Conclusion and findings

In this all too brief inquiry, the committee has examined issues which required further examination and reflection. The opportunity for the committee to take a full range of evidence, especially from employers and small business, was denied by the Government's decision not to agree to a motion from the chair seeking a short and reasonable extension of time to report.

The committee's examination of workplace agreements under the Workplace Relations Act (WR Act) finds that unregistered individual agreements and awards are by far the most common methods for setting the pay and conditions of workers, even though enterprise agreements have become more common under the operation of the WR Act. Data published by the Australian Bureau of Statistics shows that the Office of the Employment Advocate and the Minister for Workplace Relations have overstated the coverage of Australian Workplace Agreements (AWAs) across all industries. The committee finds that most AWAs are represented among managerial workers and in high-paying industries such as mining, which helps explain the distortion in official figures. The committee emphasises that the award system provides a very important floor to the wages and conditions of workers who rely solely on award provisions. However, the award system also partially underpins the conditions of workers who sign up to collective or individual agreements, which typically provide for above award wages.

The committee majority finds that most employees are in a weak bargaining position. The Government's rhetoric of 'choice' and 'flexibility' is designed to enable employers to unilaterally determine the pay, working hours, duties and employment conditions of workers. Employees on individual contracts have an inherently weaker bargaining position, and inherently weaker power, than workers under collective agreements. As the evidence to this inquiry indicated, workers can only exercise freedom of choice when they possess the power to choose. Unfortunately, few workers find themselves in this position. The committee majority finds that the WR Act neither requires fair bargaining nor prohibits unfair bargaining, even though the act lists 'fair and effective agreement making' as one of its main objectives.

During this inquiry the committee has seen a practical side of AWAs which is absent from material posted on the Employment Advocate's website, which generally paints a rosy picture of employee wages and conditions under AWAs. The committee heard from witnesses who had experienced a much darker side to individual contracts than is otherwise portrayed by the Government and employer groups. There are numerous examples of workers presented with 'take it or leave it' and 'pattern' AWAs which have been set in stone by employers, and pressured and coerced into moving from collective agreements to signing individual contracts. Others experienced a significant reduction in pay and entitlements under AWAs because they included annualised rates of pay and annualised hours of work, without appropriate compensation. The committee emphasises that these are not isolated cases but appear to be characteristics of most AWAs.

Nowhere is this clearer than on the issue of wages. The committee majority is concerned that the Office of the Employment Advocate, the Department of Employment and Workplace Relations and peak industry bodies refer to misleading and unreliable data which is alleged to show that workers on AWAs earn significantly more than workers on collective agreements. This is false. The committee majority examined independent research which shows that workers under collective agreements have higher wages and better conditions than do workers on individual contracts. Australian Workplace Agreements create poorer pay and conditions, especially for workers with weaker positions in the labour market. The committee majority is concerned that the long fought for rights over hours of work are now threatened by likely employer demands for 'flexible' work hours which have the potential to severely discriminate against people, especially lower paid workers in the services and other industries.

The Government's active promotion of AWAs is designed to further undermine the rights of workers and shift power away from the industrial relations commissions. The narrowing of awards and collective agreements has significantly enhanced managerial prerogatives, diminished the independence and choice available to employees and denied them access to collective agreements. The committee is concerned by evidence from expert commentators that AWAs are being certified by the Employment Advocate which appear to fail the no disadvantage test. It is concerned that the current requirement for AWAs to include a dispute resolution mechanism is so vague as to make it irrelevant for most workers. The committee strongly believes that any agreement-making system which includes individual contracts should be underpinned by a comprehensive set of awards and provide an arbitral role for the Australian Industrial Relations Commission to ensure that parties to a dispute enter negotiations in a reasonable and proper way. It should be a requirement of the Government's WorkChoices Bill that employers and employees bargain in good faith.

The committee's report examined the debate surrounding the effects of individual contracts on national economic performance. The committee majority finds that there is no evidence linking individual contracts with productivity growth, nor is there any economic evidence to show that AWAs will create jobs or address the current skills shortage. What evidence is available, especially from New Zealand, shows an opposite trend of falling productivity and rising numbers of 'working poor'. The committee majority notes that not even the Australian Industry Group and those academics sympathetic to the Government's cause are convinced by the argument that AWAs improve economic performance. It appears that the Government is pushing ahead with its radical industrial relations agenda despite growing concerns that it is ignoring community standards in the pursuit of ill-defined economic objectives.

The committee majority is concerned by the direction of the Government's industrial relations policies as foreshadowed in the soon to be released WorkChoices Bill. The policy framework behind this new legislation makes it clear that statutory individual contracts will be the preferred type of workplace agreement. Workers will have no choice but to accept an AWA or find another job. This will be the reality of what the Government calls a simplified agreement-making system. The Government has

indicated that all agreements, collective and individual, will take effect from when they are lodged with the Employment Advocate, and that workers will be able to trade away entitlements which Government advertising falsely claims are 'protected by law'. They are not.

Of greatest concern to the committee is that under the WorkChoices legislation, the most vulnerable workers in the community will be considerably worse off under the new minimum legislative standard. Protections which workers have enjoyed under a comprehensive award system will be stripped away. This will not only have disastrous consequences for low-paid, casual, part-time and young workers. It will also remove the basic structure of awards which currently underpins the conditions and entitlements of all workers, whether or not they are on collective or individual agreements or rely on awards. The committee looked to New Zealand and Western Australia to see the disastrous consequences of a system of individual contracts for individual workers and for productivity growth. The committee majority believes that the Government's WorkChoices Bill is a recipe for undoing the economic gains of the last 15 years, will seriously threaten the quality of life of many workers, and may even lead to an economic downturn.

The committee majority believes that the contents of this report demonstrate that the policy which is likely to underpin the Government's WorkChoices Bill is fundamentally flawed and at the least requires radical surgery.

The committee majority further believes this inquiry should be extended to allow proper consideration of a range of issues raised during the inquiry which if properly implemented could form the framework of a fair, equitable and decent industrial relations environment.