

## **AWU - Workplace Reform Association**

### **AUSTRALIAN WORKERS UNION : Ownership of the Name**

The Australian Workers Union was a registered organisation and incorporated pursuant to sec 192 the Industrial Relations Act 1988.

The Act gave the organisation a corporate status and the organisation operated pursuant to rules of the organisation and these rules had general requirements as prescribed by the Act.

The Australian Workers Union is Australia's oldest union tracing its history back to the formation of the Australian Shearers Union on 14 June 1886 in Victoria.

The union changed its name to the Australian Workers Union following an amalgamation between the Australian Shearers Union and the General Labourers Union in 1894. The origin of the name came from a newspaper published by the union at that time – the Australian Worker

The Australian Workers Union became a registered organisation under the Conciliation and Arbitration Act 1904 ( the predecessor of the Industrial Relations Act 1998 ) on the 16 May 1904 , the second union in Australia to be so registered under the Conciliation and Arbitration Act 1904.

At that time it was Australia's largest union and until the 1960's the Australian Workers Union remained Australia's largest union.

In 1992 the registered rules of the Australian Workers Union describes itself as an Association bearing the title of the Australian Workers Union as follows :

#### **“ Rule 1 - Name**

The Association formed under these rules and hereinafter referred to as the Union shall be known by the **title** of The Australian Workers Union and is registered under the Industrial Relations Act 1988 “.

The title of the Australian Workers Union over many years has been abbreviated to the initials AWU and in Rule 89 –Definitions :

“ the AWU or “Union” means The Australian Workers Union”

The title of the Australian Workers Union describes the Association registered under the Industrial Relations Act 1988 and this title is owned by the union. The title to the name of a legal entity indicates the ownership of that name.

The Association described as the Australian Workers Union has been in existence as Federally registered union since 1904 and uses the words Australian Workers Union or AWU to describe itself and represent itself to the world.

In 1991 and 1992 the Australian Workers Union as a legal entity was a respondent to hundreds of legally binding Federal Awards and industrial agreements throughout Australia in the many industries and callings covered by its membership.

The Federal Union owned properties throughout Australia. It entered into legally binding contracts and incurred debts on behalf of the organisation.

Any legal entity using the name of the Australian Workers Union in its title without its authority would be in breach of the common law tort of passing off and possibly in breach of the criminal law.

### **Authority to Use Title**

Only the AWU Annual Convention, which represents the highest deliberative body of the union, has the authority to permit and give the consent of the union to any incorporated association that is independent of the union to use the name of the Australian Workers Union in its title.

### **Governance of the Australian Workers Union.**

The rules of the union required that it is governed by elected officials and delegates and under those rules the governing bodies elected by the members were as follows :

1. The Annual Convention of delegates and officials was the highest deliberative body of the union
2. The Executive Council ( sometimes known as the National Executive ) conducted the Management of the affairs of the union subject to the authority of the Convention.
3. Each State branch executive committee could decide any questions affecting only the branch.

#### **Rule 31 : Powers of Convention**

The convention of the AWU is the highest deliberative body of the union and shall have the power to decide and direct the policy of the union in matters affecting the interests of the members in all industrial, political and municipal concerns.

The convention meets annually no later than 14 February each year.

Members of the Convention consist of the National President, General Secretary, Assistant General Secretary and delegates elected annually from each branch in proportion to the financial membership of each branch.

Pursuant to rule 33 in order that the Convention members may consider matters of policy for industrial and administrative matters affecting the interests of the members, the General Secretary must receive policy proposals not later than 1 December prior to the Convention.

Any proposals for the Convention may be submitted by :

1. The Executive Council
2. A Branch Executive
3. Any Branch General Meeting or Branch Delegates meeting
4. Any Local or Section Committee duly constituted

5. Any properly called meeting of members wherever held consisting of not less than 15 financial members
6. The President , Vice – President , General Secretary or assistant General Secretary.

All proposals passed at meetings of at least 15 members , wherever held , under this rule must stipulate the name of the place at which the meeting was held , the date of the meeting and must be signed by the Chairperson.

The authority to use of the name the Australian Workers Union by an incorporated association anywhere in Australia is a matter of policy for the Convention members to decide and any Convention resolutions are based on proposals submitted to the Convention in accordance with the rules of the union.

Under the rules of the union the Annual Convention as the highest deliberative body of the union would have the power to decide as a matter of union policy that it permits and authorises an incorporated Association under State laws to use the name of the Australian Workers Union in its title describe the name of the incorporated association.

However any such authority given would be subject to the Convention members being satisfied that the Association bearing its name is consistent with the Objects of the union including Rule 4 (c) namely, that such an incorporated association would be promoting the general and material welfare of AWU members.

The 106<sup>th</sup> Annual convention of the Australian Workers Union was held in January 1992 and its deliberations were reported in The Australian Worker, the official newspaper of the union.

In its report of the 106 th Annual Convention no resolution was passed authorising and permitting the Australian Workers Union – Workplace Reform Association to use the name of the union in its title.

For AWU Convention members to authorise the union name to be used by an incorporated association they would have to be satisfied as to the purposes of the association , who were its office holders and be satisfied that the operation of the association would promote the welfare of AWU members.

