EDUCATION, EMPLOYMENT AND SMALL BUSINESS COMMITTEE

Members present:
Ms LM Linard MP (Chair)
Mr JJ McDonald MP
Mr BM Saunders MP
Mrs SM Wilson MP
Mr MP Healy MP (via videoconference)
Mr N Dametto MP (via videoconference)

Staff present:
Ms E Jameson (Acting Committee Secretary)
Ms A Groth (Assistant Committee Secretary)

PUBLIC HEARING—INQUIRY INTO THE CRIMINAL CODE AND OTHER LEGISLATION (WAGE THEFT) AMENDMENT BILL 2020

TRANSCRIPT OF PROCEEDINGS

MONDAY, 10 AUGUST 2020

Brisbane

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The committee met at 9.44 am.

CHAIR: I now declare open this public hearing for the Education, Employment and Small Business Committee's inquiry into the Criminal Code and Other Legislation (Wage Theft) Amendment Bill 2020. Today's proceedings are being conducted using videoconference and teleconference facilities so I ask all of our participants and anyone watching the live broadcast to please bear with us if we encounter any technical issues.

I acknowledge the traditional owners of the land on which we are meeting this morning and pay my respects to elders past, present and emerging. My name is Leanne Linard. I am the member for Nudgee and the chair of the committee. Fellow members with me in the room today are Mr Jim McDonald, the member for Lockyer and deputy chair; Mr Bruce Saunders, the member for Maryborough; and Mrs Simone Wilson, the member for Pumicestone. Joining us via videoconference are Mr Michael Healy, the member for Cairns; and Mr Nick Dametto, the member for Hinchinbrook.

On 15 July this year, the Minister for Education and Minister for Industrial Relations, the Hon. Grace Grace, introduced the bill to parliament. The bill was referred to the committee for examination, with a reporting date of 28 August 2020. The purpose of this public hearing is to hear evidence from stakeholders who made submissions as part of the committee's inquiry into the bill.

Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. These proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. The proceedings are covered by parliamentary privilege, which means that evidence can be given freely and openly without fear that the evidence could be used in legal proceedings. That being said, if evidence is provided that reflects poorly on an individual or organisation, the committee may choose to receive but not publish that evidence or may provide that individual or organisation with an opportunity to respond to the evidence before the committee makes it public.

The proceedings are being recorded by Hansard and broadcast live on the parliament's website. All those present today should note that it is possible that you may be filmed or photographed during the proceedings by the media and images may also appear on the parliament's website or social media pages. Provided you are not joining us this morning via videoconference connection on your mobile phone, I ask everyone participating to please turn your mobile phone off or switch it to silent. I ask you to please place microphones on mute when you are not speaking. This will help to prevent audio interference and background noise. The program for today has been published on the committee's webpage.

BARKER, Ms Imogen, Co-Founder, Young Workers Hub (via videoconference)

BRISKEY, Ms Jo, Queensland Political Coordinator, United Workers Union

BURGESS, Mr Adriaan, Union Member, United Workers Union (via videoconference)

HERRMANN, Ms Hannah, Outreach Organiser, Young Workers Hub

LANGLANDS, Mr Declan, Young Worker, Young Workers Hub

SMALL, Ms Tara, Union Member, United Workers Union

TULIMAIAU, Ms Mele Young Worker, Young Workers Hub (via videoconference)

CHAIR: I thank you for the submissions that we have received from both bodies. We very much appreciate those. I will give you an opportunity to make some opening remarks and then we will open for questions.

Ms Briskey: My name is Jo Briskey. I am with the United Workers Union. I am one of the political coordinators for the union. I am here representing us as a union, together with Tara Small, who is one of our hospitality members, and Adriaan Burgess, who is online.

CHAIR: Welcome.

Ms Herrmann: My name is Hannah Herrmann. I am the outreach organiser for the Young Workers Hub. I am here today with Declan Langlands, a hospitality worker; and via video link we have Imogen Barker, who is a co-founder of the Young Workers Hub, and Mele, who is a food manufacturing worker.

CHAIR: Welcome, everybody. Who would like to start with their opening comments?

Ms Briskey: I am happy to begin. I start by also acknowledging the traditional custodians of the land on which we meet this morning. I thank the committee for the opportunity to present and to introduce the United Workers Union members here with us today. The UWU represents over 30,000 Queensland workers across 45 different industries and professions in Queensland. I will let the members here today talk through some of the specifics and give you an insight into what these laws mean and why they are so important. The UWU has been calling for the criminalisation of wage theft for some years. It is crucial that we send a clear and decisive message to businesses that have integrated it into their business model, stealing wages off employees. This needs to stop, especially now as we are trying to recover from the economic crisis caused by COVID.

We make several recommendations in our written submission, and I will leave those for you to refer to. We support the intent of this bill. As well as making wage theft a crime, we must ensure we have quick and effective means for wage recovery. As you will hear from workers here today, employers get away with stealing wages not just because there is no deterrent but also because it is very difficult and a complicated process for wage recovery. Workers are often very intimidated or simply do not know that they have been taken advantage of by their employer. The UWU recommends this bill to the committee. We recommend that, with some amendments, the committee advise that the parliament pass this bill.

Ms Small: I am Tara Small. I am a barista and hospitality worker on the Sunshine Coast. As an 18-year-old I started in the hospitality industry. I started out as an event manager working for a small business in Noosa. I was told starting out that I had to work for free, that I was not going to get paid until I proved myself within the industry. This is not right. I worked hours. I worked 12- to 14-hour days for days on end at events without getting paid. Although I was getting paid at the end of my time with that company when I finally gave up, to this day I am still owed around $200. As a young person in the hospitality industry, I did not know where I could turn to. I did not know what I could do.

In that same period I also started a job as a barista at a small cafe. I was being underpaid there by $5 an hour, with no holiday pay and no weekend pay. I still have not been paid super from that employer either. It is extremely important for these wage theft laws to go through for our hospitality workers who are already being underpaid, who are already on the lowest amount of pay that employers can put them on. We are struggling and we need this to go through to help us.

Mr Burgess: My name is Adriaan Burgess. I am with a company called PMFresh. We operate out of four different states. It seems to me that only Queensland is affected by wage theft. PMFresh supplies the major supermarkets, service stations and 7-Elevens, as well as a lot of fast-food outlets. The United Workers Union holds an arbitrated decision from the Fair Work Commission against PMFresh with regard to the afternoon shift allowances and the rostering of its part-time workers. (Inaudible) it is all happening at Colmslie, just across the river. As a result of the decision and the mismanagement of the Colmslie site, there are underpayments to the value of close to $1 million, although we believe that it is a lot more than that. This is going back only six years.

We have been through the arbitration process since 2018, I think it is. It took us two years to get a decision from the commission. The outcome was in favour of the workers, but so far we have not seen a cent of that money. This process has been dragged out. The company is not putting any offers on the table. They are stuffing us around and we are getting nowhere. They still owe us money. There has been a decision from the commission and they are still ripping off workers because there is no deterrent for them not to. I am still getting paid the same as I was. I have been with the company for 14 years and they have been ripping me off for 11 years. The arbitration commission decision can only go back six years. The thing is that it has been to arbitration and they are still ripping me off. We need a quicker way to get our wages back. It is not fair. We have bills to pay. We have rent to pay. It is hard enough with COVID. We really need a decision made by parliament to make it quicker for us to recover our wages.

CHAIR: Adriaan, thank you very much. Equally, thank you to Jo and Tara for your opening comments. I move to the Young Workers Hub. Hannah, would you like to make some opening comments and then we will go to questions?

Ms Herrmann: Yes, thank you. Since the Young Workers Hub appeared at the 2018 wage theft inquiry, the issue has remained rampant in industries employing young people, particularly hospitality. Strong wage theft laws are as necessary as ever, acknowledging the effect of the COVID-19 pandemic and that young workers need their wages on time and in full. Criminalising wage theft is a major and critical step in achieving this.

The Young Workers Hub has made two key submissions. Firstly, the recovery of stolen wages should be low-cost and effective and should include a compulsory conferencing mechanism. Secondly, the reporting process should be made clear and that information accessible to young workers. For young people, a recovery process that involves prolonged legal proceedings, including a matter's application fee, legal advice and assistance, would often result in the costs outweighing the potential benefits of recovered wages. At the Young Workers Hub, we experience employers simply ignoring letters of demand, correspondence and other attempts at communication until the young worker simply gives up. Compulsory conferencing will ensure that all parties are obligated to discuss wage theft and possible remedies.

I will speak briefly to our second submission regarding procedural clarity. This was raised due to the fact that we find the draft consultation bill unclear in terms of procedure, both from a young worker's perspective and from the perspective of an advisory organisation. Our specific submission in this regard is for a central reporting registry, clearly accessible and understandable bench books and application forms. It is our view that the Queensland police or the DPP should be involved post compulsory conferencing when the parties understand the claim and its likelihood of success. Young workers, international students, migrant workers and undocumented workers may not feel comfortable reporting to the police in the first instance, and that is the basis of recommendation No. 2. Declan will now make a very brief statement.

Mr Langlands: Good morning. My name is Declan Langlands and I am a hospitality worker. I experienced wage theft in the form of cashback demands. At my previous workplace I was often asked to hand over my debit card to cover tables that had left without paying. If there was a till imbalance, we were told that our pay would be docked. Employees were made to sign a contract in which we were expected to authorise those deductions. The amounts varied. On one occasion it amounted to $51.80 and on another $170.10, which was to be divided between a colleague and myself. To put those figures in perspective, employees were all paid a base rate of $24.36 an hour so those deductions were a very significant financial cost to me. Cashback demands are a serious form of wage theft and should be considered when defining stolen wages.

Ms Herrmann: Mele will now make another very brief statement.

Ms Tulimaiau: My name is Mele and I am a factory worker. In 2018 I took part in the initial hearing into wage theft and discussed working under an outdated agreement, also known as a zombie award, which leaves many workers, myself included, in a difficult position. When I started working in 2016, the agreement dated back to 2008. However, now in 2020 my agreement is over 12 years old. While it is legally binding, it keeps me and my colleagues on a rate and conditions below the award—

CHAIR: I am sorry, Mele. Can you hear us? Please keep going.

Ms Tulimaiau: While it is a legally binding agreement, my colleagues and I are kept on a rate and conditions below the award, which is why I am discussing this here today.

CHAIR: Thank you all for your opening comments. I also thank you for your submissions. I appreciate how significant your contributions were to the first inquiry in 2018 and, particularly, in facilitating young workers to come and tell their stories. I can only imagine how intimidating it is to come forward to a parliamentary inquiry for anyone, let alone a young person who has been a victim of wage theft. I appreciate that you have come back to see this process through. I thank you for your courage in doing what you are doing and for your honesty and time in putting together what I think are very articulate submissions and recommendations. Thank you to both organisations for doing so.

I have a few quick questions. I know time is always of the essence. I will go first to the Young Workers Hub. Declan, you said you signed a contract that you would provide your debit card to pay for costs which, of course, were not legally yours to bear. Can you give me a brief understanding of how that process worked?

Mr Langlands: Under the conditions of employment that I signed when I started working for the company, it did state that if tills did not balance we may be required to jointly fund the shortfall from our wages. That was in their conditions of employment. However, if we did not hand over our debit card and pay for those imbalances there and then, we were made to sign forms authorising for money to be deducted from our wages.

CHAIR: Were you aware that that was not a correct or acceptable procedure?

Mr Langlands: I was aware that it was not right—what they were doing—and that it was not allowed. However, I was in a very vulnerable financial situation, so I let them exploit me.

CHAIR: Is it your understanding that they were aware that that was clearly an unacceptable practice?

Mr Langlands: Yes.

CHAIR: What gave you that understanding?

Mr Langlands: There was a lot of talk throughout the workplace about it. Everyone knew it was happening. Everyone knew it was wrong, but again they were taking advantage of young people. They were taking advantage of international people. They were taking advantage of vulnerable people.

CHAIR: Do you feel that criminalising intentional, deliberate wage theft would be a deterrent in the situation that you and others experienced?

Mr Langlands: Yes, 100 per cent. I cannot take money from a till without being punished. Why can they take money from my wages without being punished?

CHAIR: Thank you. Jo, I am interested in your recommendation 5 in respect of claims not being discouraged due to the threat of retribution or costs. An important limb of the bill is trying to make recovery processes low cost and accessible—and I take the point of the Young Workers Hub, by the way, that the procedure needs to be understood. In fact, that was one of the very important measures that the department spoke about with regard to bench books. They will be a very important part of that process, so if I can give you any comfort in that respect they will be drafted and, I hope, quite detailed. Jo, we do not want people to feel discouraged, particularly not our most vulnerable workers whom the union that you work for represents.

