LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

(Reference: Inquiry into Human Rights (Workers Rights) Amendment Bill 2019)

Members:

MRS G JONES (Chair)
MS B CODY (Deputy Chair)
MR D GUPTA

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 27 FEBRUARY 2020

Secretary to the committee:
Mr A Snedden (Ph: 620 50199)

By authority of the Legislative Assembly for the Australian Capital Territory

WITNESSES

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Amended 20 May 2013

The committee met at 3.02 pm.

RATTENBURY, MR SHANE, Minister for Climate Change and Sustainability, Minister for Corrections and Justice Health, Minister for Justice, Consumer Affairs and Road Safety, and Minister for Mental Health

HUTCHINSON, MS ZOE, Branch Manager, Legislation, Policy and Programs, Justice and Community Safety Directorate

THE CHAIR: Good afternoon, everyone. Today the committee is holding its second public hearing on the reference of the Human Rights (Workers Rights) Amendment Bill 2019 to the standing committee. The bill is a private member's bill, which has been introduced to the Assembly by my colleague Ms Bec Cody MLA. The committee has received and published seven submissions, all of which are on the committee's website. The proceedings are public, are being recorded by Hansard for transcription purposes and are being webstreamed and broadcast live.

I remind witnesses of the protections and obligations of parliamentary privilege stated on the pink privilege statement on the table, which are important. Before I start today, can we just get an acknowledgement from each of the witnesses that you understand the pink privilege statement?

Mr Rattenbury: Yes, thank you.

THE CHAIR: Thank you so much. Our first witness today is Mr Rattenbury, in his capacity as Minister for Justice, Consumer Affairs and Road Safety and minister responsible for policy matters related to the administration of human rights in the ACT and the ACT Human Rights Commission. I also welcome officials accompanying the minister. Do you have a brief opening statement to make?

Mr Rattenbury: No, madam chair. I am happy to go straight to questions. You will see that the government submission is very much about the technical elements of the bill. What I can say is that the government has not formalised a position on the bill as such, but rather the officials have had a look at the more technical elements which we think we can contribute to the committee's hearing today.

THE CHAIR: Okay. Thanks for bringing those technical people along. Your submission, on the second page, in the middle of the fourth paragraph, talks about the fact that this act might add some clarification to the expression of workers rights. In particular, it talks about aligning the rights with the broader expression of the International Covenant on Economic, Social and Cultural Rights, ICESCR, rather than directly adopting the more detailed specification of rights in the relevant International Labour Organisation conventions, the ILO. It would be more consistent with the current approach. Whose current approach: the current international approach or the current Australian approach? Can someone enlighten me as to what that is regarding exactly?

Ms Hutchinson: Yes, absolutely. Just in terms of the current approach here, that really refers to the approach adopted under the Human Rights Act.

THE CHAIR: In the ACT?

Ms Hutchinson: In the ACT. Under that act, it draws particularly on the rights contained in the International Covenant on Civil and Political Rights and, of course, in relation to the right to education, the International Covenant on Economic, Social and Cultural Rights. It is also consistent with international approaches whereby the treaties that are more general in nature are often the ones that are referenced more regularly. Obviously, the subject matter's specific treaties are also of relevance in terms of interpreting the scope of the rights contained in those higher level treaties.

THE CHAIR: So it is the general trend to go for the higher level and then interpret it using the more detailed approaches but from the legislative perspective to use this higher level?

Ms Hutchinson: It certainly is in the approach taken in the ACT.

THE CHAIR: Secondly, two pages later, under the scope of rights protected in the bill, it talks about the fact that this right to work largely mirrors existing obligations that are already protected in the Human Rights Act. We have obviously had this thought come through in quite a lot of our submissions. Is there, in your view, a change to the status quo that actually occurs with bringing in this change?

Ms Hutchinson: I think that, as set out in the government's submission, while there are a number of aspects that are currently covered by the Human Rights Act, there are some new additional elements. That is for those rights related to the right to work, in particular, and, underneath that, the right to choose one's work freely—the right to enjoyment of just and favourable conditions of work. I could break up those rights further into sub-elements, if that would be useful for the committee.

THE CHAIR: Yes. What I am hunting for is the practical difference that this would make. If you have those rights spelled out a little more clearly with this change then how would that impact on, for example, how the ACT government employs its staff? Can you see a practical or specific change that it would bring about?

Ms Hutchinson: In terms practical and specific changes, the obligation to ensure just and favourable conditions of work is a new right to the Human Rights Act. That would require the ACT government to progressively realise those conditions over time.

THE CHAIR: Yes, in bargaining rounds or—

Ms Hutchinson: Indeed.

THE CHAIR: Yes.

Mr Rattenbury: If I can take a more macro response to that, back in 2010 the Australian Research Council linkage project between the ANU and the Justice and Community Safety Directorate examined the feasibility of introducing some of these economic, cultural and social rights into the Human Rights Act, in addition to what had been done in the original bill in 2004.

THE CHAIR: Yes. I believe that before 2004 there was a recommendation that we go broader than we did.

Mr Rattenbury: That is my recollection as well. In 2004 the government chose a particular group and said, "We will come back to some of these later."

THE CHAIR: But we have not.

Mr Rattenbury: That is what the 2010 paper looked at. The right to education, of course, has been brought through. These other economic, cultural and social rights remain: there are a number of them in the right to health and the right to work. The right to housing is the other one that sits there. In the sense of your question, on a more macro level, certainly that research report in 2010 identified that there was a value in more explicitly looking at these considerations.

THE CHAIR: Yes. Say you walked into this hearing from the shopping centre and you were wondering what this law change would do for you and your family, do we have any suggestions of how that might change the rights for an individual worker in the ACT? "Just and favourable conditions"—is there a set interpretation of what that means?

Ms Hutchinson: There is a range of jurisprudence underlying that right.

THE CHAIR: Can you give some examples of how that has played out in other places?

Ms Hutchinson: You may be aware, chair, that the commonwealth Parliamentary Joint Committee on Human Rights considers the seven core conventions, to which Australia is a party, as a part of the routine consideration of bills that come before the commonwealth parliament. As part of that process it considers the right to just and favourable conditions of work when assessing commonwealth legislation.

THE CHAIR: Great.

Ms Hutchinson: I have a specific example in relation to that, if it would be of use, chair.

THE CHAIR: Yes.

Ms Hutchinson: Specifically on that issue, the Parliamentary Joint Committee on Human Rights considered the right to work in terms of the Export Control Bill, in particular the obligations that would be imposed through a fit and proper person test to persons working in export-related industries. It is a useful example in respect of consideration of the engagement of not only the right to work but the right to equality and non-discrimination that could have been limited through those measures, particularly because it may be limiting particular persons from accessing forms of employment.