Any AWU Convention member who proposed to incorporate an association whose purpose was described as promoting workplace reform amongst construction and maintenance workers or whose purpose was to develop changes to work to achieve safe workplaces would be met with the response that these purposes were already covered by the AWU and its objects.

No other governing body of the union has the power to authorise and permit an incorporated association to use the name of the Australian Workers Union to describe the name of the association.

Pursuant to rule 36 the Executive Council of the union has the power to manage the affairs of the Union , subject to the direction of Convention.

The Executive Council does not have the power to determine the policy of the union that would permit an incorporated association to use the name of the union. . This decision is a matter of policy for the union.

The Executive Council of the union has no power to authorise the title of the union be used to describe the name of an incorporated association .

Pursuant to rule 43 a Branch Executive shall have power to decide any question affecting such Branch which may arise within the rules of the Australian Workers Union.

No Branch Executive has the power to authorise an incorporated association to use the name of the union to describe the name of an incorporated association.

Under the rules of the AWU no Branch officer has the ostensible or implied authority to authorise an association to use the title of the Australian Workers Union to describe the name of an incorporated association .

No lawyer retained by the AWU could form a bona fide opinion that in the absence of a resolution from the AWU Annual Convention that a branch officer could have any authority to permit an unrelated association to the union to use its name to describe an association.

#### **AWU : Elected Officers and Election Funds**

All officers of the AWU are subject to election by the members of the union for a term of office of four years.

Should an elected official resign from the union then a casual vacancy is created and a election must be held to fill the casual vacancy unless less than three quarters of the term of office remains in which case the appropriate governing body of the union may appoint a member of the union to fill the casual vacancy.

Bruce Wilson was an officer of the organisation and on about the 10 May 1991 was appointed the AWU WA Branch Secretary to fill a casual vacancy following the resignation of Joe Keenan the AWU WA branch secretary. As the AWU WA branch secretary he became a member of the National Executive.

Ralph Blewitt was an officer of the organisation and elected to the office of AWU WA branch Assistant Branch Secretary on the 12 December 1991.

If officers of the union contest elections then they are not permitted to use union funds or the resources of the union for their electioneering.

It is common for union officials to create election funds and raise money to finance contested elections in unions. One common method for raising money for an election fund is for union officials to authorise payroll deductions to be paid into a designated bank account in the name of an unincorporated association .

Elected officials in AWU branches created election funds to raise money to fund any possible contested elections.

Between the 10 May 1992 and December 1991 Bruce Wilson organised an election fund and raised money by way of payroll deduction from AWU WA branch officials who donated money into a bank account to support the re-election of AWU WA branch officials in any future contested AWU elections.

In 1992 AWU Victorian branch officials opened an account known as the AWU Members Welfare Association and raised money by way of payroll deductions from AWU Victorian branch officials. The original signatories to this account were Robert Leslie Smith (known as Bob Smith 1) the AWU Victorian Branch Secretary between 1990 and 1993 and James Collins the AWU Victorian branch Vice-President.

Neither of these election funds sought to become incorporated associations under relevant State laws.

The incorporation of an election fund is a rare event in the history of trade unions in Australia and there must be some doubt as to whether such an incorporation has ever occurred before or after the AWU-WRA was incorporated on 24 June 1992. Despite widespread publicity given to Ms Gillard's interview of the 11 September 1995 as published in The Australian on the 23 August 2012 no one to my knowledge has discovered a union election fund that has been incorporated under State laws governing incorporated Associations.

Ms Gillard on 11 September 1995 gives a fanciful explanation for the incorporation of the election/slush fund. She asserts that it has been the experience at Slater & Gordon that if a union official "opened a bank account and everybody put money in ...that when the leadership team fractured ....you got into a ...difficult dispute about who was the owner of the monies in the bank account, so it was better to have an incorporated association, a legal entity, ...which people could participate as members that was the holder of the account".

This thinking has not appealed to any other industrial lawyers at Slater & Gordon at the time and has not appealed to any industrial lawyers or union officials throughout the trade union movement.

One obvious problem with this explanation is that none of the rules of the association address this situation of fractured leadership and ownership of the money of the association.

An obvious rule to address this problem would be something like the following :

1. The Treasurer of the Association upon a member joining the association shall record all payroll contributions made by the member to the association and upon any member giving notice in writing of their resignation from the association the Treasurer shall refund all payroll contributions of that member if they so request within 30 days of receiving such notice ".

No rules of the association addressed the problem of fractured leadership.

However the real problem with this explanation is that if there was genuine fractured leadership amongst association members then the association may have no alternative except to be wound up as prescribed in accordance with the Act.

Under the winding up provisions of the Act an association can be wound up voluntarily or by way of a Court order if for example the committee of the incorporated association has acted oppressively in relation to members.

Under section 33 of the Act if an association is wound up then any surplus property may not lawfully be distributed among members or former members of the association and must be distributed to either another incorporated association or for charitable purposes .

No wonder union officials are not rushing into their lawyers offices demanding that their election/slush funds be incorporated

Few union officials would be attracted to the possibility of the surplus property of an association being distributed to a charity upon the winding up of the association.