Ms Briskey: Absolutely.

CHAIR: Could you just expand, briefly unfortunately given time, on that recommendation and how we need to make sure that is not a threshold to stop people from coming forward?

Ms Briskey: I think, as we refer to, it needs to be clear and concise, and I think Hannah also spoke in her opening remarks about it not being an intimidating process. Obviously as a union we are keen to and will advocate on behalf of our members and have that process available to workers. However, as in any process, the details and guidelines need to be really set out clearly. The process by which workers can seek recovery to make claims needs to be as clear and concise as we possibly can make it and in language that is easy to understand in particular for young workers, migrant workers and others across the board. The guidelines need to be as clear and concise as we can possibly make them so they are not a deterrent. The opportunity for unions to make representation on behalf of their members and take a collective of claims is something we are keen to see as well. The short answer to your question is that they need to be clear, concise and easy to understand.

CHAIR: Jo, do you feel that the measures the bill is using to facilitate those small claims processes, obviously encouraging these matters to go through the Industrial Magistrates Court, are a step in the right direction in that regard to try and facilitate that low-cost, easy process?

Ms Briskey: Yes, we think it is getting there; we just think that we can see it a bit clearer in terms of the reporting side. I think there is room to improve and we would like to see that happen through this process.

Mr McDONALD: Thank you both for your submissions. They are very much appreciated. I know just how many people you represent who are affected by this. I ask the member for Pumicestone to ask a question, thanks.

Mrs WILSON: Thank you. Thank you all for coming in. Thanks to those on video link with us today. Imogen, how many young people has Young Workers Hub assisted since your formation?

Ms Barker: Since we launched in 2018 and we came to the (inaudible). Since then we have helped a number of workers, but I do not have the exact number in front of me (inaudible).

Mrs WILSON: Is there a chance that we might be able to get those numbers from you? Are you able to take that on notice? Would you be happy to do that?

CHAIR: Imogen, you can take that on notice and write back to the committee if there is any additional information you wish to provide after the hearing. The secretariat can contact you to see if there is any further information you can provide. If it is not data that you keep or can provide then that is an answer in itself, but it is up to you as to whether you take it on notice.

Mrs WILSON: I am just wanting to find out, given the young people we have here before us today such as Declan, who has been affected by wage theft: do you have documented, proven cases where there have been deliberate and reckless acts by the employer? I will direct that to Imogen or Hannah.

Ms Herrmann: We have dealt with a number of cases where workers have tried to confront their employer but have been quite hamstrung and found it very difficult, and that was the reference of letters of demand and other communication. Yes, we do have those experiences.

CHAIR: Apologies for interrupting you but, Nick, are you on mute? I am not sure if we can hear the wind behind you. I think it is the wind, sorry. Can you just pop us on mute? Thank you very much. Apologies for interrupting you, Hannah.

Ms Herrmann: Was there any more to the question, sorry? Did I answer your question?

Mrs WILSON: No, that is fine. I will direct this to both you and Jo. What more can be done to assist employers? Do you think there is something else that is missing currently that we could assist employers with in ensuring they are getting the right information about wages so we do not have incidences like we have heard today where people have been affected by wage theft?

Ms Briskey: Yes, absolutely. There is always the opportunity for further education. However, I think that in a lot of the experiences we have had, both at PMFresh and other employers, they do know that they are doing the wrong thing. That is what we are trying to get to the bottom of. They understand and they are purposefully doing it. They are essentially establishing it in the way that they run their business, and that in effect is disadvantaging a whole range of other employers who are doing the right thing. We want to see a level playing field and we think criminalising wage theft is what will help deliver that, making it really clear to employers that there is a serious consequence and that they cannot get away continuously with deliberately withholding wages, whether it is through withholding super, not maintaining correct records, not going through a range of penalty rates and other issues. Declan is talking about zombie agreements. There is a range of measures where employers are fully aware that they are effectively committing wage theft, so I think that is where we are at. In terms of your question, obviously there is always an opportunity to make sure it is clear and concise for employers. I think the system exists in that regard. We just need to see the end of businesses that are doing it purposefully and have made it part of their business model.

Mrs WILSON: Within the people you are assisting, there are obviously specific industries in which we are seeing more and more wage theft. Are you able to give us—and I am happy for you to take it on notice because of time—a list of, say, the top 10 industries that you are seeing within your roles? If there is a need there—as you say, there are businesses that do the wrong thing—to assist other businesses that are doing the right thing through education for clearer measures, let us work together so we get the right information out there so we do not have young people or anybody being ripped off.

Ms Briskey: Absolutely.

Mrs WILSON: Thank you so much.

Mr SAUNDERS: Declan, were you a member of a union?

Mr Langlands: No, I was not a member of the union.

Mr SAUNDERS: So you were not a member? There is a lesson there, Declan. Jo, one of the things that concerns me as a member—I get this all the time in my office—is that people are too frightened to come forward, especially if they are in a regional community, because people say, 'If you do this you'll never get another job in this city or this town.' The second thing is the trouble they have had through Fair Work Australia. The process has been absolutely horrendous. What have you felt as a union to go through that process to get wages that have been stolen off employees?

Ms Briskey: I might point to Adriaan to talk through the process, having just gone through that process. He made a couple of references to it in his opening remarks, but he can tell you in a bit more detail the complicated nature of it and also how long it takes to go through. Adriaan, do you want to reflect on your experience?

Mr Burgess: Yes. Eleven years ago I noticed that some of my wage (inaudible). I questioned work about it every single week for years and (inaudible), and I was not part of a union then. I was a supervisor. Then when I got put back on to wages I questioned it even more because all of a sudden I was only getting paid part of my night shift allowance and I could be rostered at different times every single day in that the roster would change every 24 hours to suit them. Finally I put in a dispute resolution. I tried to mediate with the company. The company kept on telling me that I was wrong, so

I joined the union. I brought the union in. The union came in and said, 'Actually, you're wrong.' They still did not listen. We ended up having to take it to the commission, Fair Work. Fair Work was a massive, drawn-out process. It took two years to sit in the courtroom and things like that. It was difficult because I had to put up with what was happening at work, and I was still getting ripped off even though they knew they were ripping me off. In the commission they said, 'This is the business model. Everyone's using it, so we're using it.'

The process all up has taken five years to get to here. We have already had a decision made over 12 months ago and still they are refusing to pay us. It is just not good enough. Even though there has been a decision made, they are still (inaudible) with no consequence for their actions. There is no (inaudible). They are actually saving money because they know that they only have to back pay us six years. It has been going on for 11 years, and it is still going on. We are going into the 12th year, and they still only have to pay us back six years and they are dragging it out. The longer they drag it out, the more money they are saving so (inaudible).

CHAIR: Thank you very much.

Mr DAMETTO: My question is to Declan (inaudible). My question is around the recovery of lost or stolen wages and the (inaudible) through that process.

CHAIR: Okay. We have just lost Nick.

Mr DAMETTO: Great!

CHAIR: We just lost you.

Mr DAMETTO: Can you hear me now?

CHAIR: Yes, we can hear you now, Nick.

Mrs WILSON: You are very broken up.

Mr DAMETTO: The question was: can anybody on the panel please speak to the costs of actually going to Fair Work as well as going through a civil case (inaudible)?

CHAIR: Nick, is your question the cost of recovery ongoing through that process through Fair Work currently, just an indicative cost?

Mr DAMETTO: Yes.

CHAIR: Okay. Can anybody speak to that who has experienced that? Declan, I think he was directing it to you.

Mr Langlands: Yes. When I was unfairly dismissed from the company that I worked for, I still had to pay rent and I still had bills that I had to cover as well, but I also wanted to take them to the Fair Work Commission. I think it was something between $60 and $80 at the time, but for someone in my financial position it was a lot of money and it was quite a risk for me to do it as well.

Mr DAMETTO: Thank you very much, Declan.

Mr HEALY: We are told by certain parties that there is infrastructure in place to ensure that what we are hearing from Declan and others does not happen and then they can pursue that. What has been the biggest challenge in trying to recover your unpaid wages?

Mr Langlands: In relation to the biggest challenge, I have found that communicating with the Fair Work Commission has been quite difficult. They tend to get back to me once a month, once every two months. I am not regularly informed about what is going on. This has been the case since I submitted my claim.

Mr HEALY: Thank you, Declan. In these trying technologically advanced times, I think your statement proved that the infrastructure in place does not work and that is why we need this legislation. I want to thank all of you—the United Workers Union and the Young Workers Hub—for your contribution today. It will help us form legislation to protect you and many others moving forward.

CHAIR: I want to thank all of you today—both those in the room and those attending via videoconference—for your patience today and also your contributions.

BERG, Dr Laurie, Private capacity (via videoconference)

CHAIR: Dr Berg is on the line and we can hear her clearly so we will hear from her now. We have had a few issues this morning. Dr Berg, thank you for your submissions to both the 2018 inquiry and this inquiry. Would you like to make a brief opening statement? Then we will ask some questions.

Dr Berg: I am glad the technology is working. It did not work on my end earlier either. I thank the committee for the opportunity to speak on my own behalf and also on behalf of Associate Professor Bassina Farbenblum, who co-authored the submission on the code. We commend the Queensland government for taking this important step to address wage theft in Queensland. We are strongly supportive of the introduction of the simplified process for bringing wage recovery claims.

Our submission, as you would have noted, did not focus on the mechanics of the new wage claim process in the Queensland Industrial Magistrates Court, but we drew upon our research on access to justice for temporary migrant visa holders in Australia, especially in relation to recovering unpaid wages, and pointed out the ways in which our research highlights the support structures that will be essential for migrant workers to bring wage claims in the new small claims forum that is envisaged in the bill. I am going to restrict my remarks to this aspect of the bill.

Our research, which we also highlighted in our earlier submission to you on wage theft in general, has found that international students, working holiday-makers and other temporary visa holders are extremely reluctant to seek to recover unpaid wages. Our report of two years ago, *Wage theft in silence,* presented findings from a survey we conducted of over 4,000 visa holders. It confirmed that the overwhelming majority of visa holders endured wage theft in silence. Only one in 10 of those temporary visa holders who were underpaid took any action to recover their unpaid wages. Our research has identified a range of barriers that prevented them from coming forward that we feel need to be taken into account to ensure the effective operation of the small claims jurisdiction envisaged in the bill.

First, there is the complexity of labour law in Australia which creates a significant barrier to wage recovery. Migrant workers typically find it extremely challenging to ventilate their claims, to correctly identify the legal issues and to adduce evidence of the claim. It is also virtually impossible for them to calculate the precise amount that they are underpaid. To do that, you have to identify your classification under the modern award, work out applicable loadings and penalties, and apply that to all the hours you have worked in each shift over a period of time in which the rates of pay may change as awards are amended.

The Fair Work Ombudsman does not provide individualised assistance to the vast majority of workers to calculate and recover their unpaid wages. It does that for only a small number of workers. The Fair Work Ombudsman's focus is on telephone advice, which is typically framed in the nature of self-help, which is not going to be sufficient to enable vulnerable temporary visa holders to make an application in the small claims jurisdiction. There are also language, cultural and other practical barriers that will inhibit many temporary visa holders from making a formal application in any forum, including in a simplified small claims process.

We note that there is a conciliation process envisaged by the bill which would of course significantly reduce the complexity and time of resolution of a wage claim for many workers. We point out that the significant power disparity between migrant workers and their employers in many cases is going to leave them at a severe disadvantage unless they have an industrial or legal representative present. Community legal centres around the country have cautioned that vulnerable workers frequently require ongoing assistance to articulate their claim, even in the informal processes of the Fair Work Ombudsman, and to effectively engage even in Fair Work Ombudsman investigations or mediations. We suggest that, for a wage recovery to be accessible to migrant workers even in a simplified process, it has to be accompanied by well-resourced individual assistance to workers to calculate their claims along with legal advice and representation.

There is significant unmet need for those services among international students, backpackers and other temporary migrants around Australia. We recommend that the Queensland government should either establish a dedicated duty solicitor to assist temporary visa holders and perhaps other vulnerable workers to file and pursue claims, or invest resources to expand the capacity of community legal centres, trade unions and university student legal services to provide individual advice and representation so that migrant workers will be able to effectively participate in the conciliation and court processes set out in the bill.

If I could continue, I would like to raise an additional point that we did not raise in detail in our written submission. There is another significant barrier inhibiting international students in particular from coming forward to recover their unpaid wages. That is condition 8105 in the student visas which

permit work for up to 40 hours per fortnight while their course is in session. Where students have breached this visa condition, that can be a further really potent barrier to taking action. It extends beyond simply working in excess of that visa condition.