The committee, as part of its practice, considered that bill and applied a permissible

limitation criterion, which is quite similar to the criteria applied under section 28 of the ACT Human Rights Act. They considered whether the measure in the bill was justifiable: whether it pursued a legitimate objective, whether it was rationally connected and whether it was proportionate. After considering that range of factors and inquiring of the government whether there were sufficient safeguards in place, it ultimately concluded that the measure in the bill was likely to be compatible with human rights.

THE CHAIR: So it was considered, and it was considered that it was probably fine?

Ms Hutchinson: Yes that is right.

THE CHAIR: So it is a part of the conversation?

Ms Hutchinson: It is part of the conversation, yes.

THE CHAIR: In the ACT, presumably, it would affect less legislation unless the legislation was about ACT government employees and more practice. Or would it simply form part of the scrutiny process and that is it?

Ms Hutchinson: Chair, just by way of clarification, the ACT also administers a number of licensing regimes that would engage the right to work in relation to those schemes. I should say that that is already given consideration under the Human Rights Act because already consideration is required to be made in relation to the right to equality and non-discrimination.

THE CHAIR: Yes, that is right. I am also the chair of the scrutiny committee at the moment. Amongst those I talk to about this who are not so familiar with the details of it, people want to understand how it might help.

MS CODY: Section 28 of the Human Rights Act currently says that there are parts that are covered to ensure that workers are not discriminated against, but there is no specific part in the current Human Rights Act that talks about just and favourable work conditions, the right to work and the right to organise. They are broadly spelt out in the Human Rights Act, but there is no point to hang on at the moment.

Ms Hutchinson: Yes. The bill would specifically clarify the scope of these obligations in relation to the workplace and work-related matters. As you say, there is the issue that there are a range of current protections which would cover some of the scope of conduct in the work-related sphere, including the right to freedom of expression and the right to equality and non-discrimination.

Mr Rattenbury: In relation to the right to freedom of association, there are a number of things in there, but, as you alluded to, Ms Cody, this bill spells some of those areas out in more detail and draws in elements of some of the international treaties more explicitly. As you can see from the government's submission, there are a number of places where the submission highlights that you could more explicitly draw those connections from international treaties so that it is absolutely clear in the bill. That goes to some of the proposals in the government's submission.

MS CODY: That is where I was coming to next. There is a summary on the second page of your submission. In the last paragraph you talk about some of the rights that are not expressed to be limited to immediately realisable aspects of the Human Rights Act. Then the very last sentence says:

> Nonetheless, if this Bill is adopted in its current form, there may be some merit in further clarifying the legislative principles that are intended to apply to the adjudication of the standard of progressive realisation.

I was wondering if you could expand on that, Ms Hutchinson.

Ms Hutchinson: This is partly economic, social and cultural rights. There is perhaps a lesser degree of familiarity with them than with some of the more traditional rights and freedoms. That is one way of putting it. There is now a developed body of jurisprudence around the interpretation of economic, social and cultural rights. Nevertheless, because of the lack of familiarity we may have in the Australian context with how those rights might be assessed, it may merit some clarification in that respect.

There is, however, I should say, jurisprudence coming through at the international level in relation to the interpretation of the standard of progressive realisation, in particular, under the new optional protocol to the International Covenant on Economic, Social and Cultural Rights, which allows individual matters to be assessed and determined by that UN body. There are also other models. For example, under the South African constitution, they have developed a range of criteria about how to apply these sorts of notions.

MS CODY: As Mr Rattenbury has already pointed to, the joint study that was undertaken in 2010 pointed to a lot of those economic, cultural and social rights and how they would work in an ACT human rights legislative context. In your submission you talked about the bill section by section and point by point. For example, you referred to proposed new section 27B(1), the right to work, and including additional references to ensure that that is strengthened.

Ms Hutchinson: Depending on the policy reason underlying the bill. There are some suggestions in terms of cross-references to the relevant section of ICESCR.

MS CODY: There are a few areas where you have pointed back to the relevant sections.

Mr Rattenbury: Yes, and you will see in the submission that there are certain assumptions built into the intent behind the provisions. The submission says that, if this is the intention, there should be a way to ensure the clarity. From a drafting perspective that perhaps the team from JACS has thought about, perhaps it is not entirely clear in the bill.

MS CODY: Private members do not always have their minds turned exactly to those points.

Mr Rattenbury: That is the nature of the submission: to try and draw out some of

those questions and identify for both the committee and you, Ms Cody, as the sponsor of the bill, some of the areas where the JACS team think there is room to clarify those intentions.

MS CODY: From what I am reading here, there do not seem to be any major issues with the inclusion of a new 27B, but there are ways we can clarify the amendment.

Mr Rattenbury: Yes; I think that is a fair interpretation of the submission.

MR GUPTA: The majority of organisations have charters these days. When they lay down the pre-employment conditions or offers of employment, is it clearly lettered there that these rights can be exercised or that there will be someone they can consult? Is that the case?

Mr Rattenbury: Sorry, I did not quite understand where you were going with the question.

THE CHAIR: Do you mean in pre-employment conversations?

MR GUPTA: That is right, yes.

THE CHAIR: Currently there is a bit of an expectation that these sorts of rights will be clarified before—

MR GUPTA: That is right, yes: before they join or at the time of joining them so that people know what their rights are. What do they do at the moment?

Mr Rattenbury: It is certainly not a question I had contemplated. I do not think the average employer would be laying out these matters for a prospective employee as part of a—

THE CHAIR: Currently?

MR GUPTA: Currently?

Mr Rattenbury: No. I would not think so, just as a matter of common practice. To my mind, these sorts of obligations put a positive obligation on employers, whether it be the government or private sector employers, to have policies in place that would fairly reflect the intentions of the act, as opposed to needing to expressly discuss it with each employee. If organisations gear themselves up right and they have the right policies and principles in place then these sorts of matters would not come up on a day-to-day employment basis.

MR GUPTA: Okay.

THE CHAIR: But it would be for the Human Rights Commission, then, to have an opinion on whether those sorts of practices are occurring correctly in the ACT, or if someone has a complaint that is how it might be handled. It might get more jurisprudence.

MR GUPTA: Is it available to them on request or is it usually part of the criteria and they would have their people lay out there the equal rights responsibilities of the employer and those kinds of things?