### **Australian Workers Union – Workplace Reform Association ( AWU-WRA)**

In late 1991 Thiess Contractors Pty Ltd ( Thiess ) won a tender from the Western Australian government to construct a channel at the Dawesville Cut near Perth . This civil engineering project was known as the Dawesville Channel project and cost approximately \$ 65 million . It was a large earthmoving operation and was expected to take at least three years to complete.

In the period between late 1991 and May 1992 Bruce Wilson and Ralph Blewitt and Thiess by their conduct demonstrated the purpose of the AWU-WRA in relation to the Dawesville Channel project.

Over this period operated ostensibly as an unincorporated association.

From 1991 the Thiess General Manager for WA was Joe Trio and Nick Jukes was the Thiess project manager for the Dawesville Channel project.

Thiess as the principal contractor for this project anticipated that it would employ AWU members engaged in construction work on this project.

The AWU and Thiess entered into a Memorandum of Understanding on the 11 June 1992 and one of the terms of this Memorandum was that the AWU would provide Workplace Reform Advisors to assist in the establishment of a restructuring program on the Dawesville Channel project.

The Memorandum of Understanding reflects the industrial relations understanding of the parties to this agreement at the time. The AWU-WRA was not a party to this Memorandum of Understanding.

In late 1991 Thiess sought the assistance of the AWU WA branch to implement workplace reform on this project on behalf of AWU members and Bruce Wilson as the AWU WA branch secretary entered into negotiations with Thiess to implement workplace reform on the project.

Thiess and Bruce Wilson as disclosed in the Memorandum of Understanding understood that workplace reform to be part of the commitment of the Federal Government , the ACTU and the Australian Industrial Relations Commission to implement the objectives of the Structural Efficiency

principles as set out in the National Wage Case determined by the Australian Industrial Relations Commission in April 1991.

Thiess and Bruce Wilson understood that workplace reform to be the responsibility of both the company and the union and that any agreement to implement workplace reform on this construction project was necessary at an enterprise level to achieve the objects of the Structural Efficiency Principles as set out in the Australian Industrial Relations Commission in April 1991.

Workplace reform was understood by Thiess and Bruce Wilson in their negotiations to include a commitment to include Award restructuring on the project and that the company and the union would work together to put into place a Skills Enhancement Program for construction workers.

In late 1991 Thiess and Bruce Wilson reached an oral agreement that the Australian Workers Union – Workplace Reform Association would provide the services of Workplace Reform Advisors or Representatives to assist in implementing workplace reform on the Dawesville project.

The terms of this agreement were :

1. Thiess would pay for the services of Workplace Reform advisors at the rate of \$ 36.00 per hour for up to a maximum of 54 hours per week for the life of the project
2. Bruce Wilson proposed and Thiess agreed that the payments for these services would be made to the Australian Workers Union –Workplace Reform Association

This agreement was confirmed by way of letter from Thiess dated 16 March 1992 as disclosed in the first Purchase Order dated 9 April 1992 ( p571 WA Police FOI) following the receipt of Invoice no 1 from the AWU-WRA dated April 1992.

The AWU-WRA Invoice no 1 ( p 570 WA Police FOI) is addressed to Thiess Contractors P. O. Box 272 , Subiaco , WA and claims in the column Details for the provision of AWU Workplace Reform Association Representative for the Dawesville Channel – **as per agreement** for the following months :

• January – 248.4 hours	\$ 8942.40
• February – 216.0 hours	\$ 7776.00
• March – 237.6 hours	\$ 8553.60
TOTAL \$ 25272.00	

The Thiess employee processing this first Purchase Order no 410373 makes a note as follows :

**“Provision of Workplace Reform Representative in accordance with Thiess letter reference NNJ : JSP : 729 dated 16 March 1992 ( copy attached ) hourly rate \$ 36.00 /hr”**

A cheque ( no 288902) dated 27 April 1992 from Thiess Contractors Pty Ltd was made out to the Australian Workers Union Workplace Reform Assoc. PO Box 253 Northbridge in the sum of \$ 25,272.00

A payment code no. C98112 appears on the document which copies the \$ 25,272.00 cheque below the Australian Workers Union.

This payment code c98112 is referable to a Thiess Identity General Listing Document ( p 564 WA Police FOI) which is headed The Australian Workers Union.

Invoice no 2 was paid on the 27 May 1992 and also has the a payment code of C 98112 below the Australian Workers Union.

However the next Thiess cheque dated 27 June 1992 now uses a different identity no. C 93732 besides the Australian Workers Union

The AWU-WRA was incorporated on the 24 June 1992 and this may be the reason for the change in the ID code.

The identity no C 93732 now appears on all Thiess cheques sent to the AWU-WRA from Invoice no 3 until invoice 31.

However from invoice no 3 to invoice no 18 all these 16 cheques are made payable to the Australian Workers Union.

From invoice no 19 to invoice no 31 Thiess cheques are then made payable to the AWU-WRA

However on copies of all Thiess documents forwarding cheques after the incorporation of the association i.e. from 27 June 1992 until 11 April 1995 the Thiess ID number remains C93732 and this is referable to the Australian Workers Union.

