr Fary—It is currently trending up at around four per cent. We do six-monthly comprehensive remuneration surveys of most of the professions that we represent and I would be more than happy to forward you copies of those, which have the full detail in them.

Senator JOYCE—It is trending up from $80,000 a year and you say your people are flat out. They are at about 92 per cent, so you are missing about eight per cent. It sounds like the economy your members are working in is pretty vibrant. Is that correct?

Mr Fary—Many areas of the economy we work in are extremely active at the moment, particularly areas such as infrastructure and mining.

Senator JOYCE—You would have to say it was successfully managed. In point 58 you talk about a denial of political rights. Can you elaborate on that? I find it peculiar that you would be before a Senate inquiry saying that you are being denied your political rights.

Mr Fary—That relates to the intention of the act that certain matters would be prohibited matters and could not be contained in an agreement freely negotiated between a group of employees and a employer regardless of the fact that those employees and that employer may be very desirous of reaching an agreement about such matters—for instance, codifying the process that would be used in the event of it being necessary to terminate employment; and providing an ability for employees to take part in training courses run by an employee association. Even if the parties of their own free will wish to reach agreement about such matters, such matters will be prohibited in agreements under the provisions of this bill.

Senator JOYCE—You are still enfranchised aren't you? You still have a right to vote.

CHAIR—We will have to move to Senator Santoro now.

Senator SANTORO—Senator Joyce is onto a very good point but we are out of time. Unless the committee gives me three or four minutes to proceed, I will put some questions on notice.

CHAIR—Put your questions on notice.

Senator SANTORO—Mr Fary, I want to ask you a series of questions and get some indication of where you are going. You obviously negotiate AWAs on behalf of your members.

Mr Fary—Yes.

Senator SANTORO—I want you tell the committee how many AWAs you have negotiated under the current legislation. I do not want the answers now; just take them on notice. How many AWAs have you negotiated on behalf of your members since the enabling legislation came into effect? I would like you to inform the committee of your very considered opinion on how successful you have been on behalf of your members in negotiating AWAs. In other words, what benchmarks can you provide to the committee on the performance of your union as you negotiate on behalf of your members? I want you to indicate to me, by analysing those AWAs, how many family friendly provisions are in the AWAs you have negotiated. I ask that question on notice in the context that you seem to have indicated to the committee that your members were suffering in terms of their ability to balance work and family responsibilities. I would appreciate it if you are also able to provide the committee with any surveys that you have done of your membership on their satisfaction with your performance. I would also be grateful if you could indicate, from your union's perspective, what the level of skills shortages are that you perceive within the sector that you operate in and in which you represent members. In other words, what are the skills shortages which in part are obviously putting pressure on members? I would like any of your submissions that you have made to the government in relation to why you perceive that those skills shortages exist.

CHAIR—I am calling a halt here.

Senator WONG—We are on a very short time frame with this committee and if APESMA is happy to do the sort of work that Senator Santoro requests then obviously go ahead, but I think we should be amenable to their time lines given how quickly this committee has to wrap up.

CHAIR—I and not asking them to rewrite the book, Senator Wong. I am happy to call it to a halt here.

Senator SANTORO—They are real people; they are intelligent people. They do not need your advice on how to respond to a committee.

Senator WONG—It is a matter of courtesy, Senator Santoro.

CHAIR—Order! If you take those questions on notice, we would be very grateful if you could provide what information you can to us by next Friday.

Mr Fary—Thank you. Clearly, ladies and gentlemen, you are far more skilled at parliamentary procedure than I am. I am not entirely sure what the exact meaning of the phrase 'question on notice' is, but we would be more than happy to respond to the best of our ability to Senator Santoro's questions. Your deadline is Friday of next week?

CHAIR—Yes, thank you.

Mr Fary—We would be pleased to do that.

Senator SANTORO—It is Friday of this week.

Mr Fary—Sorry, is that Friday of this week or next week?

CHAIR—Friday of this week.

Mr Fary—This week? Okay. There might be even more typos in there, but we will make our best endeavours.

Senator SANTORO—Do your best. That is all I ask.

CHAIR—Thank you very much, and we do appreciate your attendance here today.

Mr Fary—Thank you, senators.