Mr Rattenbury: As you will be familiar with, if the Human Rights Commission become engaged in a dispute their first step is not to come in heavy-handed. They would seek to engage and educate and potentially conciliate between the parties before escalating to any sort of more formal dispute mechanism, particularly in an area where there might be new obligations or new understandings of the law.

MR GUPTA: Okay. Thank you.

MS CODY: When considering legislation, we look at how the human rights matters are going to impact on that piece of legislation. So any changes that are made to the Human Rights Act, any new pieces of legislation that are brought forward, will have to be considered.

THE CHAIR: Slightly differently scrutinised.

MS CODY: Well, they will have to be considered in line with the Human Rights Act as it stands on the day.

Mr Rattenbury: Indeed. Mrs Jones speaks to the role that the scrutiny committee plays. As I am sure members are familiar with, the Human Rights Act kicks in way before that in the sense that there is the dialogue model that takes place in government. So increasingly each agency within government is familiar with the Human Right Act and does its own consideration. Then the human rights unit within JACS also plays a role and—

THE CHAIR: To justify what is being done, yes.

Mr Rattenbury: Yes, and to help agencies understand their obligations when it comes to drafting legislation. And then, of course, the Human Rights Commission plays a role as well. So, all of that feeds in before the bill even gets to the cabinet process. It is very much an iterative and—what is the word?—"discursive" model.

THE CHAIR: "Discursive", yes. My question goes to why the government does not have a position on this and if there is a particular reason not to go ahead with it.

Mr Rattenbury: No. It is simply that it has not been to cabinet yet, Mrs Jones. It is a matter of timing.

THE CHAIR: Right. Okay.

Mr Rattenbury: The bill was presented and the committee established quite quickly. We had a relatively short time to get a position paper in. I just have not taken the submission to cabinet yet.

THE CHAIR: Okay. And do you see—

Mr Rattenbury: And in some ways, now that we know there is a committee, we may wait to see the committee's report before going to cabinet—potentially.

THE CHAIR: Sure; see what the committee says. That is good to clarify. I have not really seen, in the submission—and I certainly have not heard anything today—that would be a reason not to go ahead with this change.

Mr Rattenbury: No, we do not have any express reason not to at this point.

THE CHAIR: Right. It is just a matter of timing and sorting out a few steps.

Mr Rattenbury: Predominantly a process issue at this stage.

THE CHAIR: Okay. Well, it is good to clarify. I do not have any additional questions, do you?

MS CODY: No.

MR GUPTA: No, I am good. Thanks.

THE CHAIR: All right.

Mr Rattenbury: No?

THE CHAIR: You are done.

MS CODY: I think the submission was—

THE CHAIR: Very comprehensive.

MS CODY: Yes.

THE CHAIR: Thank you.

Mr Rattenbury: Thank you.

MS CODY: Thanks for your time.

NORTHAM, MS MADDY, Regional Secretary, Community and Public Sector Union
HIGGINS, MR BRENTON, Lead Organiser, Community and Public Sector Union

THE CHAIR: Can you acknowledge for the *Hansard* that you understand and acknowledge and accept the pink privilege statement?

Ms Northam: Yes.

Mr Higgins: Yes, I do.

THE CHAIR: Thank you very much. We have got your submission here. Did you want to make any opening remarks before we go to questions?

Ms Northam: Yes, I will, if that is all right.

THE CHAIR: Yes, go ahead.

Ms Northam: I am the regional secretary of the Community and Public Sector Union. The CPSU welcome the opportunity to testify today on what we view to be an important issue pertaining to workers rights. By way of background, the CPSU is one of the largest trade unions in Canberra and covers a wide range of workers, both in the commonwealth and ACT public sectors.

From the outset, I would like to congratulate Ms Cody for bringing forward this bill and recognising that workers rights are, indeed, human rights. One of the biggest concerns that CPSU members have had over the past seven years is the continued and sustained attack on workers by the federal government, which has led to a degradation of workers rights.

Indeed, it is disappointing that while the federal government employs over 65,000 Canberrans it has not bothered to make a submission on this important legislation. This ongoing degradation of workers rights not only has affected the public service but is having a flow-on effect in the wider community. Insecure work is now at record levels, underemployment is rife and wage theft is now considered a business model.

One of the key ways the federal government degrades workers rights is by continuing to appoint ideological appointees to positions of influence, such as the Fair Work Commission. The effect of this on workers rights has been astronomical. No longer is the Fair Work Commission a layperson's tribunal where issues between employees and employers can be amicably resolved. The legislation is highly legalistic, which can result in the tribunal taking over a year to arbitrate on a simple matter, which we have seen a number of examples of.

While the CPSU recognises that this bill is not about the Fair Work Commission or wider industrial relations, it does propose to give workers in the ACT expanded access to the Human Rights Commission for matters outlined in the bill. This is particularly important as long as the federal government continues to treat workers

rights as a political football or, should I say, a regional swimming pool.

As always, the CPSU will continue to fight for workers rights on all fronts. The Cody bill recognises that there are fundamental rights that all workers should have access to, whether it be the right to freely choose your occupation, the right to just and favourable conditions or the right to form or join a trade union.

We would, however, note that there is one potential right that we think could be included in the bill, and that is the right to freely organise or be assisted in organising one's workplace. I would see this as a fundamental requirement in legitimising the place of employee associations in assisting workers to correct the balance of power. We are happy to take any questions.

THE CHAIR: Thank you very much, Maddy. That is fantastic. The question that I have is not dissimilar to what I asked the government, but you have explained probably more clearly that we have had explained before the reasons that you think we need to make this change at the local level. Obviously, this is only one jurisdiction of many across the country, from the federal to the local level. Regarding the ACT changing this to include clarification of an additional right, how would that practically change, for example, the work that you do on the ground? Can you give an example of what you expect would be easier, or better?

Ms Northam: Sure. My college Brenton does a lot more work on the ground with members on a day-to-day basis. Did you want to touch on that?

Mr Higgins: Sure.

THE CHAIR: Is it about empowering people to have a conversation or is it more practical than that?

Mr Higgins: What this really comes down to is what is not widely known, and I note that the previous speaker from the government did talk about what is known for the—

THE CHAIR: As human rights, yes.

Mr Higgins: Yes. There are actually avenues currently that workers can take to the Human Rights Commission. They are mutually exclusive with the Fair Work Commission and they do say that you—

THE CHAIR: If you do it there, you cannot do it there.

Mr Higgins: Correct.

THE CHAIR: Right.

Mr Higgins: For instance, if I want to then make a complaint about my colleague in the workplace bullying me about anti-discrimination matters or whatever the term may be, I can make a choice whether to go through a workplace avenue or I can go to the Human Rights Commission. What the bill essentially does is to open that up to be—I will not say much wider—a bit wider.

