



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

PROOF

**FAIR WORK (TRANSITIONAL
PROVISIONS AND CONSEQUENTIAL
AMENDMENTS) BILL 2009**

**FAIR WORK (STATE REFERRAL
AND CONSEQUENTIAL AND
OTHER AMENDMENTS) BILL 2009**

Second Reading

SPEECH

Tuesday, 2 June 2009

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date Tuesday, 2 June 2009
Page 30
Questioner
Speaker Sidebottom, Sid, MP

Source House
Proof Yes
Responder
Question No.

Mr SIDEBOTTOM (Braddon) (12.24 pm)—I am very pleased to rise today to speak on the bills before us, the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009 and the Fair Work (State Referral and Consequential and Other Amendments) Bill 2009. In addition to the earlier Fair Work Bill, these bills give effect to the mandate this government so clearly received in the 2007 election. That is why we are here and that is why we are discussing these bills.

Contrary to the doomsday predictions we just heard from the previous speaker on the other side, the member for Indi, concerning our fairer workplace relations system—predictions which one can read daily ad nauseam, particularly in the *Australian* newspaper—these bills will ensure that Australia has a modern workplace relations system with guaranteed workplace rights and guaranteed minimum standards. Amongst other provisions, these bills give employees a fair safety net of employment conditions which cannot be stripped away. It will give all workers, not just those who work for large businesses, the right to responsibly challenge an unjust dismissal.

In our plan Forward with Fairness, which Labor took to the 2007 election, we committed to a new workplace relations system which will be fully operational by 1 January 2010. The government, as other speakers have mentioned, sought input and collaboration far and wide for both the Fair Work Bill 2008 and the bills we speak on today. Indeed, the Senate inquiry into the Fair Work Bill heard from 154 organisations and individuals and heard evidence at six public hearings across the country. We have listened and we have taken that into account.

When a majority of Australians voted against Work Choices at the 2007 election, as did the good folk of Braddon, they voted against what I believe were two essential parts at the heart of the Howard-Costello obsession—an obsession, I would add, that still burns brightly for the member for Higgins. The first is that the Howard government reforms allowed a worker's safety net to be stripped away, as simple as that. That pushed workers below safety net standards, losing them their penalty rates and overtime. No amount of late backtracking and backsliding by the former Prime Minister could remove this stain. Secondly, Work Choices allowed good workers to be sacked for no

reason at all, with no remedy and no real avenue to challenge it. That was a fact. In these instances there was no choice or fairness in Howard's so-called Work Choices.

I noticed with interest in Peter Hartcher's latest book, *To the Bitter End*, that the unlikely duo of the members for Warringah and Menzies sought to dissuade Howard and the cabinet from dismantling the minimum award safety net. They were singularly unsuccessful in their efforts but, prophetically, their portents were to prove correct. Work Choices skewed the balance of power far too far in favour of employers, many of whom, I would say, were not happy with this unfair imbalance. I am very proud to be able to say that the Rudd government is swinging this balance back to the middle, where it should always have been. Hence, we do not please everyone, and that is a sign of reaching the middle—an equilibrium.

There are doomsayers populating commentary pieces—again, particularly in the *Australian* newspaper and also amongst spokespeople from the Minerals Council—who would have us believe that the unions have re-emerged as the key victors in the changes outlined in this legislation. I would argue that by any measure the restoration of workers' rights has been the big winner, and the retention of flexibility but fairness for employers and employees is a direct consequence of these changes.

When we talk about Work Choices and its role in stripping workers of their right to claim their entitlements and in forcing them onto Australian workplace agreements, the changes under the Fair Work Bill will be very well received in my electorate of Braddon. I know of many north-west Tasmanians who were forced onto substandard Australian workplace agreements under Work Choices, and so to this end the Rudd government has already passed a transition act in the parliament to stop new Australian workplace agreements being made. Work Choices skewed the balance of power far too far in favour of the employer, as I mentioned a moment ago.

I would like to take a moment to talk about the National Employment Standards, which are a key element of the Fair Work Act. The new standards, which were released in June last year and which will come into effect from 1 January 2010, will apply to all

employees in the federal system, regardless of industry, occupation or income. As mentioned earlier, in the spirit of consultation the Rudd government sought advice from stakeholders right across the country in developing these new standards. If we compare the new standards with the former guidelines, Work Choices, the Work Choices standards comprised 149 pages of complex and difficult to understand information. In amongst all that, there were just five minimum conditions. The new National Employment Standards feature 10 protections in just 50 pages. The 10 standards include maximum weekly hours of work, a request for flexible working arrangements, parental leave and related entitlements, annual leave, personal and carers leave and compassionate leave, community service leave, long service leave, public holidays, notice of termination, redundancy pay and a fair work information statement.

In their opposition to this legislation, the Liberals choose to nitpick around the provisions for unfair dismissal and the definition of small business. Under our reforms which will come into effect on 1 January, the threshold used to define a small business when dealing with unfair dismissal claims will change. I will make it clear how that will change. Under our system, businesses with fewer than 15 employees will fall under a special arrangement whereby those employers will get 12 months to assess their workers to see whether they fit into their business, their business model and their arrangements. If things do not work out, they do not work out. A dismissed worker cannot make an unfair dismissal claim. So there is a 12-month relationship for people to make an assessment about that arrangement. Businesses with 15 or more employees will get a full six months to determine that relationship—50 employees, 100 employees, 200 employees and above.

The Liberals say that this is unfair to the employer, that employers will not want to take on new staff for fear of a lawsuit if things do not work out, and they want to lift the number of employees in the definition of a small business to 20. I respond to this claim by simply saying that the Australian people voted for this reform. All aspects of our unfair dismissal policies were open to the public long before the 2007 election. This is our mandate and this legislation gives effect to it, unlike John Howard and the former government, which imposed Work Choices on the employers and employees of this nation.

There has also been some talk amongst doomsayers about how the new fair work bill will exacerbate the effects of the global economic crisis that our country is currently in the throes of. Some have complained that while Fair Work is a great idea when the economy is booming it is not so great when the economy is

contracting. My response to that is the same response that Minister Gillard has previously given in the House and in public: Fair Work is a fair and balanced policy for both the good economic times and the bad. It is the same as the universal rights of man and basic human rights. They do not change according to the weather or from day to day. They are universal principles in every sense of the word. As I said, Fair Work was designed not just for when times are good. It is flexible and it is fair, which is what Australian workers and employers want for each and every day they go to work.

Some predict that these changes will add to unemployment. Indeed, the whole scare campaign run by those opposite, particularly in the pages of the *Australian* newspaper, really gives testament to what people will see, and could only see, as a negative. These laws are about balance and flexibility. They are positive. In answer to whether things are good or bad, if you have been working in a job for five or 10 years or more it is simply not fair to be suddenly sacked, out of the blue, and not be able to do anything about it. That is what people are facing before this legislation takes effect. To have your redundancy entitlements stripped away and have no compensation at all is what happened under Work Choices, and that is what we are going to stop.

This legislation sets out the transitional and consequential changes that will ensure a smooth transition to the Rudd government's new workplace relations system. These bills will operate with the Fair Work Act to see the end to the unbalanced and unfair Work Choices laws, to the great delight of the majority of Australians, and in accord—and I reinforce this—with this government's mandate received at the 2007 election.