We undertook another survey last year of 5,000 international students which found that the large majority of international students hold a number of misconceptions in relation to that condition. For instance, the large majority believed that it was unlawful for them to accept the underpayment in the first place or to accept wages in cash—neither of which are offences under the Fair Work Act or any other industrial legislation. They believed they were complicit in the underpayment which then fuels their desire to accept wage theft in silence and not take action. We believe that these fears may be a further inhibitor to the effectiveness of a new small claims jurisdiction in Queensland.

Obviously, this is a difficult issue for your parliament and the Queensland government to address since it relates to the Commonwealth migration legislation. We have recommended to the federal parliament elsewhere that they should remove condition 8105 altogether or create a stronger firewall between the Fair Work Ombudsman and the Department of Home Affairs than the current protocol that exists, or that the Department of Home Affairs commit to not use evidence of the visa breach for any purpose if the worker brings an employment claim against their employer that is certified as bona fide by perhaps a lawyer, a conciliator or the Fair Work Ombudsman.

We suggest that the Queensland government should encourage the federal government to adopt those measures and perhaps explore the possibility of a protocol with the Department of Home Affairs in relation to this small claims process. They should also understand that that may inhibit international students in particular from taking action where they have experienced wage theft.

CHAIR: We appreciate that these sorts of issues traverse both the state and the federal jurisdictions. As you would know, our first report had 17 recommendations and 11 of those were directed to the federal government in the hope that they may contribute to the conversation going on at the federal level as well as a state level. I thank you for your contribution today and also for the broader contribution you have made along with Professor Farbenblum to this area. The committee certainly drew on that research in our first report, and nationally it has received a lot of attention—and rightly so, because you did uncover statistics and details that have furthered the conversation nationally, so I congratulate and thank you both in that regard.

We certainly tried to be very clear in the first inquiry that when we are talking about wage theft we are not talking about those errors or omissions which are accidental in nature. If an employer comes forward in good faith and says, 'I've made an error'—and I have experienced this myself—and it is rectified in good faith, then that is the way it should work. You deal as an employee and employer together. We are talking about those examples, which I think very much apply to the cohort you have been researching, where it is an intentional business practice and it is done under the understanding that they are a vulnerable cohort and there will be no real recompense or no real threat for the employers doing this. Do you feel that criminalising wage theft will actually be a deterrent to those who intentionally seek to exploit these workers?

Dr Berg: Yes. Increasing penalties for noncompliance with employment laws is part of the solution. We are unable to identify those among our cohort who experience intentional wage theft and those whose underpayment was possibly a mistake or oversight, as you pointed out. We certainly believe that an employer's belief that the wage theft will remain undetected and that the penalties if detected are not great contributes to that sense of impunity that drives the cycle of wage theft.

At the same time, I think detection also requires the sort of small claims process that you envisage in the bill. I think there needs to be an incentive for workers to come forward. Without that, they may decide that the calculus of risk versus benefit will lead them to stay silent. An effective, accessible forum where there is a demonstration effect as well—where they see that it is providing outcomes for workers who take action—is likely to assist the Fair Work Ombudsman in uncovering those instances of underpayment, whether it is wage theft or other forms of underpayment.

Mr McDONALD: I really appreciate you making the comment about cash and cash payments not being an offence at the moment. I am from the state seat of Lockyer, which has a large agricultural community. I can tell you from experience that a large volume of our farmers do exactly the right thing and use EFT, electronic funds transfer, for all of their wages, but there are others who do not and they use cash, as you said. It is not just an underpayment issue; it is also about incentivising workers to come to a particular farm to harvest that farm's crop. Within that context, I am concerned that this bill only looks at the consequences of the problems. Do you have some advice for us about the front end of what things we could do in Queensland to stop the problem in the first place?

Dr Berg: That is very good question. I think the labour markets in certain industries, including horticulture and also I think the city's food services and hospitality, have systemic issues with wage theft that are difficult to address. We certainly believe that looking at the consequences and enabling workers to report and take action to recover their wages will go a long way to assisting with detection. There are certainly other measures that could be taken, but we see those as critical as well.

Mr McDONALD: If you cannot give us an answer about those other measures now, could you take that on notice because I would be really interested to hear what other measures you might be able to see implemented that would assist.

Dr Berg: Yes, of course. Obviously the capacity of the Fair Work Ombudsman to engage in investigation and assistance for workers is one of those other measures, but I would be happy to take that on notice.

Mr SAUNDERS: The bill proposes to provide workers a less formal and less costly avenue to bring wage theft claims by utilising the Industrial Court in Queensland. It was suggested that the victims of wage theft would be able to directly consult with—fill out a form—the Industrial Registrar's office to initiate a wage recovery procedure. Do you think migrant workers will feel comfortable approaching the Industrial Court like that? Could it be made simpler?

Dr Berg: It is probably difficult to make it simpler within the chapter 3 requirements of the federal Constitution to have a legal process through which workers can recover their unpaid wages. I think there is an issue under the Fair Work Act about how streamlined and simplified that can be while still complying with the requirements to be a chapter 3 court for that purpose.

At the same time, as I mentioned, there are inhibitors to vulnerable workers coming forward. Even identifying the legal entity that is the employer, as well as articulating the claim under the Fair Work Act, recording hours, calculating the rates of underpayment and so on under the modern award will all be inhibitors to migrant workers properly articulating and setting out an application that can be considered by the court.

We have conducted research where we had a detailed look at the wage repayment program that 7-Eleven set up after the widespread exploitation of international students through the franchise network of that business. That panel that was set up was not a court. It was set up by the head office to ventilate those claims and repay those claims. It ended up paying over $150 million to international students who have been underpaid in 7-Eleven stores around the country. We looked at what made that effective, what enabled that amount of repayment to the same vulnerable workers that I am talking about today.

One of the greatest advantages of that panel over existing courts and the Fair Work Ombudsman was the level of assistance that was provided to workers. 7-Eleven appointed Deloitte, the accounting firm, to provide advice and support to those international students—going through the data from head office, assisting the worker to identify the hours that they had worked based on their personal records or memory where there were no pay slips or other employment records, and helping them to calculate the amount that they were owed. That overcame many of the barriers facing workers who wished to make a claim even in a small claims jurisdiction around classifying their position under the award, determining the hours worked and so on.

They also conducted significant outreach to raise awareness of the scheme among international students. In doing those things, they proved that it is possible to reach and repay large numbers of international students, but a large degree of support is required. That is the type of support that we are suggesting could accompany the new Industrial Magistrates Court process and enhance its effectiveness.

Mr HEALY: Dr Berg, I just wanted to say it is a fantastic submission. I love the detail and I love the manner in which it was presented. I could listen to you all day. I have no questions—fantastic.

Dr Berg: Thank you so much.

CHAIR: That is the best compliment I have heard, member for Cairns. Definitely take that one, Dr Berg. Member for Hinchinbrook, do you have any questions?

Mr DAMETTO: My question around migrant workers. You spoke about migrant workers who are on visas. Do you have information on workers who may be on holiday visas and should not be working in Queensland? Are there any pitfalls (inaudible)?

Dr Berg: Sorry, you cut out just at the end there. Is the question about those visa holders who do not have permission to work—

Mr DAMETTO: That is correct, yes.

Dr Berg:—and whether I have suggestions in relation to them?

Mr DAMETTO: Yes.

Dr Berg: Obviously, they are probably the most vulnerable workers and the least likely to take action. The sorts of recommendations that we have made around amending the Migration Act to enable there to be a bridging visa for those workers who have a bona fide claim—there would need to be supports around that to ensure it is not taken advantage of by visa holders who are just trying to find a way to stay in Australia. There are mechanisms for encouraging those workers to come forward.

There is another issue in relation to those workers where there is some ambiguity in the law as to the operation of the Fair Work Act and the Migration Act and, in fact, whether those workers are covered by employment law at all under the Fair Work Act. Different courts have taken different views on that. We have recommended that there be a clarification in the Fair Work Act and, if necessary, the Migration Act that work done in breach of a visa or work done while a worker has overstayed a visa, while it may well lead to visa cancellation and removal, should still be considered to be valid employment under the Fair Work Act.

CHAIR: Thank you kindly, Dr Berg. Our time with you as a witness has expired. We thank you very much for making the time to videoconference in today.

Dr Berg: Thank you so much for having me today.

CLIFFORD, Mr Michael, General Secretary, Queensland Council of Unions (via videoconference)

EARLE, Mr Warren, Organiser, Australasian Meat Industry Employees Union (via videoconference)

KING, Ms Jacqueline, Assistant General Secretary, Queensland Council of Unions (via videoconference)

McGRATH, Mr Samuel, Boilermaker, Queensland Council of Unions (via videoconference)

RUDLAND, Ms Noelene, Industrial Officer, National Tertiary Education Union (via videoconference)

CHAIR: I welcome our next witnesses from the Queensland Council of Unions. We have had some technical issues this morning. Thank you for being patient with us. I invite you to introduce yourselves and make an opening statement. Then we will open it up to questions.

Mr Clifford: Each of us will give a brief presentation. By way of opening, we had the pleasure of being able to appear at the inquiry in 2018. The inquiry found that wage theft was a massive problem, and we commend the government for acting on that problem by way of the bill that is before the parliament now and the subject of this committee hearing.

We need to ensure that any legislation is effective in what it sets out to do. In particular, there are the two areas that I refer to. One is on the criminalisation aspect of the bill. It needs to be sure that it captures the various forms of wage theft that occur and that it captures the right people as well. Secondly, in relation to wage recovery, we need to ensure that this bill provides a process for a worker to recover wages that is simple, quick and low cost. It should not result in a process that is intimidating for people or that allows employers who have greater financial resources and power to use any process under the legislation to get the upper hand. We do have some concerns about the current bill in regard to those issues that I have just referred to.

I will ask Jacqueline, the Assistant General Secretary of the Queensland Council of Unions, to talk to four main points. We have outlined our concerns in our submission to this inquiry. I will get Jacqueline to touch on four of those key points that we have significant concerns about.

Ms King: We welcome the introduction of the bill. (Inaudible) for Queensland workers. You have seen our submission. It touches on those four key issues that Michael has referred to. The first of those is the definition of a stealing offence in the Criminal Code. Again, it is pretty important that we get the definition right. It is not simply about an underpayment or an oversight by a payroll officer. We are talking about criminalising systemic practices of wage theft. We know that there are specific practices out there across industry or particular sectors that are designed to end those obligations to pay wages.

In that context, the current definition in the bill focuses on the point of the payment of the wages as when the offence occurs. That, we believe, precludes a number of those systemic wage theft practices. We note, first of all, that the minister in the introductory speech referred to the fact that these provisions will cover matters such as cashback arrangements and sham contracting, but on our reading of the draft legislation as it is they will not. We have put those submissions through to the department as well.

Specifically, we are concerned that it will not cover cashback arrangements. It will not cover wage related payments such as employment borrowings for inflated rents. You will hear from one of our witnesses about these particular issues. It will not cover sham contracting, which goes to the issue about how a court will interpret who is an employee. We suggest some recommendations in our submission around that particular point.

We would also take the time on that point to say that the Victorian parliament and the Victorian government also considered these issues most recently, and they specifically took the time to make sure these issues were covered in their definition. We looked at their definition. We have discussed this with the department and said, 'We think you can insert this definition into the Criminal Code and adopt it so that it does cover these other practices that go beyond the point of (inaudible) of the wages.' I would just like to highlight that point. As I say, I think we put some fairly specific recommendations in our submission.

The other issue in terms of criminalisation goes to the enforcement model. Unlike the Victorian model, the Queensland model proposes to rely on the Queensland Police Service for both the investigation and the prosecution of serious wage offences. Again, we have asked for information from the department. We would like to know—I think most people we have spoken to all say the same thing—how a complaint would be (inaudible) out of the Police Service, the local police station. Is there (inaudible) squad? Is there another mechanism et cetera? Specifically, we have asked for some very detailed public guidelines on how this could be applied: who might be prosecuted, when they might be prosecuted—those basic details so there are some very public guidelines around these issues that are available for workers, unions, employers and anyone else who is operating in the (inaudible) system.

The second area of the bill relates to wage recovery. We think that is possibly the most important area of the bill, particularly because it is that form of providing a mechanism to get workers their money back. That is really where we think there has been a lack of oversight in the federal jurisdiction. There is certainly a lack of resources or a lack of systems and processes through the federal Ombudsman that sees people do not actually get their wages. We support the introduction of the proposed jurisdiction; however, we would note that we have a major concern with respect to one particular issue, that is, the removal of the current process of mandatory or compulsory conciliation of wage claims through the Magistrates Court and the proposal to allow for an employer to opt out of that conciliation system.