The Thiess ID no C 93732 is on all the documents sending Thiess cheques made payable to the AWU- WRA for 7 invoices sent for the “provision of consultancy service Melbourne Water as per agreement”

However most importantly the Thiess ID no C 93732 is on all the documents enclosing cheques sent to the Australian Workers Union for membership fees in 1992 and 1993.( P 572-590 WA Police FOI)

It is safe to conclude that Thiess gave the Australain Workers Union the ID code C 93732 on the documents that are so far available.

### **Incorporation of AWU- Workplace Reform Association : 1992**

Bruce Wilson was the driving force behind the incorporation of the Australian Workers Union- Workplace Reform Association and Ralph Blewitt was the only AWU WA branch official with whom he discussed the incorporation of the association.

Bruce Wilson advised Ralph Blewit not to discuss the incorporated association with any other AWU WA branch official and Ralph Blewitt followed this advice of Bruce Wilson .

The AWU-WRA was conceived in secrecy between Wilson and Blewitt as Wilson wanted to raise funds from Thiess to be held by the association that he could control.



Bruce Wilson and Ralph Blewitt agreed between themselves that Ralph Blewitt would be the applicant to incorporate the association under WA law as Bruce Wilson did not want his name recorded on an enterprise that he wanted to keep secret from the AWU.

The AWU WA branch Executive never authorised Bruce Wilson to negotiate an agreement on behalf of the branch representing that the association had the authority of the branch to enter into any agreement with Thiess.

The AWU WA Branch executive minutes contain no resolution authorising the AWU- Workplace Reform Association to represent itself as an association acting on behalf of the organisation capable of entering into agreements with employers to promote workplace reform or promote the development of change to work to achieve safe workplaces .

The auditor of AWU WA Branch was never advised as to the existence of the AWU- Workplace Reform Association.

The AWU WA branch executive minutes never authorised the AWU – Workplace Reform Association to enter into an agreement to provide the services of Workplace Reform Advisors at the Dawesville Channel project.

In 1991 and 1992 the minutes of the AWU WA branch executive contain no resolution authorising the name of the Australian Workers Union to be used to describe the unincorporated association.

Under the Association Incorporation Act 1987 pursuant to sec 10 the effect of incorporation are that

10 (a) the association becomes a body corporate with perpetual succession and a common seal

(d) the association may sue or be sued in its corporate name .

The Act lists the powers of an incorporated association as follows :

13 (1) Subject to this Act and to its rules, an incorporated association may do all things necessary or convenient for carrying out its objects and purposes, and in particular, may –

( a) acquire , hold, deal with , and dispose of any real or personal property;

( b) open and operate bank accounts:

( f) appoint agents to transact any business of the association on its behalf

( g) enter into any other contracts it considers necessary or desirable.

Under rule 4 of the AWU-WRA rules – Powers of the Association :

4 The Association has the powers conferred on an Association by Section 13 of the Act without exclusion or modification.

Bruce Wilson drafted the Rules of the Association and Ralph Blewitt lodged an application to incorporate the association with the WA Commissioner for Corporate Affairs in 1992.

Prior to an application to incorporate the association Ralph Blewitt failed to place a Public Notice in a daily newspaper in Western Australia as prescribed by the Act.

The application to incorporate the association was refused by the Commissioner for Corporate Affairs in 1992 and he raised with the applicant some issues including whether the association was excluded by section 4 (3) of the Association Incorporation Act 1987 ie whether the association is a trade union and is not eligible to be incorporated under the Trade Union Act 1902

Upon receiving the letter from the WA Commissioner of Corporate Affairs in 1992 Bruce Wilson and Ralph Blewitt sought legal advice from Slater & Gordon as to how to overcome the refusal of the WA Commissioner of Corporate Affairs to incorporate the association.

### **Slater & Gordon**

In 1992 Slater & Gordon was a law firm based in Melbourne Victoria and operated as a partnership.

A number unions were clients of Slater & Gordon and the responsibility for providing legal advice to union officials and members in industrial matters rested primarily with the Industrial Unit, with Bernard Murphy the senior equity partner and Julia Gillard as the salaried partner in the Industrial Unit.

Since 1991 Slater & Gordon was the law firm retained by the AWU WA branch.

The AWU WA branch had no corporate status and was a geographical branches of the AWU registered organisation.

Pursuant to rule 43 the AWU WA branch branches was governed by a Branch Executive which had powers to decide any question solely affecting such Branch which may arise within the Rules of the Australian Workers union.

Pursuant rule 48 Bruce Wilson as the AWU WA Branch secretary was bound to act generally according to the instructions of the Branch Executive and be responsible for the administration of the Branch.

Pursuant to rule 48A Ralph Blewitt as the AWU WA Assistant branch Secretary was bound to act generally according to the direction of the Branch Executive or Branch Secretary and was to assist the Branch Secretary in carrying out of his duties and responsibilities.

### **Slater & Gordon Retainer 1992 – AWU- WRA**

In 1992 Bruce Wilson and Ralph Blewitt engaged Slater & Gordon in their capacity of persons authorised as agents of the Association to transact any business on behalf of the AWU- WRA.