The practical impact that has for workers—we did touch on a few examples of this in our submission—is letting workers on the ground know that they can successfully fulfil their role to the best of their ability to bring free and frank advice to government. How that works for us on the ground is that it does help in assisting to correct the balance of power. We note that there has been an increase in insecure work over the last 10 years.

The ACT government itself has approximately 26 per cent of its workers on insecure work, and that is currently being addressed with the ACT government. What this would do is allow staff to say, "Okay, I now have a basic human right that says I have the right to choose my occupation. I have the right to choose my trade and I have the right to fair and reasonable employment at work." Through dealing with insecure work parcels, one thing we have seen is that, despite the ACT government coming out strongly and saying, "We support people being members of the trade union; we support people being active in their workplace," workers on insecure contracts are still saying, "I do not want to put my head up above the pool," right?

THE CHAIR: Right, yes. Got you—because I might not get a renewal of my contract.

Mr Higgins: "I might not get a renewal of my contract or something might turn out that I am just the one that misses out."

THE CHAIR: Not dissimilar to what we hear about people joining political parties sometimes.

Mr Higgins: You may say that; I can possibly comment. What this would do is at least give those staff that additional support, to say that this is no longer just something that the government are saying but they are actually backing it; they are putting their money where their mouth is and saying that this is a human right.

THE CHAIR: Right.

Mr Higgins: You have a human right to choose these things. It is not just the government saying, "We have got an encouragement policy."

THE CHAIR: On the just and favourable conditions element, obviously it is a term that is broadly understood not necessarily in the community but maybe more in trade union circles. I am just curious as to how that plays out. What does "just and favourable conditions" mean as far as you are concerned? Does it mean that, in a negotiation for a new role, you should not be put under pressure to be downgraded, or does it mean something else? What is your understanding of that term?

Mr Higgins: My view would be quite strongly that, unsurprisingly, as a trade union we support collective bargaining.

THE CHAIR: Yes.

Mr Higgins: So those sorts of—

THE CHAIR: Sorry, in a conversation in a collective bargaining setting, how does it play out?

Mr Higgins: I would put to the committee that this was actually only codifying what the ACT government currently does.

THE CHAIR: Yes.

Mr Higgins: The ACT government does put just—

THE CHAIR: Literally Cody-fying it.

Mr Higgins: Cody-fying it, I really like that.

MS CODY: Well done, chair.

Mr Higgins: We can correct *Hansard* to make sure it says Cody-fied.

THE CHAIR: She will have a meme out this afternoon about it, I am sure.

Mr Higgins: What this would do is codify that the actions of the ACT government actually do that. Look at what the ACT government has done with superannuation over the last while—and I might have my dates wrong—but since 2011, I believe it is. We have now gone from 9.5 per cent up to 11.5 per cent. We have seen an increase in domestic violence leave from 10 days to 20 days of leave. What it would actually do practically on the ground is say, yes, we know the ACT government does do this, now let us actually make that the best—actually perhaps, let us make it—

THE CHAIR: Standardised.

Mr Higgins: the standard in the ACT.

THE CHAIR: No matter who is around, yes.

Mr Higgins: That is great for ACT government employees, but what about everyone else that works in the APS?

THE CHAIR: Yes, what about everyone else?

Mr Higgins: We are really disappointed that the federal government have not decided to put in a submission here. They cover 65,000.

THE CHAIR: Do they even notice that we are here?

Mr Higgins: They cover 65,000 people in Canberra. That is a lot of Canberrans. Whilst they are individual employers—and the ACT government is the largest employer in town—they are 65,000 Canberrans and then there are the families associated with it that are directly impacted by just and favourable conditions. If we go back to the bargaining round—and I would like to say the 2014 bargaining round but it was the 2014, 2015, 2016, 2017 and 2018 bargaining round—staff were put in a

position where they had to choose. Your choice was: take less secure forms of employment or take a pay rise. It is 2020; staff should not be put in that position.

THE CHAIR: Did you say "or take a pay rise"?

Mr Higgins: Yes, "or take a pay rise". Basically they were asked to trade off conditions for a monetary value.

THE CHAIR: Am I totally on a different page here, but has that not been going on for some time? I was a trade union organiser in an former era and I worked in a national office of a trade union and the standard practice was to bargain off conditions for increased monetary value.

Mr Higgins: That is certainly not how the CPSU would bargain. We certainly would not promote trading off conditions for a monetary value.

THE CHAIR: For example, if a condition was considered to be becoming archaic or not part of modern industry. In in my case, we were in the shopping area and something about the industry was changing that seemed inevitable. But, rather than giving up that condition, it was traded off for increased monetary value. I was working in a low-paid area. That seemed actually a positive benefit at the time for the people whom we were bargaining on behalf of. I am fascinated to hear that that is considered a negative. It depends whether you are representing someone whose work changes a lot or not.

Ms Northam: It was not those sorts of examples necessarily. There were things like trading off flexible work arrangements for parents returning to work.

THE CHAIR: That was for breastfeeding leave and stuff like that?

Ms Northam: Yes, there were things like that. Or we had had things like if your child was of school age you had the right to access part-time work—that was taken out of some agreements—and things like that, pretty core conditions to our members and everyone.

THE CHAIR: To modern workforces?

Ms Northam: Yes.

Mr Higgins: It would even go beyond that to trading off financial conditions as well, such as superannuation.

THE CHAIR: You would think that, in a collective bargaining scenario, these rights would allow the position that a government could bring to you for it to be needing to be favourable overall to the worker. Is that your understanding? You could not be offering something that was less than they currently—

Mr Higgins: As you pointed out, "just and favourable" is not a well-understood term. If I say to you that there is a reasonable expectation, that has a legal meaning obviously.

THE CHAIR: There is a bit of jurisprudence around it, no doubt?

Mr Higgins: Absolutely. As much as there is jurisprudence around "just and favourable"—and I feel like I am about to go into a quote from *The Castle*—it is the vibe. It is Mabo.

THE CHAIR: The thing is, part of what I want to draw out of this conversation today is that, if someone walked in here from the supermarket or from their workplace, they would get what we are talking about. The government's contribution is quite ethereal in a way. They do not seem to have a reason why they would not want to do this, but I just want to be as practical as we can.