During consultations with the Office of Industrial Relations on the bill we were told that that was because of constitutional or (inaudible) issues related to the Judiciary Act. As you probably can see, we sought legal advice from Chris Murdoch QC which affirms our position that there is no legal impediment to do that. We also note that there is no precedent to introduce an opt-out conciliation system. If you take the current system where you can apply to the Federal Circuit Court, only the Federal Court can refer matters to mediation. There is no provision for anyone to opt out of that process. That is a matter for the court.

Just finalising that particular point, our view is that an opt-out conciliation model will only serve to promote further litigation, particularly where we are dealing with vulnerable low-paid workers who can be dissuaded from continuing down the track because of the additional costs they would incur having to go to a hearing. A small claims procedure is still a hearing. We would prefer mandatory conciliation because it is a conference where all of the parties can sit down in a much more relaxed and informal manner than even a small claims proceeding, which is still a hearing before a court even though it may have some more relaxed procedures.

The final issue is with respect to a capacity to deal with multiple clients. It is a procedural issue but we think it is important to note for the committee. Where there is one underpayment or misclassification in a workplace (inaudible) multiple filings or multiple issues relating to the same matter. Our recommendation on that point is that there should be a capacity for the commission or the court through conciliation or a hearing process to deal with the same or substantially the same matters together where they relate to the same employer. Our view is that that will create less time and resources. All applicants (inaudible).

Ms Rudland: The National Tertiary Education Union covers universities throughout Queensland. A major issue in relation to wage theft is in relation to the high (inaudible) employment of academic staff and what has been happening in this space in relation to their wage rate. It has been fairly clear in the media in recent months that there is a very high level of casual employment, mainly in the area of tutors and academic staff but also in relation to some professional or administrative and tech staff. Our main problem is in relation to academics who are employed on a casual basis and the process that has begun over the last few years as part of the universities' business model to declassify the work that is performed by sessional or casual teachers so they can have a certain rate of pay significantly less. A prime example of that is: in the last few months a group of persons employed as facilitators in the School of Medicine at Griffith University received an email without notice telling them that they were being declassified and their pay was going to be cut by approximately 57 per cent.

The difficulty we have is in recovery, because it is such a long, drawn-out process of recovery using the enterprise bargaining system within the industrial framework that is available when you have an enterprise agreement. It is also difficult because people feel (inaudible) they did not expect the (inaudible) in the program, and that puts the response clearly on to the people because they (inaudible). It is not just young workers, non-English-speaking background workers and international students; it is also older people. For example (inaudible) facilitators are nearly all over 50. When I say 'older', I am talking about aged 50-plus. Universities have adopted this model to try and cut back on

the cost of their casuals. When you look at universities' budgets they submit to parliament, you will see their wage bills in the last 18 months to two years have dropped significantly and will continue to drop from this point forward on the basis of the current COVID-19 funding crisis (inaudible).

CHAIR: Michael, we apologise if you are having any issues hearing us. Sometimes it is a little bit choppy, but we are trying to pick up everything you are saying. If, however, you have a written statement or want to provide any more detail of your transcript—that goes for any of the witnesses today—please feel free to email that to the secretariat. Because time is restricted—I was just speaking to the deputy chair—a number of members will not ask questions to allow the witnesses who have kindly made time today to put on record their comments. I am just letting you know that our time is limited, so back to you.

Mr Clifford: Thank you, Chair. I will introduce Samuel McGrath, who is a boilermaker.

Mr McGrath: I am Samuel McGrath (inaudible) wages. In terms of my wage, my claim for wages owed by JBM Trailers and Fabrications is contained (inaudible) claim under the Fair Work Act 2009 submitted to the Federal Circuit Court on 25 October 2016 on the advice of the Fair Work Commission given to me on 18 May 2016. The entirety of the documentation supplied to the Federal Circuit Court (inaudible) I believe has been supplied to this inquiry, which includes issues about sham contracting, failure to provide time sheets or pay slips, make tax and superannuation deductions and pay wages for hours worked.

An order by Judge Vasta was made on 6 February 2017 directing Jeffrey Moretto to pay me $8,800. He ignored the order and I applied for an enforcement hearing, but he failed to attend. Sometime after that I was advised by a group of his creditors that JBM Trailers and Fabrications was under administration, and therefore a series of orders was made to Jeffrey Moretto to attend and be examined under those as to the ability to pay. He swore on those that he had no assets, no income (inaudible) because he had some (inaudible) surgery (inaudible). I inadvertently became aware of this information from a third party. He declared bankruptcy soon after and fled to Victoria, where I have not been able to locate him since. I have been out of pocket since June 2016, having to pay bailiffs' fees, registered mail costs, parking costs, loss of wages due to court attendances and attendances to community legal (inaudible).

In mid-2018 I approached Terry Young MP, Liberal member for Longman, and he said he would send the details of my dates and (inaudible) to the Minister for Employment. Just before the office closed down for Christmas in 2018 I received a phone call from Terry Young's office saying that the advice from the minister was that I seek help from the Fair Work Commission. I have never received any paperwork from either Terry Young or Ms Cash. More than four years have elapsed since first contacting Fair Work and I am now back to where I started. I have been advised to go through the complicated and time-consuming process all over again with no prospect of success (inaudible).

Mr Clifford: Chair, finally I will just introduce you to Warren Earle. Warren is an organiser with the AMIEU.

Mr Earle: My background is that I am a butcher by trade, and prior to working for the AMIEU I worked in the meat industry for 27 years. I would like to thank the committee for the opportunity to speak here today.

In April 2018 it came to my attention that at the Greenmountain abattoir at Coominya there was a policy of exploitation taking place of Taiwanese visa workers. Coominya is approximately a half-hour drive west of Ipswich. After thorough and lengthy investigation, it was subsequently proven that there was large-scale exploitation of Taiwanese workers. The evidence obtained showed this is not just any ordinary case of visa workers being underpaid but a structured, well-organised system of a corrupt working relationship between the company and the labour hire company. During my employment as an organiser for the AMIEU I have uncovered numerous cases of underpayment of visa workers, and the common denominator has always been labour hire companies, but what I uncovered at Greenmountain was different. This was not just a run-of-the-mill, everyday story about underpaid workers; this (inaudible) behaviour came on many different fronts. (Inaudible) with the assistance of an AMIEU Mandarin-speaking liaison officer, together we visited the worksite (inaudible) work, visited homes (inaudible) by these workers and many text messages and emails in between. We were able to obtain material and visual evidence along with people's statements.

Amongst the corrupt practices we found were: underpayment of minimum award wages; flat rates of pay (inaudible) beyond 38 hours; no tax deducted from employees; unpaid work; and new employees required to work two days trial so the company could assess their work stability before employment was offered. Once an employee was offered the job they were required to pay a $600

bond. The $600 (inaudible) employee's pay in a deposit for six months. Each employee would have $100 a week deducted from their wage until the bond was reached. This was held so the employee would not leave or take up other employment during that six-month period.

There was forced and arranged housing. Employers were found to have between 10 and 12 people in four bedrooms and (inaudible) bonds; $90 a week to share a room, $70 a week to share a lounge room or a space on the floor. Property searches showed that the plant manager (inaudible) at Coominya had an interest in five of the seven properties. The rent charged to these workers was approximately three times higher than what would have been charged at similar houses in the same suburbs. Workers informed the union that the property manager and the plant management dropped by to do spot checks and perform routine maintenance. No superannuation was being paid to any of these workers, and the cost of personal protective equipment was charged to employees (inaudible) Queensland Workplace Health and Safety Act.

The point the AMIEU would make is that the exploitation of these workers took different forms. It was not just underpayment of wages, although that occurred too; the wage theft these workers suffered included other practices such as the payment of (inaudible). Advertising on a Mandarin social networking site (inaudible) found a Taiwanese national arranged all aspects of employment and accommodation (inaudible) was provided an office (inaudible) supervisors at the site. This person liaised between Taiwanese workers and the company on day-to-day issues. The union was unsure if this perpetrator was employed by Greenmountain or the labour hire company that was contracted by Greenmountain.

Employees were not provided with pay slips but instead could take a picture of an Excel spreadsheet from a computer screen what they earned per week. This photo shows (inaudible) Taiwanese workers who work at the site, their pay rates, hours worked, bond deduction, rent deductions and addresses of the homes they rented.

CHAIR: Sorry, Warren. Forgive me, but we are out of time. We have tried to give you as much time as we can. It appears that you are reading from a statement, so if you are comfortable it would be great to get a copy of that statement. It will also assist the committee so we can read some of the details that may not have come through. I apologise for having to stop you midway. Samuel, thank you for putting your experiences on the record as well. You are most welcome—as are you, Noelene—to put your written comments on the record by providing them to us.

Michael and Jacqueline, thank you very much. I know that you spoke in detail to the submission you provided to the committee. We appreciate the time you have taken to do so. We will quickly turn to members who may have questions arising from that. As chair of the committee, I do not; your submission was detailed. You have been very clear on what amendments you feel are required in the bill and provided your legal advice. I thank you for the detail you have gone to in that respect.

Mr SAUNDERS: The audio broke up a little bit and I really could not hear it through the technology, but can you explain how compulsory conciliation would be better for workers? I did not get a lot of that.

Ms King: Compulsory conciliation is (inaudible) current system (inaudible) Queensland Magistrates Court, so it currently exists. It basically means that any wage claim up to $150,000, which is the jurisdiction of the Magistrates Court, is referred automatically to a commissioner at the Industrial Relations Commission. The bill proposes to maintain that process but introduce an opt-out provision, so if the matter would be referred and an employer chooses not to do that it would automatically go back to a hearing.

The benefits of mandatory conciliation or compulsory conciliation are that you can sit in a conference. You would have an industrial relations commissioner who is experienced with dealing with industrial matters; they are not a magistrate. They sit in a room which is much more informal. It is not a formal hearing room or a courtroom. People sit around the table. Matters can also be dealt with via videoconference or by telephone. The parties talk about their issues, they put on the table what has happened, and the commission basically tries to encourage the parties to reach agreement and gives its view on what would happen if the matter proceeded to court. That will give what their (inaudible) would be in terms of, 'If you proceed to court, you will get your money back in this area,' or to the employer, 'If this goes to court, this claim would be (inaudible).' It encourages people to (inaudible) jurisdiction. It is not as highly formal as a court hearing.

The evidence that the department provided to us during consultation was that during the 2017-18 period 67 per cent of claims that currently go to the Magistrates Court were settled in conciliation. It works. It has a high success rate. It has also been the cornerstone of our industrial relations system for other matters. It is about getting people together and, if I could put it this way, it

is about knocking heads together if possible in an informal way and getting people focused on getting an outcome, as opposed to a legalistic process where you go through rules and forms and evidence. Even in a small claims proceeding, there is still some technicality associated with that.

A small claims proceeding is still before the Magistrates Court. It is still a court and it is still a formal matter, and that can be quite off-putting for a lot of people. We prefer the mandatory conciliation model because (a) it currently exists; and (b) it is shown to work. Particularly, it is more friendly to both employers and workers. It is less costly. You do not need a lawyer to go to conciliation. You probably need a lawyer to participate in a hearing, even a small claims hearing.

CHAIR: Thank you very much for your time this morning. We are out of time. We appreciate you being flexible also in videoconferencing in. Thank you for your ongoing contributions on this important policy and legislative issue.

SMITH, Mr Stephen, Head of National Workplace Relations Policy, Australian Industry Group (via videoconference)

CHAIR: Good morning. We apologise that we have had some technical issues and we are sorry we are running behind. Would you like to introduce yourself and your role with Australian Industry Group and make an opening statement? Then we will go to questions.

Mr Smith: I am Stephen Smith, head of the National Workplace Relations Policy at the Australian Industry Group. Ai Group strongly opposes the introduction of criminal penalties for wage underpayments. While at first glance the introduction of criminal penalties for serious and deliberate underpayments might seem like a good idea, there are many reasons this is not in anyone's interests.

Firstly, implementing criminal penalties for wage underpayments would discourage investment and employment growth. This point is even more compelling in the present economic circumstances, where it is essential that no barriers are imposed on investment and employment during this time of crisis. Secondly, exposing directors and managers of businesses to criminal penalties would operate as a major barrier to employers self-disclosing underpayment to the Fair Work Ombudsman.

Thirdly, exposing directors and managers to criminal penalties is particularly unfair given the complexity of Australia's workplace relations system. Finally, a criminal case would not deliver any back pay to an underpaid worker. While a criminal case is underway, any civil case to recoup unpaid amounts would no doubt be put on hold by the relevant court until the criminal case was concluded, and that would mean that underpaid workers could be waiting years for redress.