The AWU- WRA was the client of Slater & Gordon and Wilson and Blewitt gave instructions as either officers or agents of an unincorporated association.

Wilson and Blewitt were also AWU members and the holders of offices in the AWU WA branch that were subject to an election in which nominations were scheduled to open in September 1993 in accordance with the rules of the union.

The scope of the retainer by Bruce Wilson and Ralph Blewitt was for Slater & Gordon to provide legal advice concerning steps necessary to incorporate an association known as the AWU- WRA pursuant to the Association Incorporation Act 1987.

According to Wilson the AWU-WRA sought legal advice only when it ran into legal technicalities in attempting to incorporate. The legal technicalities appear to have been highlighted following a letter received from the WA Commissioner of Corporate Affairs querying whether the association should be registered under the Act.

Bruce Wilson and Ralph Blewitt instructions to Ms Gillard ( according to her press conference of 23 August 2012) was that the purpose of the association was to raise funds which could be used to support favoured AWU WA branch officials and members in 1993 should there be contested elections in the AWU.

In 1992 Bruce Wilson and Ralph Blewit attended a conference with lawyers from Slater & Gordon in their Melbourne office to obtain legal advice about the incorporation of the association under the Association Incorporation Act 1987.

In attendance at that meeting was Bernard Murphy and Ms Gillard both partners with Slater & Gordon. Ms Gillard and Bruce Wilson were involved in an intimate relationship which had commenced in 1991.

Ms Gillard asserted on 11 September 1995 that she was the only lawyer at Slater & Gordon to provide legal advice to Wilson & Blewitt regarding the incorporation of the Association

Ms Gillard provided legal advice to Wilson and Blewitt as to steps required to incorporate the AWU – Workplace Reform Association under the Association Incorporation Act 1987.

Ms Gillard never opened a file on the Slater & Gordon computer records as was her obligation to her partners.

According to Ms Gillard she never sought any advice from other lawyers in Slater & Gordon regarding the retainer from Wilson and Blewitt regarding the incorporation of the association.

The application to incorporate the AWU- WRA was made by Ralph Blewitt as the person duly authorised by the association and for the application to succeed it relied on a number of documents as prescribed by the Act as follows :

1. A Public Notice in a newspaper as prescribed by the Act.
2. Form 1 – an Application to Incorporate to be completed by the a person duly authorised by the association
3. A Draft Certificate that verified that the particulars as set out in the application were true.
4. A copy of the rules of the association annexed to the Draft Certificate that complied with the requirements of the Act.

The first legal document by the association is a Public Notice in the West Australian newspaper on the 6 March 1992. The Public Notice reflect the instructions given by Wilson and Blewitt to Slater & Gordon .

The Public Notice reads as follows :

**THE AUSTRALIAN WORKERS UNION (WA) BRANCH- WORKPLACE REFORM  
ASSOCIATION INC**

**Notice is hereby given that Ralph Blewitt of 138 Warwick Road , Duncraig, Union  
Official, being duly authorised by the above association intends to apply to the  
Commissioner of Corporate Affairs on or after 6 April 1992 for the incorporation of  
the Australian Workers Union – Workplace Reform Association Inc.**

**The Association is formed for the purpose of promoting and encouraging  
workplace reform for workers performing construction and maintenance work.**

The purpose of the Association as disclosed by the Public Notice was that the Association would promote and encourage those workers who were eligible to become members of the AWU to engage in workplace reform in construction and maintenance work.

The AWU under rule 6 Full Membership, sub rule 4 (c) had the right to enrol every bon fide worker employed in or in connection with the industries or callings of :

(c) the construction .....of

(i) civil and /or mechanical engineering projects.

On or about October 1991 the AWU WA branch had a membership of about 14, 824 financial members.

The union enrolled under its rules of eligibility employees engaged in a wide variety of callings and occupations including those engaged in construction and maintenance work.

AWU WA members engaged in construction and maintenance work comprised not more than one quarter of the branch membership.

The Public Notice is consistent with the conduct of Bruce Wilson negotiating with Thiess in late 1991 for the AWU-WRA to provide Workplace Reform advisors on the Dawesville Channel project.

On the same day that the Public Notice appeared on 6 March 1992 Ralph Blewitt opened P.O Box 253 in Northbridge , Perth in the name of the association .

Shortly after the Public Notice appeared on the 6 March 1992, Thiess and the AWU- WRA entered into a written agreement by way of a Thiess letter dated 16 March 1992.

Ralph Blewitt lodged the application to incorporate the association with the WA Commissioner for Corporate Affairs on or about 22 April 1992.

The AWU-WRA after the PO Box was opened created a template for an invoice and the first invoice was sent to Thiess on or about 30 April 1992 claiming payment for Workplace Reform Advisors as per the agreement for the period from January to April 1992.

The AWU- WRA opened bank accounts in May 1992 at the CBA branch in Northbridge , Perth.

The purpose of the association for Wilson and Blewitt was made clear by their conduct from late 1991 until May 1992.