Mr Higgins: If I may, my view of "just and favourable conditions" would be, to really use the vernacular, "Does it pass the pub test? Are we doing the fair thing by our employees?" Take the example of what has occurred in the APS. The ACT government has benefited immensely from what occurred in the APS because they got some fantastic public servants that went, "We want to go and work for a great employer," and they have done that. They have come over here and they have been here for six, seven years now. If we take some examples there where staff have said, "All right, we will give you"—I am not kidding on this one—"a 0.45 per cent pay rise a year if you cut your superannuation from 15.4 per cent down to the superannuation guarantee, being 9.5 per cent," that would not pass the test.

THE CHAIR: It is a huge difference. Anyway, superannuation, from my understanding, was awarded in lieu of a pay increase at some point in time. It is your money.

Mr Higgins: Yes.

Ms Northam: It has already been fought for, yes.

Mr Higgins: That would not be a just and a favourable term and it is not reasonable to take that to the table. When that enterprise agreement went out to the vote—it was the department of industry, I think, wasn't it?—even the boss knew that it was going to get voted down. No-one was going to vote for it. They were essentially wasting everyone's time. It is not just and it is not favourable.

THE CHAIR: That does explain it a little better.

MS CODY: Just before I get started on questions, for the record I would like to make it known that I know both Maddy Northam and Brenton Higgins and I am a member of the CPSU. "A proud member of the CPSU," I should have said.

Mr Higgins: Good to hear.

MS CODY: I want to look at recommendation 3 in your submission—you touched on it, Maddy, in your opening statement—about the inclusion of section 27B(6), that would be to freely organise—am I using the words correctly?

Ms Northam: Yes.

MS CODY: Can you explain why that would be preferable and how points 4 and 5 do not cover that off?

Ms Northam: I can start and you can go on, if you like.

Mr Higgins: Yes, great.

Ms Northam: For union members, the right to organise is really critical. Without talking to your colleagues, how do you know what matters to everyone so that you can go to your employer and say, "Actually this is what we want this bargaining round," or whatever the issue may be? It may be around work health and safety. It can be around any number of things in the workplace.

In workplaces where we see that restricted, we see poorer outcomes for workers. That also flows through to employers as well. If you have employees who are in a workplace that is organised, they have got, generally speaking, a higher morale; they are paid better; they have got better conditions; they are going to work harder for you. So this benefits everyone. Brenton, do you have specific examples you want to highlight?

Mr Higgins: Yes. What points 4 and 5 largely focus on is—and they are very employee focused on their interaction internally within the workplace—the right to organise. This is essentially saying to the organisation, "As much as it is okay for the boss to go to employer associations to seek external HR advice, it is okay for the employees to seek that advice from their trade union as well."

Basically what we are saying is, and again I hate to go back to the APS example but it is the gift that keeps on giving: they are an organisation that has systematically removed the rights of delegates in the workplace. Most industries have those rights in their enterprise agreement. There are some APS agencies, such as the ABS, where it is insightful. So it is already enshrined, within the jurisprudence, that it is accepted that they have that right. But they have systematically gone through their enterprise agreements and cleansed—

THE CHAIR: It is not right of access; it is literally in your workplace agreements?

Mr Higgins: That is a good practical example. I will compare two actual workplaces, one being the ACT government, and one being the APS. I hold a right of entry permit, as I am required to under the Registered Organisations Act. So do Ash and Maddy. If we were to go and hold a meeting with an ACT government employer—and it literally does not matter which one you pick; let us say WorkSafe; they are topical at the moment; they are about to become an independent agency—we know that when we walk into that room we are not serving a right of entry permit; we are expected. We walk into that workplace and we are welcome and staff feel free to talk.

Let us have a look at the transition arrangements that are currently in place. We are not fighting the government; we are genuinely talking with the employer. The employer is going, "Actually that is a really good point. We need to take that on

board." We are feeding those concerns back.

THE CHAIR: It is a more discursive model.

Mr Higgins: It is amicable; we are really getting a foot in. Now let us take the Department of Human Services.

MS CODY: It obviously benefits employees.

Mr Higgins: Absolutely: employer and employees.

MS CODY: If the employees are happy, the employer is getting better bang for their buck as well, because they are going to want to work.

Mr Higgins: Absolutely. The vast majority of workers in the ACT would be deemed knowledge workers; they perform best when they are pleased with their employment, when they know they are being treated right, when they have secure employment—that is a big one—and when they know they are respected and are not employees that are just churned through.

Let us take the example of the Department of Human Services. We were invited to a meeting with the Department of Human Services about two or three years ago to discuss a consultation matter. We walked into the room, went to security, and they said, "Where is your right of entry permit?" "You have invited us in; we generally do not provide a right of entry." "You needed to serve a right of entry permit".

THE CHAIR: Where was that question coming from? Security at the front desk?

Mr Higgins: No, this was from a manager.

THE CHAIR: A manager in the meeting?

Mr Higgins: Within the organisation, someone who came to the front desk to meet us. It sets the whole tone, with a negative aspect. Staff in that organisation are not happy. They are still not happy. They are treated less than, and they are in a position where they leave. They do not stick around; they leave DHS in droves.

Ms Northam: Another DHS example is that regularly when we hold a union meeting—it might be at lunchtime—and we send an organiser in, they will send someone from management to sit outside the meeting room and record the names of people that walk in. That is definitely not something we see in the ACT government. Fingers crossed that never happens.

THE CHAIR: I am sure it is not what people think would be normal.

Ms Northam: No.

MS CODY: To include the right to freely organise within this would give workers in the ACT more autonomy?

Ms Northam: Absolutely.

Mr Higgins: Absolutely.

MS CODY: And not feel threatened if that was the way they wanted to go: if they wanted to organise, if they wanted their union in there to talk to.

Ms Northam: Yes.

MS CODY: And it gives them more ability than currently points 4 and 5 do.

Ms Northam: Yes. They would absolutely feel more secure.

MS CODY: Is that correct?

Mr Higgins: Ms Cody, let me say it this way. Comparing the current rights in the Human Rights Act, such as the right to be free from discrimination, 10 or 20 years ago, people would not have felt comfortable—

THE CHAIR: Standing up for their rights?

Mr Higgins: saying, "Actually, you can't say that to me." These days, thanks to legislation like this, people feel comfortable doing that.

MS CODY: Yes.

Mr Higgins: Then, when we are talking about workers rights, we bring that equation back to a stable place. That should also be included.

MS CODY: Thank you.

MR GUPTA: On page 3 it says:

> Within the ACT Government's own workforce, approximately 24% of the workforce do not hold stable or secure employment.

Mr Higgins: Yes.

MR GUPTA: What do you mean by saying that they do not feel secure in employment? Is that contract work or within full-time employment?