As the committee would be aware, the Fair Work Act already includes very substantial penalties for those small minority of employers who deliberately underpay their staff. Those penalties were increased by up to 20 times in 2017, 10 times for underpayment penalties and 20 times for record-keeping penalties. In any event, in Ai Group's view it is inappropriate for the bill to be passed at a time when the Commonwealth government is undergoing a separate consultation process with a working party of employer representatives, which includes Ai Group, and union representatives to consider what changes are needed to existing laws dealing with wage underpayments. For that consultation, the federal government has already announced its intention to implement criminal penalties for serious and deliberate underpayments, despite the strong opposition of Ai Group and many other employer groups.

The Fair Work Act comprehensively deals with compliance and enforcement matters relating to wage underpayments, whether inadvertent or deliberate, and therefore the passage of the bill would lead to considerable confusion for employers and employees about what laws apply. The bill's attempt to label some underpayments as a crime does not change the character of the relevant matter. The relevant matter is what penalties should apply to employers who deliberately underpay their employees. That matter is comprehensively dealt with in the Fair Work Act, a piece of legislation that is expressly drafted to cover the field in relation to wage underpayments for employers and employees covered by the act.

For all of those reasons, the Ai Group urges the committee to recommend that the wage theft bill be withdrawn or at the very least not be passed until after the outcome of the federal government's consultation process is known. That process is continuing up until September and therefore, in our view, there is absolutely no merit in this bill being passed at the moment. I am happy to answer any questions that the committee may have. Thank you.

CHAIR: Thank you, Stephen, and thank you for the contributions that Australian Industry Group has made, both to the 2018 inquiry and appearing and submitting again to this inquiry. We appreciate the contributions of submitters. Stephen, I want to pick up on a point that goes through your submission—that is, talking about investment and employment growth and the view of Australian Industry Group that this will suppress that. Certainly what we heard from employer groups and employers themselves in the 2018 inquiry was that those businesses that have made it a business practice to underpay workers very intentionally—and I want to remove those who unintentionally make errors; I am not talking about those. I mentioned to another submitter this morning that when an error is made in good faith and rectified, that is just not caught at all by this bill. I think it is fair to say that those employers who are intentionally doing this frustrate and anger those employers who do the right thing and who treat their employees appropriately. It takes that level playing field out of it and is a disincentive to businesses that are trying to compete legally. I would almost say that it is not a disincentive to criminalise that which is already an offence, to send a clear message to that minority of employers, you hope, and to level the playing field for both employees and employers. Can you explain to me why you think criminalising an act which is clearly wrong is such an impediment to appropriate business practices and employment growth?

Mr Smith: We certainly do not condone underpayments. We supported the vulnerable worker amendments to the Fair Work Act which resulted in those penalties being increased by up to 20 times, so this is not an issue about there not being very tough laws for people who do the wrong thing. Small businesses in particular are exposed to an enormous amount of regulation when it comes to awards and industrial laws—federal and state, because some laws, as you know, are dealt with at a state level, like long service leave laws. It is not only a matter of whether this law would apply in the circumstances; it is sending a very clear message, which no doubt the government wants to send, but the message of a lot of employers is that there is yet another barrier to investment and to entrepreneurship. Employers are struggling to keep the doors open in the current crisis, and there could not be a worse time to be implementing a law like this, which has jail terms of up to 10 years. That aligns with some particularly serious offences in the criminal area. It just seems completely over the top when it comes to the issue of underpayment when we have very tough laws and a very strong regulator to deal with those issues.

CHAIR: Under the Criminal Code as it stands and the definition of 'stealing', the offence of stealing carries a penalty of five years, but it is an aggravated offence if you are an employee and the penalty goes to 10 years. I would argue that that is not an impediment to an employee seeking employment. It is a clear indication and message that stealing is wrong. Would you not feel that, equally, to an employer who intentionally—we must understand that there is intent as one of the elements of the offence that is proposed here in this bill. It is a high threshold. We are not talking about accidental, unintentional or misguided underpayment in that the information was unclear; we are talking about intentional theft of an entitlement that, because it has not yet been paid, is not caught by the definition and limbs of the stealing offence as it currently stands under the Queensland Criminal Code. This is actually about making fair and even the message that is sent that an employee should not steal from an employer but, equally. an employer should not knowingly and intentionally steal from an employee. Do you not think that is a fair message to send?

Mr Smith: No. We do not agree with the term 'wage theft'. It is a term that has been coined by the union movement in particular to describe underpayments of a certain type. It is not theft in any reasonable interpretation of that concept, which is about someone stealing another person's goods or something that is a thing. If you align the concept of underpayment from an employee angle, that might be, for example, someone who fraudulently fails to attend work when they are not genuinely sick or something like that. It is not the stealing of a thing. We think this bill redefines 'theft' in an unreasonable way to try to bring a certain category of underpayment within the concept of stealing. We just do not agree that is the right comparison. We do support strong penalties for underpayments, and that is what we have in the Fair Work Act.

CHAIR: I think we will probably disagree strongly on where theft starts, but I am not going to ask an additional question because I know that my colleague will likely do so.

Mr McDONALD: Thank you, Stephen, for your presentation and for being here today. I am concerned that the criminalisation of wage theft is just focused on the end result. Do you have any advice for the committee? What proactive measures might we see to assist business have a fair playing field?

Mr Smith: There is a lot that can be done and is being done in the area of education and assistance for employers, particularly through the Fair Work Ombudsman and other mechanisms. Of course, in Queensland there is a lot of information that goes out around Queensland laws. We think employers need to be assisted to comply but, if you look at what has been happening with all of these underpayments, some of the biggest corporations in the country have got it wrong and have voluntarily disclosed and are now putting in place remedies. It is not just the biggest corporations. There are a lot of organisations, like Maurice Blackburn and others that closely aligned with the union movement, that have got things wrong, too. It is a very complex area in which employers need to be assisted, not threatened with criminal penalties.

Mr SAUNDERS: Stephen, I think our values are not the same. I have employed a lot of people in my day. You are telling me that during a pandemic it is okay to steal wages; is that correct? I got the feeling from you in your opening statement that this should not be happening during a pandemic, but is stealing people's wages ok? I will say 'stealing', because that is what it is.

Mr Smith: No. What I said many times is that we need very tough laws to stop the very small proportion of employers who deliberately underpay their staff. We do have very tough laws. Penalties went up 20 times only three years ago.

Mr SAUNDERS: Is 437,000 people a significant proportion of the workforce who have had their wages stolen? That is what happened in Queensland—the wages of 437,000 people. You also said that you do not believe that is stealing. When I was in retail—I had plenty of stores in retail—if an

employee took $50 out of my till they were charged. Do you think it is okay for an employer to deliberately withhold money, overtime and superannuation: 'That's okay, mate. It's an honest mistake'? What is good for the goose is good for the gander. Can you tell me why your organisation does not support criminalisation of this, yet you will charge a worker for stealing $50 to $100 out of a till? Please let me know.

Mr Smith: I do not know that I can say anything beyond what I have already said. We support very tough civil penalties. That is what exists. We do not support criminal penalties. The other problem with the bill, as we have highlighted in our submission, is that it does not go as far as to require actual knowledge. It even brings in concepts of accessorial liability. It starts to get very vague. If a person feels (inaudible) breaking down the door or breaking in through a window, that is quite clear: that person had clear intent and there is a clear act. When it comes to an underpayment, things are a lot less clear. Even if it is absolutely clear, we have very tough penalties to deal with that. We do not need this criminal legislation. Even if you say that we do—and the government does—the federal government has already announced that it is going to implement criminal penalties. Where is the need for this to be dealt with at the state level?

Mr SAUNDERS: If you listen to the other witnesses or to people who come through my office you would know that it is very hard to get to Fair Work Australia. It is set up to fail. It is not set up to help workers; it is set up to help the business community. It costs money, and workers are intimidated. Has your organisation gone to any lengths to get the federal government to change Fair Work so that it is more amicable for the workers who have had their wages stolen?

Mr Smith: I assume you are talking about the Fair Work Ombudsman. If not, you can let me know. The Fair Work Ombudsman is a very large regulator. It has a raft of resources to assist employees. We are dealing with the Fair Work Ombudsman virtually every day. It is always representing employees in underpayment matters. We really can go only by our own appearances and all of the published data which shows that the Fair Work Ombudsman is a very effective regulator.

CHAIR: Thank you very much for your time and patience. I appreciate that we started late with you on this hearing. We will have to end there because of time. Thank you.

Mr Smith: Thank you.

BAUCIA, Ms Luisa, Policy Adviser, Chamber of Commerce & Industry Queensland (via videoconference)

HALL-BOMAN, Mr Rob, Manager, Employer Assistance and HR Services, Chamber of Commerce & Industry Queensland (via videoconference)

CHAIR: We will give you an opportunity to make an opening statement and then we will open for questions.

Ms Baucia: Thank you for allowing us the opportunity to speak today. Firstly, I want to say that CCIQ in no way supports the underpayment of wages and noncompliance under Australia's workplace laws. In our experience, wage underpayment is often done inadvertently and is a multifaceted and complex issue that will require an equally complex solution to resolve. Queensland businesses are already in a very vulnerable position, with an increased unemployment rate and steep falls in business confidence. Businesses have always found and are continuing to find workplace relations laws in Australia too complex to navigate. We are concerned that this bill will have unintentional consequences on Queensland businesses. This bill will see duplication and further complication of our industrial relations laws. There will be an overlap with the avenues that can be pursued. There is potential for a constitutional challenge with the reforms that we are seeing that may arise at the federal level. The uncertainty stemming from this bill will be detrimental to businesses and migrant workers. It is going to disincentivise businesses to self-report and seek remedial actions to rectify pay errors. There will also be a reluctance to employ new staff, especially for small businesses. There will be disincentives for migrant workers to report, due to the fact that a lot of migrant workers do not want to be part of criminal proceedings and fear associated immigration consequences that could arise.

There is also insufficient evidence that warrants criminalisation as a deterrent. There is no evidence that the 10-fold increase to penalties in 2017 failed as a deterrent. It takes time for incidences to flow through to sufficient prosecutions, penalties and reporting for to us see these effects. Furthermore, the report that proposed the recommendations that this bill relies on was tabled at the end of 2018, too early for this inquiry to take these effects into consideration. We recommend that research into the outcomes of the penalty increase in 2017 should be addressed before criminalisation is pursued. Incentives to reduce the incidence of wage underpayment should emphasise the creation of avenues that facilitate greater compliance by businesses rather than implementing more severe punishments or sanctions. The greatest push for enforcement should be through the effective dissemination of information to both employers and employees and further cooperation where possible between regulators and employers. Thank you for letting us discuss our submission. We are happy to take any questions the committee has for us.

CHAIR: Thank you for your submission and for speaking to your submission. Can you hear us clearly? You cut out a little bit sometimes, but we did hear your comments. Thank you very much. CCIQ contributed to the first inquiry also, and we thank you for the time that you took in doing so. What I acknowledged then, which I acknowledge now, is a thank you for the information that you disseminate to employers to assist them in this space. I take the point in your submission that we actually want people to get it right. I come from a family of small business owners. They want to get it right. When errors are made in good faith, they fix them. Those employees know that they are doing so in good faith and there is just not a problem. One of the things that I saw come through in your submission and the submissions of a number of other employer associations was this idea that we do not need criminal penalties because, realistically, we already have all of these financial and civil penalties in place. Certainly what we found in the 2018 inquiry is that a very small—I hope—cohort that is doing significant damage is doing so intentionally.

I want to clarify for CCIQ and many other stakeholders that the criminal threshold, and the requirement of intent to be proven as a limb of the stealing offence proposed, is a significantly high bar. We are talking about those people for whom—it came through in the inquiry—no amount of civil penalty will be a deterrent. That was a frustration that also came through from businesses who said, 'We are, hand on heart, doing the right thing here. We want to have a good relationship with our employees and we are sick of the business practice that certain people in our industry are doing to underpay their workers and make us go out of business because it is taking away the level playing field.' Does CCIQ not feel that for that very small number of cases—those egregious cases, where the threshold of criminal intent can be proven—there should be an equal criminal penalty as there is for an employee who similarly, egregiously, steals from an employer?

Mr Hall-Boman: As previous employer groups stated—we are of the same view—the federal penalties that were increased back in 2017 are quite significant. As we stated in our submission, we are yet to see the full effect of that. We certainly do not support in any way any individual running a business that would be deliberately taking away that right to wages and underpaying workers. Our role is very important in this, to ensure that businesses can comply with the overly complex system that we have already to ensure that no-one who wants to do the right thing would even come close to falling through the cracks and facing criminalisation.