Between these dates Wilson and Blewitt had got the unincorporated association up and running and by its conduct demonstrated what its purpose in fact was before its incorporation- it was to enter into agreements with an employer using the name of the Australian Workers Union and charge for Workplace Reform Advisors an hourly rate for services to the employer.

The purpose of the association was to raise funds for the association from Thiess consistent with an agreement reached by Wilson in late 1991.

The first document of the association on the 6 March 1992 revealed the purpose of the association as known to Wilson, Blewitt and their legal advisor.

The Public Notice on the 6 March 1992 disclosed as the Main Purpose of the association to promote and encourage workplace reform as understood by Bruce Wilson and Ralph Blewitt and as demonstrated by their conduct from late 1991 until May 1992.

This was certainly a slush fund raising money from an employer that appeared to be a legitimate provision of services.

Following subsequent legal advice the purpose as disclosed on the 6 March 1992 was varied for no apparent reason

### **Form 1 ; Draft Certificate ; Rules of the Association**

As a result of the letter from the WA Commissioner of Corporate Affairs Ms Gillard re- drafted the rules of the association in 1992 to comply with the Association Incorporation Act 1987.

The Application for Incorporation – Form 1 and the Draft Certificate were mostly completed and signed by Ralph Blewitt as the person duly authorised by the association to apply for incorporation under the Act.

In answer to Question 2 on Form 1 – The Association is formed for the purpose of ( insert Main Purpose) Ralph Blewitt hand wrote the words :

“development of change to work to achieve safe workplaces”

These words appear to be a re-wording of Object (1) a as described in the Objects of the association.

Object 1 (a ) of the rules of the association reads as follows :

“1 (a) to contribute to the development of changes to work to achieve democratic safe workplaces “.

Ralph Blewitt omitted the word “democratic” when he completed his answer to Question 2 on Form 1

However Ms Gillard hand wrote the words “ Australian Workers Union- Workplace Reform Association “on Form 1 and the Draft Certificate to describe the name of the association.

When she wrote those words she knew that the AWU Annual Convention had not authorised the AWU – WRA to use the title of the union to describe the name of the association.

She has admitted that the only AWU officials who knew about the association appropriating the name of the AWU were Wilson and Blewitt.

The knowledge of these two officials could not possibly be construed as permission , authority or consent by the union to use its name to describe an incorporated association.

Ms Gillard wrote to the WA Commissioner of Corporate Affairs to assert that the AWU- Workplace Reform Association was a bona fide association and argued for its incorporation under the Act.

The Main Purpose of the association in Form 1 - Application to Incorporate as submitted to the WA Commissioner of Corporate Affairs is described as “development of change to work to achieve safe workplaces “.

The OED defines **Main** as the principal, most important , greatest in size or extent and **purpose** as an intended result , something for which effort is being made .

Ralph Blewitt in this form represented to the WA Commissioner of Corporate Affairs that the most important intended result for the association was to develop change to work to achieve safe workplaces .

This was allegedly the Main Purpose of the association and the other objects of the association were less important than the Main Purpose of the association.

Ms Gillard in her press conference on the 23 August 2012 has a different view and stated that the association had only one purpose - it was to raise funds for an election campaign in the AWU.

She repeatedly states that her understanding of the purpose of the AWU- WRA was to raise funds to support AWU officials in an election campaign.

The Main purpose as disclosed in answer to Question 2 was not a bona fide purpose of the association .

The development of changes to work to achieve safe workplaces was a campaign slogan for union officials to promote when elections were to be held in 1993.

Similarly all the other lesser objects of the association were not activities that officers or members of the association would pursue but campaign slogans for the 1993 elections

According to her statements at the 23 August 2012 press conference the association had only one single purpose – to raise funds for elections.

Until elections loomed closer there was nothing that the association would do – it would just be collecting money from payroll deductions , holding fundraisings , raffles, quiz nights and discussing campaign strategies around the objects of the association.

The association officers would not be assisting workers and employers to develop safe workplaces and they would not be contributing to implementing appropriate skills training for workers.

These were not tasks for which officers of the association would contribute and implement.

Perhaps these were tasks for AWU officials and organisers could promote and implement as part of their duties to service members of the union.

Ms Gillard insists that the association had only one true purpose – raising election funds.

Ms Gillard can never concede that the association intended to pursue the development of safe workplaces as this would mean attending worksites , negotiating with employers , speaking with health and safety officials and inspectors- namely doing all the things that the AWU already does.

She addresses the false answer given by Blewitt as to the main purpose of the association as the words denoting an election campaign slogan and that election funds were to be spent promoting union officials who campaigned for safe workplaces.

Ralph Blewitt agrees with Ms Gillard in her understanding of the sole purpose of the association – the true and only purpose of the association was to raise an election/slush under the control of Wilson.

Before 24 June 1992 Blewitt knew how Wilson had arranged matters to raise an election/ slush fund from an employer.

Ms Gillard assisted Wilson to create the legal entity for Wilson to continue his activities he began in late 1991.