Ms Northam: They are employed on contracts or casually, arrangements like that. They have not got a permanent, ongoing position. That is something that the ACT government is working with unions to rectify. We have formed an insecure work task force that will go through everyone who is in insecure work and will look at whether they can be converted to ongoing work. It is something the ACT government is taking really seriously, and we welcome it. It is just unfortunate that it got to that point in the first place.

THE CHAIR: Are you finding that it is new and additional types of work that have

been included in insecure work or is it the same old normal types of roles?

Mr Higgins: I am going through all the spreadsheets and everything with the government. We both sit on the task force. Generally, we are finding that there are a number of arrangements. If we talk hard numbers, when we started the task force there were approximately 3,900 ACT government staff in this area. To be genuine, you need to take away the people that are acting because someone is on mat leave or long service leave. That is completely understandable. In most circumstances, you would think that number would have significantly dropped. It dropped to 3,170 plus some change.

THE CHAIR: So there are quite a few people sitting in positions that just have not been decided about or have not been—

Mr Higgins: Not that they have not been decided on; it is the case that they have been employed on a temporary contract. The reasons for that can be completely different. Take an example like the ACT Health Directorate. For a period of time, there was a senior manager there whose view was, "We just do not hire permanent employees." That senior manager is no longer there, but that was their view.

THE CHAIR: Maybe from some past experience or something.

Mr Higgins: Yes. If you take somewhere like EPSDD, with a lot of cross-directorate funding coming through, they say, "It is not secure funding." It is not secure funding, but you have been awarded that funding from CMTEDD for the last seven years, so you can probably assume that it is going to be forthcoming.

THE CHAIR: Even with permanent employment, if there is a total change of funding, it is what it is.

Mr Higgins: Correct, and it is a point we make to the insecure work task force. They often say, "We only have three years of secure funding."

THE CHAIR: Does anyone in government have more than three years?

Mr Higgins: We say, "The forward budget periods that are guaranteed are only two years, so you actually have more secure funding than a permanent public sector employee does."

MR GUPTA: Are these workers union members or are they just general workers?

Mr Higgins: There are about 25,000 members of the ACTPS, so there are both union and non-union members in there.

MS CODY: I have just a couple of supplementary questions. Do you have people on contract work that are union members?

Mr Higgins: Yes.

MS CODY: And they make up a percentage of your membership base?

Ms Northam: Yes.

MS CODY: Would you see that this amendment to the Human Rights Act would also apply to them?

Ms Northam: Yes.

MS CODY: And would give them more security and the ability to feel more secure in their insecure work and be able to push for a more secure working environment?

Ms Northam: I would say them in particular. We have had examples, unfortunately some in the ACT government, where it appears as though people on contract may have been targeted because of their union membership in not being successful in promotions or gaining secure employment. In those circumstances, I am certain that those members would have felt much more secure if this legislation was in place.

Mr Higgins: There could also be additional examples where CPSU members have put forward a view that is not necessarily agreed by the majority of the directorate. They have given frank and fearless advice and they feel that they have been unfairly targeted for that advice because it was contrary to what the directorate wanted to see. Our view is that the role of the public service is to be open and transparent, frank and fearless. That person was on an insecure contract. Had this legislation been in place, certainly our view is that he would have been a lot more successful.

THE CHAIR: Do you think that a more robust relationship between government and employees, which can produce better advice if they are in a more secure work environment, would mean that they can say what they really think?

Ms Northam: Of course, yes.

Mr Higgins: Absolutely.

THE CHAIR: I like to say what I really think. It is a freedom we should all enjoy.

Mr Higgins: Absolutely.

MS CODY: I agree.

THE CHAIR: Not that everybody around me loves it, but you know. Finally, we have briefly touched on the right to freely choose your occupation. How do you see that as playing out? Someone who has not worked in this field might say, "Oh, does that mean I can do whatever I want for my work?" Just to get it to a very bland, practical level, how does that play out on the ground, as far as you are concerned?

Mr Higgins: I am really glad you asked this, because "occupation" is a word that is so often misunderstood. Everyone says, "What is your occupation?" and they say "Oh, well, I am a trade union organiser," which is not actually accurate for me. My occupation is not a trade union organiser; my occupation is actually creating things. It might be baking bread; it might be brewing beer. Because your occupation—full

disclosure, my wife is an occupational therapist, and this is where I learnt all about this—does not mean your job; that is your employment. Your occupation is whatever gives your life meaning. When you say you have the right to choose your occupation—

THE CHAIR: That is totally misunderstood.

Mr Higgins: It absolutely is, because everyone assumes it is work and that also puts us in an awkward position where it is—

THE CHAIR: So we are more in a vocation space, in a "what you want to do with your life" type of thing.

Mr Higgins: As I said, my wife is an OT. She was in an aged-care home the other day where all the guy wanted to do was eat his soup himself, but he had Parkinson's disease. At that point, eating the soup was what he wanted to do. They got a spoon that matched the shakes of his hand so that when he actually ate the soup, it stayed still.

THE CHAIR: He could, yes.

Mr Higgins: For him, that was his occupation. Put that in the employment context. Staff should have the right to say, "Well, this is what I actually want, and I should not have to balance that against the need of X. I am in insecure work."

THE CHAIR: Will I get my next contract?

Mr Higgins: "Where am I going to get my next contract from?" Exactly. That may come down to giving frank and fearless advice. It may come down to—

THE CHAIR: Asking for a certain type of accommodation because—

Mr Higgins: It might be asking for flexible working conditions. Again, that is something that I would not level at the ACT government, because they have just recently included the right to ask for flexible working conditions in the enterprise agreement as a disputable matter. It is not currently able to be disputed under the Fair Work Act. There are significant advances that the ACT government is making and I will come full circle and make that point again.

Our view is that, practically, on the ground, for the ACT government as an employer, this bill really would not change anything because they are doing these aspects as it is. That being said, there are a lot more people in the ACT than just the ACT government.

THE CHAIR: Sure. Also, let's face it: if there were any changes, it would be good to know that this basic system of discussion can continue. The point about freely choosing your occupation or trade is about freeing up a conversation in the workplace about how you do the job that you have and the things that you want in order to do that to the best of your satisfaction.

Mr Higgins: Kind of, yes, and if that job is not right for you, that is okay because you

can go and do something else. But that should be a choice that each individual makes, and they should not be handcuffed, if you know what I mean.

THE CHAIR: And, obviously, it is balanced against what is available.

Mr Higgins: Absolutely. I am not suggesting free—

THE CHAIR: Because I know what I would rather do sometimes. I guess it is about how that balancing act is achieved.

Mr Higgins: Yes.