CHAIR: Is it your view that, equally, only civil penalties would be an acceptable deterrent for people who steal rather than there being a criminal offence? Are you essentially arguing that a civil penalty—a fine—can be enough of a deterrent to stop stealing and that maybe that was a way to level the playing field for employees? I am just trying to understand that thinking.

Mr Hall-Boman: Firstly, we believe that this bill and using criminalisation as a deterrent is really rushing to the end result without taking into consideration all that is required previously. Like I said, we have an overly complex industrial relations system, and this will add an extra layer of complexity to the matter. Again, I will state that we in no way support any individual or individuals deliberately doing the wrong thing and underpaying workers, whatever background those workers are from and under whatever circumstances. The civil penalties are severe.

As we speak, the federal Attorney-General holds the round table discussions. Of course, we are in part involved in those discussions through the Australian chamber and, likewise, the multiple employee associations are involved. Most likely we are going to see changes to compliance and enforcement. I go back to the point that in 2017, when that legislation was changed, those penalties were significantly increased. That came out of the objective to stamp out underpayments to those vulnerable workers particularly in any form.

CHAIR: I know we can politely agree to disagree, as we are going to on this point. Thank you for your time and, again, thank you for the work that you do. Keep doing that work—businesses appreciate it—and keep educating and supporting the government to try to make people feel confident in what their responsibilities and requirements are. Thank you for your contribution.

Mr McDONALD: We really appreciate your submission. A lot of work went into that. If we assume for a moment that the criminalisation of these problems captures the most extreme of the cases due to the high standard of criminality and intent, could you give the committee some suggestions about what other opportunities you could see might exist before it gets to that criminality stage?

Ms Baucia: Before it gets to that criminality point? Sorry, could you please repeat the question?

Mr McDONALD: In your submission you talk about different incentives that may level a playing field or what opportunities might exist for business as an incentive rather than the pecuniary problem of criminalisation. I am interested to hear any proactive opportunities that you might suggest the Queensland government could implement to stop these incidents occurring.

Ms Baucia: Certainly. When we were doing a bit of research before our submission we did talk to a couple of companies that work with compliance specifically. They talked about integrating technology, so that the businesses can become more compliant with the award system. What we found was that a lot of businesses, particularly in the survey that we did with a lot of our members, actually find it very difficult to understand what their obligations are and how they calculate their payments—things that sound as simple as that but are in fact quite complex for business to do. The company we talked to said that they found that when a lot of businesses came on with them, they actually found out through that process that they were noncompliant, because in a lot of circumstances it is inadvertent. They thought that—and we think—technology can be a great tool, but maybe government could assist in implementing so that small businesses have an easy avenue to use that sort of (inaudible).

Mr HEALY: Thank you both for appearing today and for your submission. Page 1 of your submission states that a civil penalty regime already exists at the federal level for wage underpayment. Do you consider this civil penalty regime provides sufficient protection for workers against wage underpayment?

Mr Hall-Boman: We certainly think that the penalties are severe. As we also acknowledged, the effect of that legislated change back in 2017 is not yet fully known as not enough time has passed to see the full proper effect of that legislated change and those increases in penalty.

Ms Baucia: The thing that we are trying to emphasise as well with the implementation of this is the run-off effects into other areas. Businesses are already very vulnerable at the moment and we think this is going to exacerbate some of the disincentives that will have occurred due to the uncertainty of the economic situation. That is the thing I was talking about. A lot of businesses will self-report if they work out that they are underpaying their employees. However, if they are afraid there are going to be criminal sanctions on them, they are going to be less likely to self-report all the things I talked about earlier.

Mr HEALY: I think that is a pretty long bow to draw, to be quite frank. I find it unique. I have been in private business a lot and the idea is to ensure everybody has a level playing field. I would expect that the chamber of commerce would be ensuring that is the case. Where people intentionally go out and contribute to the deduction of people's wages, where there is intent, are you saying there are no circumstances under which you think it should be criminalised?

Mr Hall-Boman: No. As we said, we do not agree. We say that it would be taking deliberate action. The federal system has severe penalties—

Mr HEALY: Sorry, can you repeat that? You do not think there are individuals out there who are intentionally doing it?

Mr Hall-Boman: No, we do not support any individuals out there—

Mr HEALY: I know you do not support—

Mr Hall-Boman:—who fly under the radar and do the wrong thing.

Mr HEALY: I understand that you do not support them; that comes through very clearly. What I am saying to you is: are there any circumstances, where there is clear evidence people have intentionally gone out of their way to make sure they are not paying their staff, where you think it would be appropriate for them to face prison time?

Mr Hall-Boman: We think severe penalties would be appropriate.

Mr HEALY: Is that not severe?

Mr Hall-Boman: We certainly would not support any individual remaining in business or being able to remain in business in the future if that was the case.

Mr DAMETTO: In what circumstance would it be okay, from your perspective, to underpay employees?

Ms Baucia: Under no circumstance do we think it is okay to underpay an employee. I think we have made that very clear in our submission. We do not support that in any way at all. What we are saying is that in these conditions it is difficult for businesses to comply. That is what we are saying.

Mr DAMETTO (Inaudible)

Ms Baucia: Sorry, I am having difficulty hearing you. Can you repeat that?

Mr DAMETTO: No, do not worry about it. I will leave it at that.

CHAIR: Sorry, the member for Hinchinbrook is having some issues with his questions being heard. Member for Hinchinbrook, if you have a question you can send it to me and I will ask it. I appreciate that would be frustrating for you. Thank you very much for taking the time to videoconference into our hearing today. We will move now to our next witnesses.

BASSINGTHWAIGHTE, Ms Ellie, Industrial Law Committee Member, Queensland Law Society (via videoconference)

BRODNIK, Ms Kate, Senior Policy Solicitor, Queensland Law Society (via videoconference)

KREET, Ms Loretta, Principal Lawyer and Consumer Advocate, Civil Justice Services, Legal Aid Queensland (via videoconference)

MAKAMURE, Mr Tinashe, Employment and Consumer Protection Lawyer, Civil Justice Services, Legal Aid Queensland (via videoconference)

MURPHY, Mr Luke, President, Queensland Law Society (via teleconference)

CHAIR: I invite Legal Aid Queensland to provide an opening statement, followed by the Queensland Law Society and then some questions.

Mr Makamure: Legal Aid Queensland supports the government's initiative to put in place legislation to address what is evidently an incredibly complex issue. While we support the government's initiative, we do have a few concerns with respect to the criminalisation and prosecution of wage theft. We argue that the current mechanisms available under the Criminal Code (inaudible) offences such as fraud and theft. That being said, we do note the committee response with respect to the apparent formulation of these offences under the code. I do acknowledge that an amendment to make clear wage theft as an offence would be helpful. That being said, (inaudible) complexity of prosecuting would have the likely effect of having prosecutorial authorities unable to investigate and prosecute offenders without additional training and resources. We formed this view after witnessing the last public hearing, where a submission was made that the existing expertise of the Office of Public Prosecutions and Queensland police prosecutions is sufficient to deal with the issue. In our view, we believe that more training and education would be required.

Also it appears that criminally prosecuting offenders may unintentionally contribute to unemployment. This is particularly in small or regional areas where, in our experience, through the advice that we provide and the advocacy or litigation that we engage in, oftentimes the result of even just litigating these matters is small businesses in regional communities going under and therefore contributing to unemployment. We are also concerned because a lot of our clients are not necessarily looking for the indictment of the employers; they simply want to be paid correctly, which we think is the main thing here.

We are also concerned that criminalising the conduct may have the effect of altering or making more complex the behaviour of potential offenders. In our experience, we represent a lot of people particularly from migrant or culturally or linguistically diverse communities where you have these situations where the people who are on the books are not necessarily the controlling mind of the company. We are of the view that perhaps an unintended (inaudible)—we know that the intention of this is to be a deterrent, we are concerned that the result will be increasingly complex (inaudible) that will end up with people who are not actually engaging in this taking the fall for the controlling mind of these organisations.

We note that the bill does not have a definition of 'employer'. Whilst noting the response provided by the committee, we think it would be helpful that a definition of 'employer' is included. (Inaudible) particular cases of potential offenders such as shadow directors of companies that engage in conduct such as phoenixing. We are also concerned that criminalisation may not deal with the systemic issues causing these underpayments of entitlements. Whilst we note that this may not be within the scope of the bill, we are of the view that a state based inspectorate, similar to the Fair Work Ombudsman, with increased powers to assist employees more directly may be more appropriate.

Finally, we are of the view that the current mechanisms in place through the Magistrates Court and the Federal Circuit Court with respect to small claims procedures are maybe not necessarily sufficient, but the bill as it is currently formulated does not appear to provide a particular incentive for employees to choose this over the other mechanisms that are already in place. We strongly support (inaudible) because in our experience in, say, the Fair Work Commission, where we represent applicants who go to the Fair Work Commission (inaudible) applications where conferences are not compulsory, oftentimes employers will decline to participate, thereby causing there to be no resolution to that, nor to support the increase of the amount for the small (inaudible). In places where there is a

long history of underpayment, oftentimes for 10 years, the amounts that are involved are often more than $20,000. We are of the view that increasing the amount for a simplified small claims procedure would be helpful. We invite any questions from the committee.

CHAIR: Thank you very much for your opening statement. I will give the opportunity for the Queensland Law Society, if they have resolved the issues on their end, to introduce themselves and make an opening statement. How are things looking there? It is Kate, is it not?

Mr Murphy: Luke Murphy, the president. I am by phone, unfortunately. My PC is not working.

CHAIR: No trouble. Welcome, Luke.

Mr Murphy: Thank you very much, Chair. Can I firstly thank you for inviting the Law Society to appear this morning. In opening, I would like to respectfully recognise the traditional owners and custodians of the land on which this meeting is taking place, Meanjin, Brisbane, and I recognise the country north and south of the Brisbane River as the home of both the Turrbal and Jagera nations and pay deep respects to all elders past, present and future. This morning I am joined by Kate Brodnik, one of our policy solicitors, and Ellie Bassingthwaighte, a member of our policy industrial law committee. Before I hand over to Ellie and ask her to just make some further detailed submissions, can I say at the start that the Law Society supports any initiative where employers are being required to comply with the law and pay their workers correctly for the work performed.

Many of our members provide assistance to workers and employers in these matters, including volunteering through community legal centres and providing pro bono advice. In our submission to the wage theft inquiry we identified that one of the main issues that should be addressed was the lack of resources to enable workers to recover unpaid wages. Whilst this bill provides for alternative pathways for workers to pursue these claims, it is the society's view that more could be done. The problem, as we said during the last inquiry, will not necessarily be solved by simply imposing criminal penalties. I will now ask Ellie to expand on the society's concerns.

Ms Bassingthwaighte: Thank you, Luke, and thank you again, committee, for inviting the society to appear in respect of this important piece of legislation. As a member of the industrial committee, I propose to limit my comments to the amendments to the Industrial Relations Act as my colleagues from the criminal law committee would be better placed to respond to the proposed amendments to the Criminal Code.

As the committee will no doubt have identified from the Law Society's submission, the society's primary concern is the manner in which the bill deals with the conciliation of fair work claims initiated in the Industrial Magistrates Court. It is the society's view that these matters should proceed by way of compulsory conciliation convened at the earliest possible occasion for the following reasons. As the committee noted in its report *A fair day's pay for a fair day's work? Exposing the true cost of wage theft in Queensland*, it is imperative that, in order to address the practical impacts of wage theft for victims of this soon-to-be crime, there be an effective system of wage recovery and one that can be appropriately described as simple, quick and effective. Compulsory conciliation is, in the society's view, a necessary feature of such a system.

The importance of a system of wage recovery that is readily acceptable to individual victims of wage theft is also apparent when considering the need for an effective general deterrent. The issues associated with the current system of wage recovery and its ineffectiveness as a deterrent are well documented. Luke referred to the resourcing issues that the society has previously raised. In our view, the solutions to these issues largely hinge on individuals being able to effectively pursue their own underpayment claims.

The method of wage recovery contemplated by the bill is a positive development for employees in Queensland. However, in the society's view the presence of an opt-out method of compulsory conciliation significantly undermines the aims of this bill. It will potentially allow employers to drag out the wage recovery process, often at times exaggerating the power and resource imbalances that may have led to the underpayment occurring in the first place. There is no apparent policy rationale for the removal of the compulsory conciliation, as we note that this is already a feature of the current wage recovery mechanisms that exist at a Magistrates Court level in Queensland.