And before 22 April 1992 she made certain that neither Wilson nor Blewitt gave a true answer to Question 2 – what is the Main Purpose of the association

Prior to 22 April 1992 Wilson , Blewitt and Gillard all knew the short answer to this question

“To raise election funds for AWU WA branch officials and members”

This in essence was the true and only purpose of the association – it had no other purpose according to Ms Gillard and Blewitt.

Bizzarely Wilson on the 27 November 2012 disagrees with Ms Gillard and Blewitt.

He states that the association intended to and did pursue the objects of the association and presumably its main purpose – development of safe workplaces. How it did this is a complete mystery.

## Was the AWU-WRA formed for political purposes?

The Act contemplates that the Main Purpose of the association must then fall within five broad categories named in sec 4 (a) – (e) of the Act unless the Commissioner approves some other purpose for the association to be eligible to be incorporated.

Wilson, Blewitt and Ms Gillard agreed that the Main Purpose of the association fell within sec 4 (1) (e) of the Act, namely that it was formed for political purposes.

The development of changes to work to achieve safe workplaces may be seen as an industrial purpose but it is hard to see that this could be described as a political purpose.

For Wilson and Blewitt achieving safe workplaces for workers at large may be a noble aim for an association to pursue but this purpose is remote and far removed from any political purpose.

The Main Purpose of the association as set out in answer to Question 2 is not confined to achieving safe workplaces for AWU members in WA but apparently the Main Purpose of the association is ambitious and is dedicated to achieving safe workplaces for all workers throughout Australia.

However Ms Gillard on the 23 August 2012 stated that the Main Purpose of the association was to raise money to fund AWU officials in any contested elections in the AWU.

Under sec 8 of the Act the Name of the Association is addressed as follows:

Sec 8 (1) The Commissioner shall not incorporate an association under this Act by a name that in the opinion of the Commissioner is –

(b) likely to mislead the public as to object or purpose of the association

(d) identical or likely to be confused with the name of any other body corporate or any registered business name.

The title of the Association was intended to represent to the world and in particular to any employer in WA dealing with Bruce Wilson or Ralph Blewitt that the legal entity known as the AWU-WRA had the authority to act as an agent of the Australian Workers Union and was capable of entering into contracts and agreements

In 1992 Bruce Wilson and Ralph Blewitt intended to create a legal entity that could represent to employers in the construction industry in WA and in particular to Thiess that it was capable of entering into agreements as an agent of the AWU to pursue workplace reform on behalf of AWU members.

The Association in addition to its main purpose had a number of other Objects (or purposes and intentions) of the Association – all these are campaign slogans and are described as follows:

3. (1) b To contribute to the implementation of a more equitable distribution of wealth between employers and workers.

Comment

This is probably an object of the association which comes close to the political purposes in sec 4 (1) (e) of the Act under which the association may be incorporated. However this



remains an industrial object of the association as it is confined to employers and workers. Not all wealthy people are employers.

Query as to whether an election /slush fund for union officials is spending money for a political purpose. That is are monies spent on contested internal union elections spending money for a political purpose..

The OED defines politics as the science and art of governing a country.

3 (1) (c) to contribute to the implementation of appropriate skills training for workers.

Comment

This object does not relate to AWU members or AWU members in the construction industry but covers all workers no matter what industry or calling they are engaged in throughout Australia.

The implementation of skills training for workers would require the co-operation of employers and any organisation responsible for the skills training of workers.

The association if it engaged in pursuing this object of implementing skills training for workers would have to enter into agreements with employers, workers and skill training bodies.

According to Ms Gillard this is a campaign slogan.

3 (1) (d) to promote and contribute to the development of unions and unionism and in particular to promote the Australian Workers Union

Comment

The promotion of unions in Australia fits in with the association being formed for political purposes. This may be a political aim of an association and it may publish and distribute publications promoting the cause of unions and unionism throughout Australia.

The promotion of the Australian Workers Union would embrace the promotion of the industrial interests of members of the union and the promotion of the union may contribute to the union achieving some progress towards the objects of the union.

This is the only object of the association that refers to the AWU and it simply states that the association intends to promote the AWU.

3 (1) (f) to support and assist union officials and union members who are contributing to the adoption of the aims of the Association and its policies.

Comment

This object is consistent with the association being formed for the promotion of unions and union related purposes – the association could support and assist any union officials throughout Australia engaged in promoting and contributing to these objects.

This object would encompass AWU officials and members who promoted and contributed to any of the objects of the association including promoting the AWU. This object would support union officials engaged in election campaigns.

3 (1) (g) to consult with union officials , union members , employers , industrial organisations , academics and others as necessary to further the objects ( a ) to ( f )

This object is consistent with the association consulting the industrial relations community of union officials and members, employers and others in Australia to further any of the objects of the association.

3 (1) ( h ) to publish and distribute publications as necessary to further objects ( a ) to ( f ) herein.

Comment

This is an educative role of the association in which it could publish leaflets, pamphlets etc to further the objects of the association.

These would include leaflets promoting the AWU and its objects.

General Comment

The objects repeatedly mention unions and unionism, union officials and union members and in relation to workers the intended objects of the association are to contribute to safe workplaces , skills training for workers and equitable redistribution of wealth to workers.