THE CHAIR: This occurs in every workplace. That is enlightening. On the right to organise, you suggest that that be an additional inclusion. Am I wrong in thinking that we have a federal protection for organising, but it is not obviously interpreted in the way that—

Mr Higgins: No, you have a right to freedom of association, which is not the same as the right to organise.

THE CHAIR: Is that more outside of the workplace, rather than inside the workplace?

Mr Higgins: It essentially says—and I will paraphrase here, rather than quoting the act—that people have the right to join or to not join a trade union. That does not equate to—

THE CHAIR: It does not really cover the day-to-day of the workplace.

Mr Higgins: No, and it actually more picks up point 4(a)—I think it was, off the top of my head—which is not the same as saying, "Yes, it is actually okay that on your lunch break you go to a meeting and you are not unfairly targeted for going to a meeting on your lunch break."

THE CHAIR: Yes, yes.

Mr Higgins: "It is okay that you go to the pub and talk to the union organisation about what is going on. It is okay that you do that sort of stuff."

THE CHAIR: Very interesting; I guess the assumption is that the right of association allows that, but your experience is that it might not be enough.

Mr Higgins: Correct.

Ms Northam: Definitely.

MR GUPTA: At the federal level is it the same? Going to a lunch meeting, is there a restriction or are they much more relaxed?

Mr Higgins: I will clarify that it is not an issue in the ACT government because we

have the union encouragement policy. For our coverage, within the APS, absolutely it is an issue. I aware that a number of members have worked in the public service and it is not always—

MR GUPTA: Yes, I myself. I attended some when I was a member of the CPSU.

Mr Higgins: Absolutely, and it is not always okay to go and talk to the union organiser in some workplaces. You have a look at somewhere like DHS, where the boss will be standing outside the toilet timing how long you are on the toilet for. That is the sort of level of scrutiny we get.

THE CHAIR: I do not know how you run a workplace like that.

Mr Higgins: It is not conducive to a healthy workplace because people say, "Well, why am I here?"

THE CHAIR: Yes.

MS CODY: Which brings us back to the fact that those are not just and favourable working conditions.

Mr Higgins: No, it is not just and favourable and it puts people in a position where they say, "I am out."

THE CHAIR: People vote with their feet, when they can, but they cannot always do that.

Ms Northam: That is right. They have no secure work to go to, necessarily.

THE CHAIR: I think that is about where we are at. Thank you very much for both appearing. It was very enlightening, and you gave us those examples. I do not think we have got any questions on notice, but if we need to know anything else, we will come back to you.

Mr Higgins: Thank you.

MS CODY: Thank you.

THE CHAIR: Thanks for speaking plainly. Sometimes we work hard on this side to get some plain answers.

WHITE, MR ALEX, Secretary, UnionsACT

THE CHAIR: Welcome, Mr White. Thank you for coming today to speak to the committee. Before we proceed, can you state for the record that you understand and accept the terms of the pink privilege statement?

Mr White: I do.

THE CHAIR: Thanks. Do you have any opening remarks? We have your submission here.

Mr White: Yes. I have just a short statement. I am the Secretary of UnionsACT. UnionsACT represents 24 unions and over 33,000 union members in the Canberra region. More than 100,000 workers have their employment condition shaped by the work of our affiliates. UnionsACT supports the bill to enshrine workers rights in the Human Rights Act.

As our submission noted, we regard the human right to join a union and take collective action to be integral to the full expression of other human rights. The union movement remains one of the largest organised human rights movements globally and also in Australia. UnionsACT and the trade union movement consider the human right to freedom of association, or the existence of free and effective organisation of workers, to be an essential precondition for a free and open society and for the enforcement of other human rights.

Nations and jurisdictions with restrictive industrial and anti-union regimes typically also restrict a range of other human rights. We note that the current commonwealth Fair Work Act is not compliant with Australia's international human rights obligations. Our support of this bill specifically focuses on the role of the Human Rights Act in requiring the ACT Assembly to scrutinise proposed new laws against human rights responsibilities. I note that the CPSU talked about the bill's role with respect to the ACT government as an employer.

Our submission highlighted that, in the past, bills have been passed in the ACT that restrict or remove workers human rights. The most recent example is amendments to the Workplace Privacy Act, which removed and severely restricted workers rights to privacy outside of the workplace. Thankfully, the amendment never commenced. If the bill would prevent situations like this from occurring in the future then we would regard it as a success and commend that it be passed. Thank you.

THE CHAIR: Thank you, Mr White. I would just like to go, for a moment, to one of the matters that you raised there about changes that were made to the Workplace Privacy Act. I do not want to go into the detail of them, but I want to go to the fact that the position you have is that, to paraphrase, it has taken some rights backwards. In this place I am also the chair of the scrutiny of bills committee. One of our roles is to take advice and then advise government about the compatibility of our legislation with the Human Rights Act. One of the issues that I have raised numerous times in hearings and also in conversations is that, as non-experts in this place in human rights—and all politicians are non-experts judging experts, essentially—we are

required to come to a position based on this discursive model. You might have heard the minister referring to it earlier. That means that if a human right is taken away, the expectation is that it is justified or described or explained that it has been thought about. I wonder if you have any comment on that, because it has long been my view that, therefore, rights which have been enjoyed can be taken away by a mere discussion.

Mr White: In this case, in the case of the workplace privacy amendment, the rights of workers, as humans, and the human rights of workers, were not considered as part of the scrutiny process. And the reason for that is that it—

THE CHAIR: Because it is not officially in our rights.

Mr White: Yes. I looked at, and was obviously deeply involved in, all of this in that particular process. The human rights of bystanders, of children, of the children of the surveilled worker, the spouse of the surveilled worker, were all considered, but not the privacy, not the human rights of the surveilled worker.

THE CHAIR: Was it not justified in the explanatory statement?

Mr White: It did not need to be, because human rights did not consider workers rights as human rights at that time.

THE CHAIR: No, but were the rights of the worker who was being impinged upon discussed in the—

Mr White: No.

THE CHAIR: Interesting.

Mr White: Not in the context of human rights.

THE CHAIR: No. I am just trying to remember that discussion. Thank you for raising that.

Mr White: I would just comment on your broader point. Privacy is an example of a human right that is regularly discussed as a trade-off. And that is something that we have to consider frequently—for instance, the human rights of sole traders and their right to privacy versus the public's right to know that they have a terrible safety record.

THE CHAIR: That is right, yes.

Mr White: Or, for instance, there might be a sole trader who owns a food outlet that has food-poisoned lots of people.

THE CHAIR: The sole trader has a bad record, yes.

Mr White: There always must be a trade-off between collective human rights and individual human rights.