We have read the committee's response to the issues raised in public submissions, and the committee has correctly noted that the Fair Work Act does not specifically provide for conciliation or mediation and neither do the Fair Work regulations. While this is undoubtedly so, in practice the vast majority of parties are ordered to participate in mediation of wage recovery claims at an early stage, including against their will, through the powers that exist in the Federal Circuit Court rules and the Federal Court of Australia Act.

We note the committee's concern for a potential 109 constitutional issue to arise. However, we do not consider that there is a sound basis for these concerns, noting the effect of section 79 of the Judiciary Act which specifically entitles state courts exercising federal jurisdiction to apply the rules of a particular state court to proceedings commenced in that jurisdiction.

Finally, in respect of any concern that a party ordered to participate in a conciliation against their will is unlikely to engage in genuine settlement discussions, we do not consider this a sound justification for not requiring conciliation at an early stage. In the society's view, at the very worst, if a compulsory conciliation does not produce a resolution of the issue, does not produce a settlement of the underpayment claim, it will at least help the parties narrow either the factual or the legal matters in dispute, or in some cases both, to allow the claim to progress through the Industrial Magistrates Court in a more efficient and streamlined matter. It is the society's strong submission that compulsory conciliation be included as a feature of this wage recovery mechanism.

Finally, the society notes the importance of the subordinate legislation that will be enacted in support of this bill. The subordinate legislation, such as the amendments forecast to the industrial rules, will need to address procedural issues such as the appropriateness of pleadings, rules of evidence and the availability of cross-claims as examples. These matters have the potential to have a significant impact on whether the Industrial Magistrates Court is, in fact, a simple, quick and efficient method of wage recovery. For these reasons the society asks that it be consulted in respect of the subordinate legislation that may be introduced, as well as any guidance material that is published in relation to this process.

CHAIR: Thank you very much. Thank you to both Legal Aid Queensland and the Queensland Law Society for your opening statements. I will give the opportunity first to our two members who are in the precinct but on videoconference and not in the room and go first to the member for Hinchinbrook, who I know has been cut short a number of questions because of issues with his IT. I will go to you first, member for Hinchinbrook. Did you have any questions for either of our witnesses?

Mr DAMETTO: No, Madam Chair.

CHAIR: Member for Cairns?

Mr HEALY: All good here, Chair, thank you very much. I just want to say thank you to each of the parties for their submissions. They were detailed and carry their message well.

CHAIR: Thank you very much. Deputy Chair?

Mr McDONALD: Thank you to the Law Society and Legal Aid Queensland for your detailed submissions. I can see how much work has gone into that. Ellie, in regard to your comments about the vast majority of cases already being sent to mediation, would it be a fact that making conciliation mandatory would actually just be legislating what is happening in practice?

Ms Bassingthwaighte: Yes, certainly that is the society's view.

Mr McDONALD: Thank you very much. I really appreciate the suggestions both of you made regarding more being done and enabling the individual to seek help. It was very good. Thank you.

Mr SAUNDERS: We have just heard from the Queensland Council of Unions that some businesses are not turning up to mediation. They should be made to turn up for mediation. If this goes through, they will not have to turn up; they can defer and drag out the process of the employee getting his or her money back. Do you think it is fine as it is? The Queensland Council of Unions believes that it should be mandatory that everyone turn up for hearings.

Mr Murphy: The society's view is that it should be mandatory and we would support that. Ellie's answer was more that there is an established practice where parties are attending, but we are not suggesting there would be no benefit in not having it as a mandatory requirement.

Mr SAUNDERS: Thank you very much for clearing that up. The other thing I wanted to ask you about was mandatory sentencing. Throughout my political career—it is over 50 years now that I have been involved in politics—I have seen that the only way you get change is through legislation. I am thinking of seatbelts, drink driving—things like that. It is the only way we are going to get some of these businesspeople. We know it is 437,000 people in Queensland, $1.1 billion. I will repeat that: $1.1 billion out of our economy through wage theft. I have employed a lot of people in my life and sometimes there are mistakes, but, if there is a deliberate plan and it is a business plan, why should the general manager or the owner of that business not face some custodial sentence? There has to be some deterrent. The fines are not working. We are hearing that the federal government has changed the legislation but nothing has changed because we are also hearing—I am getting this through my office loud and clear—that it is a nightmare trying to get through the Fair Work

Commission and so people give up and walk away. Maybe if we have custodial sentences, some of the business owners and some of these companies might have a look at these business plans. What is your view?

Mr Makamure: We take the member's views and we agree. As we said, we support the amendment of the code to make wage theft a crime. Our primary concern is to ensure that people who are victims of wage theft get money in their pocket. We are particularly looking at people in regional communities, who oftentimes, as soon as the business goes under, are not able to get their money even if we pursue them and then they are (inaudible). It is a complex issue, but this is certainly a step in the right direction. We just want to make clear that it is a complex issue that (inaudible).

CHAIR: We are out of time. Before we move to our next witnesses, I just pick up on your comments, Ellie, in regard to the committee's response to submissions. I just want to clarify that that was the department's response to submissions rather than a committee response to submissions. You did rightly raise that the department's response, in respect of making it compulsory for conciliation to occur, was that the Fair Work Act does not require that, but certainly I think your evidence has come through clearly, if this is a fair representation of that, that there is no such impediment in the act, regardless of the fact that it does not make it compulsory. Is that fair?

Ms Bassingthwaighte: That is correct. If I can clarify my answer to the question from the deputy chair earlier, in practice parties are participating in conciliation because they are ordered to do so by the Federal Circuit Court or the Federal Court. There is provision in the federal legislation for parties to participate in conciliation against their will, and the practice of those courts is to order parties to participate in mediation at a very early stage of the dispute. In the society's view, there is no impediment to that process being replicated in the bill currently before the committee.

CHAIR: I thank both the Queensland Law Society and Legal Aid Queensland for your written submissions and your verbal submissions here today. I am sure it is fair to say on behalf of the committee that we appreciate the considerable amount of work that both parties do in representing vulnerable workers and workers generally. Thank you for the contribution that you make to this issue.

GOODE, Mr Tony, Workforce Strategy Executive, Local Government Association of Queensland

CHAIR: Thank you for being patient. I appreciate that we are past your allocated time. Thank you for joining us in person. We thank you for the submission of the LGAQ. I will provide you with an opportunity to introduce yourself and outline your role with the LGAQ and also to speak briefly to your submission and the issue. Then we will open for questions.

Mr Goode: Thank you, Chair and committee, for the opportunity to address you today on this issue. My name is Tony Goode. I am the Workforce Strategy Executive with the Local Government Association of Queensland. In coming here today, I speak for the association both as a significant employer with over 40,000 employees right across Queensland and as the peak body for local governments. We speak for local governments in that regard. Hopefully I will be fairly brief this morning. We mainly rely on our submission. We have noted the departmental responses to the submissions and we note that, whilst some of our issues have been resolved to an extent, there are still some issues that we have concerns about. We will continue to monitor with interest the situation as it unfolds to see how those concerns play out in practice.

As we have said in our submission, we are not opposed to the legislation. We actually support the legislation. As local governments we are interested in making certain that all members of our communities are paid fairly and reasonably. We have been very active over a number of years now, particularly in some of our regional and rural areas where we are concerned about many of our itinerant workers, how they were being treated and not only how they were being denied certain wages but also some of the matters such as accommodation and other issues. We have made significant representations on those to various governments over a number of years.

We have a concern with the legislation to the extent that we are not quite sure how much it will deter some unscrupulous employers. We think that in isolation it still exposes a number of workers to some risks. There are two other areas that we think need to accompany this particular legislation. One is the existing award system. We think for all employees to be paid properly it is important that they know exactly what they are entitled to. As a significant employer ourselves, we know how difficult it is to navigate our way through the current industrial relations system. For an employee, particularly a young employee, first coming into the workforce to know exactly what they are entitled to is somewhat difficult. While they do not have a clue about exactly what they are entitled to they are always open to that risk of being exploited. Accordingly, we would always ask that any type of legislation like this needs to be accompanied by further simplification of the industrial relations system. Even in local government there is still significant award confusion. We have employees who are working side by side but getting paid different entitlements and are not quite sure what they are entitled to. That needs to be addressed.

The second element is: where does an employee go and where does an employer go if they have a problem? We would strongly support government looking to resource a very strong industrial inspectorate. Traditionally in the past there has been—I will use the term 'industrial inspectorate', although I am sure there is a more contemporary name for it—a place to go, like an employee help desk, where the employee can find out exactly what they are entitled to, as can employers. It does exist now, but it is nowhere near as resourced as it used to be. Importantly, they had a resourced group of industrial inspectors who could respond quickly to any complaints and, more importantly, could conduct random audits, inspections and turn up at an employer's doorstep and ask to look at their books. We believe that is just as important as this current legislation. We think one in isolation of the other two will continue to expose a significant number of workers to risks.

As I said, I am not going to repeat all of the concerns that we raise in our submissions. They were raised mainly as an employer. We still have some issues with two particular areas. I notice other parties have raised those so I will not repeat them.

There is an issue we did not raise in our submission that I would like to bring to the committee's attention. It is the interaction of this legislation with other legislation impacting on local government. At the moment, if a current employee is underpaid, mispaid, overpaid or whatever and they believe they should be getting paid at a different classification level or are entitled to different interpretations of awards, allowances or whatever, they can lodge a complaint with the council and the council would generally investigate and resolve it. Under legislation affecting local government, for some time we have had a situation where, once a complaint is made against a council or against an individual within council and if it constitutes serious conflict or misconduct then, by rights, we have no choice but to refer that on to the CCC.

The concern we have now is with the criminalisation of this particular matter, that is, what we used to call a 'wages issue'. An employee says, 'I should be paid at a higher classification level than this' or, 'The HR manager is saying I am not entitled to such-and-such an allowance.' If they put in a complaint to the council against a particular person and use the words 'wage theft' in that complaint about being a different classification level—and we are still working our way through this—we believe that that would now constitute a complaint against a public official of official misconduct and, as such, would need to be referred to the CCC. I have no doubt that the CCC can do without that type of complaint. What they will do eventually is to refer it back to council. The downside is that that adds another five or six weeks to the process, which is unnecessary. We are still working our way through that. We are finding that that is becoming an issue as the term 'wage theft' is starting to be used by individual employees and third parties when it comes to a matter that previously would have been a simple disagreement over what a person is entitled to. That is an area that we have to address. It would be preferable if the legislation somehow ensured that that was not the terminology that could be used for the purposes of making complaints against public officials.

I heard the complaints about the concerns about individuals. It is one of the areas that we raised in our submission. Local government being a not-for-profit organisation and being a large entity, we have CEOs and we have directors, depending on the size of the organisation—from Brisbane down to a small council out in Thargomindah. If there is to be an allegation made, who is that allegation to be made against? It still concerns us that, in the response by the department, it could effectively be made against anybody. We would like to see a bit more certainty about who has to wear a charge if it is going to be raised.

I do not think I will take it any further than that at this stage. As I said, our concerns have been raised in our submission. We have had some of them responded to. We still have a couple outstanding. We are keen to support any initiative that will ensure employees and workers in communities are paid appropriately and effectively, but it is the detail that is important. We also want to make certain that, when this goes forward, no-one thinks it is going to be the panacea for all of the problems associated with poor payments. Without that simplification of the industrial system and without a supportive and well-resourced industrial inspectorate, there may be further instances of people missing out on their due reward for their efforts. Thank you, Chair.

CHAIR: Thank you very much for your opening comments. As you were talking I was looking back through your submission and the department's responses to submitters. On page 2 of your submission you say that a number of matters have been addressed. I would assume that recommendation 3 has been addressed in respect of the legislation not being retrospective.

Mr Goode: That is correct.

CHAIR: Recommendation 4 would have been addressed equally, because one of the limbs of the offence has to be intent, not a mistaken belief; is that fairly addressed?

Mr Goode: It is. I was speaking to our legal people. I am not a legal person, but I was trying to get my head around it. There are times when a council will pay someone deliberately but it will be a misapplication. The deliberate intent is there to pay them that amount of money. The question is about that deliberate intent to pay them that money. If they are genuinely of the view that that is what the person is entitled to, does that constitute a deliberate act?

CHAIR: I think that came through in your submission. I imagine your conversations, to be fair, will be in respect of mistaken belief, which is a defence under the Criminal Code.

Mr Goode: Absolutely.

CHAIR: I am going to assume that that one will probably be dealt with. To clarify, are recommendations 1, 2 and 5 still live or have any of those been addressed, from your point of view?

Mr Goode: Nos 1 and 2 have not been. No. 5 has not to an extent, but I am hearing the other parties call that compulsory conciliation. In our case, what we are talking about is that, even before the conciliation phase, with a lot of the matters we have dispute resolution clauses and we would like to see them exhausted first.