However the association is an election fund to promote unions and union officials who desire to contribute to safe workplaces , skills training for workers and a redistribution of wealth between workers and employers. According to Ms Gillard these are election slogans and association officers were never meant to implement these activities on behalf of the association

### **Did AWU- WRA exist prior to 24 June 1992**

In 1992 prior to its application to incorporate on the 22 April 1992 the AWU - Workplace Reform Association did not exist as an unincorporated association according to Ralph Blewitt.

No persons and in particular no members of the Australian Workers Union in Western Australia in 1991 or 1992 held a meeting and resolved at a meeting to form the Australian Workers Union - Workplace Reform Association.

The AWU – Workplace Reform Association never

- Had any officers of the association consisting of a President, a Vice – President , a Secretary and a Treasurer to form a Committee of Management to manage exclusively the affairs of the association.
- the association never held a general meeting of members to elect officers of the association

- The Secretary of the association never received applications in writing from any persons wanting to become full members of the association.
- The association never had five members who applied for membership and paid a subscription
- No general meeting of the association took place to determine the subscription fees to be paid for membership
- The secretary of the association never kept any minutes of general meetings nor Committee of management meetings
- The committee of the association never passed any resolutions authorising any officer of the association to open a bank account
- The treasurer of the association never issued any receipts for moneys received by the association.
- The association never authorised Ralph Blewitt to apply for the incorporation of the association under the Association Incorporation Act 1987
- The association never authorised Bruce Wilson or Ralph Blewitt to seek legal advice to incorporate under the Association Incorporation Act 1987
- The association never authorised Ralph Blewitt to place an advertisement in the Public notices of the West Australian newspaper on the 6 March 1992.

Ms Gillard stated in her 11 September 1995 interview that she re- drafted the rules of the association .

Apparently she forgot to inform Blewitt that these re- drafted rules had to return to a general meeting of members of the association for approving the amendments.

Blewitt states after the rules were re-drafted that no meeting of the association ever took place.

The AWU – Workplace Reform Association was incorporated on the 24 June 1992 pursuant to the Association Incorporation Act 1987.

Ralph Blewitt admits that the incorporation of the association was a device conceived by Bruce Wilson to raise funds from Thiess to be banked in an account of the AWU-WRA and that this was a slush fund to be controlled by Wilson and that the monies raised could be disbursed at Wilson's discretion. This admission is consistent with the conduct of Wilson and Blewitt between late 1991 and May 1992.

In particular Ralph Blewitt admits

1. The Public Notice dated the 6 March 1992 is a false document
  - The AWU WA branch never authorised the association to apply for incorporation
  - The AWU never authorised the Association to use the title Australian Workers Union to describe the name of the association.

- The association was never formed for the bona fide purpose of promoting and encouraging workplace reform amongst construction and maintenance workers
  - He was never authorised by any association to apply for incorporation under the Incorporation Association Act 1987
2. The application to incorporate and the draft certificate are false documents
- The association never had five members
  - He was never authorised by the association to apply for incorporation
  - The AWU never authorised the Association to use the title Australian Workers Union to describe the name of the association.
  - The main purpose of the association was not to develop changes to work to achieve safe workplaces
  - The association was not formed for political purposes
  - The association was never formed for the purposes of contributing to or promoting a more equitable distribution of wealth between workers and employers, promoting unions or unionism and in particular the AWU or to implementing skills training for workers.

Bruce Wilson and Ralph Blewitt conspired to create a number of false documents in order to incorporate the AWU-WRA pursuant to the Association Incorporation Act 1987.

Ms Gillard gave legal advice to Wilson and Blewitt that resulted in Blewitt lodging false documents with the WA Commissioner of corporate Affairs.

Wilson and Blewitt kept the existence of the association a secret from any AWU officials.

Ms Gillard kept her legal advice to Wilson and Blewitt a secret from her partners.

Ralph Blewitt in 2012 admits that the AWU- WRA was a fraudulent enterprise from its inception

Bruce Wilson on 27 November 2012 asserted that the AWU- WRA was a legitimate association from its inception until its account ceased operating in April 1995 and the funds raised by the association were bona fide payments for services rendered to employers and that all funds spent by him were in pursuit of the objects of the association.

Ms Gillard asserts that the association was a legitimate association and the only purpose of the association was to raise funds to support AWU WA branch officials in any contested elections. She says that she had no knowledge that the association entered into agreements with Thiess in the construction industry even though she was aware of the Public Notice on 6 March 1992.

Was promoting and encouraging workplace reform amongst construction workers another election slogan.

She believed in July / August 1995 that Wilson had been dishonest to her in a number of matters and she ended her personal relationship with Wilson when she discovered these dishonest matters.

Ms Gillard has never commented as to whether the operations of the AWU- WRA were fraudulent from the 24 June 1992 until April 1995. She says that she had no knowledge as to how the AWU-WRA bank accounts operated between 1992 until 1995.

Since 19 September 1996 until this day Ian Cambridge provides an abundance of information as to how the AWU-WRA operated but she has made no public comment about the her subsequent knowledge of the operation of the AWU-WRA.

Since the 27 November 2012 she has remained silent as to the truthfulness and credibility of Bruce Wilson.