THE CHAIR: A balance. Yes, that is right. No individual right is going to be able to trump every other right every time. That is right.

Mr White: Yes. So it is a challenge. It is not one that we blithely say is easy, but it is one that you have to look at on the merits. When it comes to the safety of workers collectively then we would say that that would outweigh the right to privacy that a sole trader might have with respect to—

THE CHAIR: Yes. What you are saying is that it is not as though there is one pure position on privacy. It is a matter of you taking your view, which is for a good reason and so on, but you can imagine that governments have to make their decisions.

Mr White: Yes.

THE CHAIR: Yes. Okay. In your submission here, you say in the third last paragraph on the first page—I do not know if you have got it with you—

Mr White: I do not have it in front of me, I am afraid.

THE CHAIR: I will just read it:

> The matter of incompatibility with Commonwealth laws or responsibilities therefore does not come into question while the ACT Government makes laws that are within its power.

I am just wondering, in your view, are there laws at the ACT level that you consider have broken with these obligations and, if so, are there some examples in the ACT of how this might improve things?

Mr White: That was in response to the terms of reference of this inquiry, which asked submissions to consider whether this amendment would conflict with, for instance, the Fair Work Act.

THE CHAIR: Commonwealth.

Mr White: We regard that the ACT cannot make laws that are outside of its power. Consequently, there is no possibility that this amendment would come into conflict with any commonwealth law.

THE CHAIR: I see. That is a reasonable position. A bit higher up on the page, you say:

> It is imperative that governments, including the ACT Government, refrain from enacting laws that would hinder workers from exercising their industrial rights, especially their rights to join and participate in their union and elect the representatives.

Is that in any way under threat at present in the ACT, in your view?

Mr White: The workplace privacy amendment would have put that under threat, had

it commenced. This bill would ensure that all of those rights would be considered when laws were enacted. As an example, an employer—

THE CHAIR: The rights would be considered but not necessarily agreed with, because of the discursive model. That is my belief, anyway.

Mr White: Well, there is a broader picture or a question about a bill of rights in Australia.

THE CHAIR: Well, that is right.

Mr White: So an employer that was hostile to unions would have been able to use that workplace privacy amendment to surveil workplace delegates and hinder or obstruct the right of freedom of association.

THE CHAIR: Within the footprint of the workplace or in their off time?

Mr White: No, the amendment would have allowed for surveillance of workers outside of the workplace to take place.

THE CHAIR: Good God!

Mr White: Sorry, covert surveillance. So, because workers human rights and their right to associate were not considered—

THE CHAIR: Yes, I think that is right.

Mr White: the consequences of granting the ability to a boss to hire a private spy to take video and photographs of a worker while they go to and from, for instance, a union meeting or talk to a union delegate outside of the workplace or any of those things—

THE CHAIR: Yes. Even if that was not the intention of the bill; even if it was meant to cover a different issue.

Mr White: No, it was not the intention of the bill, but—

THE CHAIR: If this was in our Human Rights Act then it most likely would have been picked up; that is what you are saying.

Mr White: It would have been part of the scrutiny process, yes.

THE CHAIR: Yes, you would hope.

Mr White: Well, that does go to the sole recommendation, I suppose, which is that, other than that we support the bill and it should be passed, industrial law is very specialised—in fact, arguably one of the most specialised areas, although every area of law is specialised. We would recommend that the Assembly or the scrutiny committee engage an expert when workplace or workers rights matters come up.

THE CHAIR: I think there is an interesting conversation to be had, and I am really interested in your input into it, about how scrutiny operates in this parliament. I have got a few issues with it—not that it is not a good intention, but about how it actually plays out on the ground to get the outcome. As I said, we are non-expert politicians, which is as it always will be. That is our system and there are good reasons why we like to put people into these positions who are not experts but are general members of the community. We rely almost entirely on the advice of one person who is an expert on human rights and we do not get a second view or a competing view. The question of whether they have enough knowledge of the industrial relations field is a whole other question.

There is a model which I would be interested in hearing your views on, whether now or on notice, where each subject matter committee deals with the bills in their own area, like the Queensland parliament does. In that case, generally the parliament has to employ supporting officers who are legal experts to advise across all the committees. We are on the JACS committee here and, for any bill that is associated with JACS, we deal with it and then we get to know what we are looking out for, rather than one committee having to be across everything in short meetings with short time frames and all that sort of thing. Do you have any thoughts on that or do you want to take that on notice?

Mr White: I would need to consult with affiliates about that. We do not have a view.

THE CHAIR: It is just worth considering. That is a question on notice.

MS CODY: I wanted to touch on that suggestion that you made, Mr White. For the record, I know Alex White and his longstanding work with UnionsACT. In your submission, you have suggested that, if the amendment is passed, engagement with unions be formalised by way of regulation. Is that to allow for better scrutiny of legislation moving forward? Is that the reasoning?

Mr White: Specifically, yes, to ensure that there is specialist information that the scrutiny community would be able to draw upon about workers rights. That is the purpose of it, yes.

MS CODY: I know that you would probably have to take this question on notice because you will have to talk to your affiliates. We heard evidence from our witnesses prior to you, from the CPSU, that they would recommend an amendment to the current bill as it stands by including—I am paraphrasing their words here—a section 27B(6) that would be the right to freely organise.

Mr White: Yes. Freedom of association is a bundle of rights, so to actually have the full expression of freedom of association requires a whole bunch of other protections and rights as well, which includes the freedom to organise. We would support that.

MS CODY: Thank you.

MR GUPTA: Just supplementary to that question, was that formalised before or—

Mr White: Sorry, I could not hear you.

MR GUPTA: If the bill passed, should the UnionsACT involvement be formalised? That has not happened before.

Mr White: I am not aware if it has happened before.

MR GUPTA: Okay.

Mr White: I mean, unions sit on a range of advisory committees and boards and councils and we give our views and advice all the time. It would not be completely unusual for us to do that to the government. I guess it would be different in this case, because it would be the Assembly.

MR GUPTA: It was not formalised. Okay.

Mr White: I am not aware of it in the ACT.

THE CHAIR: Thank you, Mr White.

Mr White: No worries. Thank you.

THE CHAIR: We will let you off the hook. Given that there are no more questions and our scheduled time is ending, we will conclude. We have just one question on notice for you, Mr White, to consider, which is my question. If you are able to come back to us with an opinion on that, that will be helpful. When available, a proof transcript will be forwarded to all witnesses to provide an opportunity to check the transcript in case there is any need of corrections. I now close the hearing.

The committee adjourned at 4.14 pm.