CHAIR: I do not think anyone would disagree that matters are always best dealt with before you get to a court process.

Mr Goode: Absolutely. We would like to see some form of mandate to get that done first. If it does not work out, fine; take it all the way.

CHAIR: Thank you very much for your clarification. I wanted to make sure that for our report we understand what you feel is still live as an ongoing issue.

Mr Goode: The only other part that was still confusing us was this issue about the culpability of the individual. Being an organisation, in the very nature of local government we see a fair degree of turnover in regional and rural areas as well as other areas. The question we asked is: who is liable? Is it the person who was there at the time of the offence? Is it the person who is there today? If that underpayment it still there and the person has not acted on it, can you have three or four successive people held accountable for the same offense?

CHAIR: Did the department's response in respect of the threshold of intent and the individuals who would be caught by that not totally clarify that for you?

Mr Goode: Not really.

CHAIR: Thank you very much for your clarification.

Mr McDONALD: Mr Goode, you mentioned the potential unintended consequence of having to refer matters to the CCC and that that was not included in your submission. Would you be able to take that on notice and perhaps give us some thoughts in writing about it?

Mr Goode: Sure. Do you have a time line?

CHAIR: Yes, I will give that to you in just a moment.

Mr McDONALD: I was also interested in the local dispute resolution remedy and what that might look like outside the suggestions of compulsory or mandatory conciliation.

Mr Goode: Most of our dispute resolution is internal. It normally goes through a certain phase, depending on the nature of the dispute. If it is an EB agreement—this was an interpretation I had in terms of applying a provision of the EB—then there is an inherent provision, and normally you would take it to your immediate supervisor and then it is escalated to the CEO and if it is not resolved then you escalate to the Industrial Relations Commission for an independent decision. It is the same for our awards in that we have the same type of dispute resolution. Again, it depends on the nature of it. If it is something that is quite local—I am trying to link it to the wage theft issue—and if it is a single issue such as an employee saying, 'I should be entitled to an allowance,' you take it up with your supervisor. If you are not happy there, you take it up to the director and if you are not happy there you take it to the CEO and then after that you make it into a dispute. As I said, I would argue that the majority of our disputes—I do not have a record of them—are resolved in those early phases and it is all about keeping the relationship manageable. The minute you start to escalate it outside, you suddenly bring in a level of conflict which is not always conducive to an ongoing sustainable relationship.

Mr SAUNDERS: Tony, thanks for coming in today. I will put it in plain language: you are the union for the council, so let us clear that up. I come from Western Queensland and I talk to a lot of union organisers. Councils have stopped union organisers from trying to talk to the staff and this is causing a lot of problems. What is your organisation's stance on that?

Mr Goode: There is legislation which allows unions access to workers and we would enforce compliance with that legislation. I am unaware of any unions that have had access to workers denied to them, unless they have turned up unannounced and uninvited and presented themselves straight at the depot without first logging in with the appropriate mechanisms. There is a process to be followed, by both employers and unions. We would support strict compliance with the law as it stands now.

Mr SAUNDERS: They are conditions of entry that we are all quite aware of.

Mr Goode: Absolutely.

Mr SAUNDERS: Coming back to a state government or the federal government, if there is a problem with a department—let us say Local Government—the minister has to fall on his or her sword. Would the CEO of the council not have to fall on their sword if there is wage theft? Is that not where the buck would stop?

Mr Goode: The buck would rest there, but that is what I am suggesting—that is, we want to see that clarified within the legislation. At the moment it does not actually stipulate exactly where it rests. Does it rest with the HR manager? As you can appreciate, in a very large organisation the size of Gold Coast or Sunshine Coast, the CEO does not get intimately involved in how much to pay a person. All we are seeking is clarification within a context about who is personally liable. Ultimately, the CEO wears the flak, but if it makes it very clear that that is where it rests and that is where the prosecution would lie, I would suggest the CEO would be in a better position then to allocate resources for some form of checking mechanism to ensure that his or her interests are also protected. At the moment it does not. It just says that almost anybody within the council, depending on the circumstances, can be held liable.

Mr SAUNDERS: I take your point. I have heard of councils where workers have had trouble with their pay and, like you said, there are different disputes where the CEO would not get involved but say, 'Go back to the HR department because that's not my job.' That is not correct. The CEO is the CEO of the council, the same as the minister is the minister of a department. If there is a problem, the CEO should be responsible. That is just my personal opinion.

Mr DAMETTO: Tony, thank you very much for joining us today and for your submission and your evidence. I took particular interest in what you were saying earlier about award simplification. I know it is not dealt with in this bill, but as a past employer I have understood how hard (inaudible).

CHAIR: Member for Hinchinbrook, we are having trouble hearing you. I am going to call you and put you on speaker and hopefully we will not have that problem again. I am calling you now so that we can hear your question, if that is okay. Can you hear me?

Mr DAMETTO: I certainly can.

CHAIR: Go for it.

Mr DAMETTO: Thank you very much, Tony, for coming along today. I took particular interest in what you were saying earlier about award simplification. I know as a previous employer myself, especially when you have people doing a number of different skills and a number of different jobs during the day, it can be difficult. I can imagine that council has a similar situation. I know that simplification of the award is not looked at in this legislation, but what would you like to see done at the federal level to simplify the award to help you guys out at council level?

Mr Goode: I do not know about the federal level because I work in the state jurisdiction. I try not to get too much advice from the federal system. I can only talk about local government, and local government in the federal system has a single award and what it has done over many years, particularly the last 10 years, has simplified many of the provisions. Where before you had hundreds of allowances, they have consolidated some of them, they have upgraded some of them, they got rid of some of them and they have incorporated some of them. I think sometimes when we look at awards people tend to look at it to cover every possible scenario and as a result we end up with a document which is open to interpretation by so many different people.

I think there is still a capacity left to examine awards to bring them down to something easier—and not just examine them in terms of what is good for the employee or what is good for the employer. Rather, we need to examine them from an interpretive point of view. Some employers will tell you that they are quite happy to pay a few extra dollars if it takes away the administration associated with having to administer multiple allowances. We can roll a lot of allowances up. I just think there is still scope to make life a lot easier for employers to understand and apply awards—and equally for an employee. As I said, I have children myself. I have two daughters in the workforce now and they would have no hope in hell of trying to understand and interpret their own employment conditions without some assistance. I just think there is a lot of scope for a lot more simplification.

CHAIR: Thank you very much, Tony, for your time today.

FRYSZER, Mr Michael, Managing Director, Connect Group (via teleconference)

CHAIR: Welcome, Michael. Thank you for joining us. We will give you the opportunity now to introduce yourself and your role with the organisation. We do have your written submission here, but if there are any additional comments you wish to make I invite you to do so now and then we will open up for any questions the committee may have.

Mr Fryszer: Firstly, I am a 35-year veteran of the labour hire sector, at the cutting edge of it most of that time, and a founding approved employer in the federal government's Seasonal Worker Program. We became involved in 2010. I think we were No. 2 or No. 3 approved employer. We were very much, I think, responsible for the move from it being a pilot to a program. Currently I am a founder and board member of Approved Employers of Australia, which represents the bulk of the approved employers in the program. I have had a 10-year baptism of fire in a very interesting place but with an amazing program.

CHAIR: Thank you, Michael. Did you wish to make any particular comments with regard to the legislation that the committee is inquiring into?

Mr Fryszer: I endeavoured to keep my comments brief and to the point. I have seen much, both prior to my involvement with the Seasonal Worker Program but especially since then, specifically in the horticulture sector, which is a sector that has probably got undue attention and in some cases due attention. I would like to think that is at the forefront of my knowledge, especially over the last decade, and we have seen much, but I have tried to keep my thoughts very brief in my submission.

CHAIR: Thank you, Michael. We appreciate you providing the submission, but this is an opportunity to get any comments you wish on the record. Thank you for making comments with regard to your industry, which you rightly said has had a lot of attention, and not in the most positive sense in recent times. Do you think criminalising wage theft in Queensland will act as a deterrent for those most egregious cases where it is proven to be deliberate?

Mr Fryszer: I think the question is well formulated. It is often a case of going from simple errors to deliberate acts. My experience both in Queensland and nationally is that the deliberate and contrived act of wage theft should be dealt with in an appropriate manner, because I have seen it day to day. I still see it day to day. It is well timed in that for those people who are deliberate in the way they perpetrate these acts every avenue should be taken for them to be penalised and/or the message given out that this is to be discouraged because it has not had that in the past. For most perpetrators of these things it has been the cost of doing business—weighing up what are penalties as compared to what are the benefits.

Mr McDONALD: Thanks, Michael, for being with us today. I appreciate your submission and particularly like the comment at No. 8 of your submission that these exploiters are not part of the majority mainstream of reputable, compliant, transparent and highly principled labour providers who suffer because of the actions of the offending cohort. I would be interested for you to share with the committee your experience as to what things could be implemented to stop the problem from occurring in the first place or minimising it, whether it be through local dispute resolution, mandatory reporting or the use of EFT and removing cash. Any suggestions you have would be really welcomed.

Mr Fryszer: You have made mention of a few, obviously. The carrot and stick scenario is always really important, but there is a point in time when I certainly believe that that has to be replaced with firm action to discourage. The use of education is a good thing and an important thing and it does need to be broadened. I think the people who perpetrate these things do not care for education. Yes, those who are innocently falling into this trap need to be educated, but there is that minority cohort for whom this is a way of life. This is the mode of operation that they take—that is, the ability for them to open and shut businesses, close down, move on, shift funds overseas et cetera. These are deliberate acts and it is weighed up against the penalty. As an outsider who does not play in that space, I still see it happening too often and I shake my head, thinking it is time to start wielding a bigger stick. That is my belief—that those who are at that most grievous end of this need to pay a price. Again speaking as an outsider, it has to be looked at. These people are so skilled at what they do. The burden of proof may be too hard for criminal prosecution.

There is the issue of the ability to recoup money on investigations. I wish there were lateral thinking ways, in the event that it was believed somebody was engaging in this, to recoup the costs of investigations. Fines would be one. There have to be other ways of looking at stronger sticks for that minority. It is not the mainstream. Unfortunately, my industry has been somewhat wrongly demonised. It saddens me when it is a minority, but it is a minority whose whole ethos is based around criminality. As such, what can we do?

I have tried to summarise it. I am sure there are far greater minds than mine that could come up with thoughts and ideas that do not necessarily always require the burden of proof. It can also be very discouraging for those people. I know from my experience that most of them have taken a punt and if the heat gets too strong they just fade away and move on to another thing. Most of them shift their money overseas. Some of those are cash transactions. When some players are spending $100,000 or $200,000 or $300,000 or $400,000 in cash a week, that says something.

Mr McDONALD: That is a point well made.

Mr HEALY: Michael, your submission recommends that penalty structures need to be tiered, with options available to authorities with lesser burden of proof and evidence required. Could you say how that would work and how penalties should apply?

Mr Fryszer: I missed a little bit of the question but I think I have the gist of it. I have always felt in terms of the burden of the cost of investigation that it be made known to people that it is not necessarily the final end game of this—that is, a criminal prosecution or such—that is the burden that people are going to have to carry. There can be discouragement. Obviously, as we know with the Queensland labour hire legislation, there can be removal from that state and not being able to operate. Are there ways of being on, let us say, a banned list? I understand that can open up potential for legal action et cetera, but what we are trying to do is discourage and put more roadblocks in front of these people. As I wrote in my submission, it is not just wage theft. That extends through the other bodies. There is State Revenue. Do they have powers? Can there be better information sharing between those bodies so that common threads can be ascertained?

Coming back to penalties, it is for greater minds than mine to work out the ways of discouraging. We just have to be smarter. Knowing the burden of proof in an absolute sense can be a bridge too far. These people have had more opportunities to perfect their craft and create uncertainty for authorities than those who are coming at them from the good end trying to stamp it out. We have to be wiser and stronger. I really need to throw it over to those minds that are wiser than mine. There have to be better and more ways of putting these people on notice.

CHAIR: That brings us to the end of the hearing. We are over time. Michael, on behalf of the committee, I thank you for making a submission and making yourself available to provide verbal evidence. You have made a lot of commonsense comments and we very much appreciate your expertise and time.

Mr Fryszer: It is a pleasure. I thank you for doing what you are doing. It is much needed.

CHAIR: Thank you. That concludes this hearing. I thank all of the witnesses who participated today and I thank our Hansard reporters. A transcript of these proceedings will be available on the committee's parliamentary webpage in due course. I declare this public hearing for the committee's inquiry into the Criminal Code and Other Legislation (Wage Theft) Amendment Bill 2020 closed.

The committee adjourned at 12.36 pm.