



LABOR'S NO-MORE-WORK-CHOICES BILL 2008

Second Reading Speech
By Senator Mathias Cormann on 10 March 2009

[Senator CORMANN](#) (Western Australia) (10:32 PM) —Looking at the [Fair Work Bill 2008](#) it is very clear that this government does not care about what is good or what is bad for the Australian economy. This government does not care about what is good or what is bad for jobs. This government does not care about Australian working families. This legislation is exhibit A. The Rudd Labor government has abandoned Australians who want to work and could lose their jobs as a result of this bill. It has abandoned Australians prepared to take risks to employ fellow Australians in the many small, medium and larger businesses across Australia. And why? Payback. To fulfil a promise it made on the quiet to the union bureaucracy before the last election.

This bill is not about implementing a mandate to abolish Work Choices. We already agreed to that. If the government were intent on finding a sensible way of abolishing Work Choices they would have engaged with the opposition in making sure that all of the job-destroying provisions in this bill were removed, particularly where they go well beyond what Labor said they would do before the last election. This bill is about using Work Choices as a smokescreen to go well beyond what Labor ever said they would do before the last election.

In assessing this bill you have to go beyond the rhetoric and the spin and try and assess the facts. You have to go beyond the Orwellian language, as it has been described by some, that is used in this bill. Who would disagree with a statement that says the principal objective of the bill is to:

... create a national workplace relations system that is fair to working people, flexible for business and promotes productivity and economic growth.

That sounds great, but is it really what it is delivering when you look at the fine print? I would put the starting proposition that the whole way this bill has been approached by the government is a fraud. It is a fraud in two ways. One was touched on by coalition senators in their minority report on this legislation: Labor has actually embraced a significant part of Work Choices in this legislation. Do you remember the debates we had around Australia about the nationalisation of the industrial relations system? Do you remember Labor state governments and unions across Australia spending hundreds of thousands of dollars fighting the nationalisation of the industrial relations system under the Howard government's Work Choices legislation all the way up to the High Court? The Rudd Labor government has fully embraced that part of the legislation. The Rudd Labor government has embraced holus bolus a significant component of Work Choices. To that extent, any suggestion that under Labor Work Choices is dead is the first fraud. I bet you would not hear Labor admit on the record that they have actually embraced significant components of Work Choices.

The second fraud is that, as I touched on earlier, this legislation is not about killing Work Choices; this legislation is about using Work Choices as a smokescreen to go well beyond and do things that are going much further in a whole range of job-destroying ways, handing back powers to the union bosses well in excess of whatever was said to the Australian people before the last election.

About a month ago we were in this place and the government was trying to force us to rubber-stamp a \$42 billion spending spree within less than 36 hours. The reason we were given was that we are in a period of global economic crisis, the worst since the Great Depression—to the extent that this parliament was asked to rubber-stamp within 36 hours a \$42 billion spending spree. That is on one side, but on the other side when you look at the policies, whether it is the government's proposed Carbon Pollution Reduction Scheme or whether it is this legislation, no attempt is being made to have another look at whether what is being proposed is actually sensible particularly in the current circumstances. I put forward the proposition that even in good economic times this legislation would be bad public policy if it were left unamended, but in the current economic climate and in the economic climate that will emerge in the months and years ahead this is outright recklessness. It is just incredible.

Looking at some of the detail, before the last election the minister was very clear that the right-of-entry provisions would not be changed. In fact, the minister still tells us that today, and with a straight face, the right-of-entry provisions are not being changed. She will not tire of telling the Australian people that the right-of-entry provisions will not be changed. Perhaps the minister and the government think that if they say something often enough people will actually believe it. If you say often enough that this bill is fair and you repeat it over and over perhaps one day people will actually believe that what is being proposed is fair.

Today, if you are a small or medium-sized business employing the normal mix of people found in such businesses and you have negotiated a collective agreement with a particular union, the union that you have the agreement with is able to access union members' records and the employer will have to provide access to that information. That is the current situation. Under the proposed Fair Work Bill many more unions could enter the workplace. Why should unions be able to force access into a workplace if the employees in that business do not want it? Why shouldn't there be a provision where employees in a particular business are able to democratically decide whether or not they want a particular union to have access? Why should employees not have a right to privacy and have their records protected at work? I am referring to the provisions for union access to non-union-member records.

In my home state of Western Australia, Kevin Reynolds and Joe McDonald will be able to get access to employee records whether they have got members in a particular business or not. This is going back to the future. To the businesses and employers of Western Australia I say: get ready, because Kevin Reynolds and Joe McDonald are on their way; they will have access to every one of your employee records, whether they are members and have members in your workplace or not. What is that going to do for jobs? The minister stated very clearly before the election, and even in some statements since the election, that there would not be any change to union right of entry, when in fact there will be a very clear change. Heather Ridout, CEO of the Australian Industry Group—hardly known as a hard-core critic of the Rudd government—had the following to say:

The Bill substantially increases union entry rights, giving each union access to a much wider range of workplaces and giving union officials access to wage records of non-union members. We believe that the existing entry rights are appropriate and should not be expanded.

The Australian Mines and Metals Association said:

Our concern in relation to the Fair Work Bill is, firstly, that the protections in relation to union access to employee information have been removed. It is not just a question of unions being able to access non-member records. Unions will be able to access any record of any employee in the business and all they have to do is put together an argument to say that that is valid in respect of an alleged breach of the act or an industrial instrument. There is no fetter on that access. There is no person in Fair Work Australia checking that the access is reasonable.

But still the minister is trying to make the Australian people believe that there has not been any change to union right of entry. It is just not true.

On the subject of compulsory arbitration where enterprise bargaining fails, again this is where the rhetoric about what Labor says it is going to do is very different from what will happen in practice. Labor says that there will not be any 'compulsory' arbitration because it wants people to negotiate a collective agreement. What happens if they cannot reach agreement? If there is no incentive to ensure that an agreement is going to be reached, what happens? I put it to you that there will be scenarios—you may say it will never happen, but I am suspicious—where unions will not be negotiating in good faith. What will happen? Essentially, Fair Work Australia will be able to intervene and there will be what effectively amounts to compulsory arbitration, which is something that Labor before the last election categorically ruled out.

On the subject of greenfields agreements, the whole approach is, as our leader said earlier today, to give unions the power to veto new projects. This is another one of those provisions that is anti-investment and anti-jobs.

On the subject of transmission of business arrangements, Heather Ridout, the Prime Minister's adviser on IR, said:

The Australian Industry Group was unequivocal about the effect of the new provisions. The provisions are anti-employment and would create a huge incentive for companies not to employ workers of businesses they take over.

I have to say it again: Heather Ridout is saying that the provisions are anti-employment and would create a huge incentive for companies not to employ workers of businesses they take over. As I said in my opening, this would be bad public policy if we were in good economic times. If this was a time when we could continue to benefit from the growth and the economic prosperity experienced under the Howard/Costello years, you might be able to get away with it.

But these are different economic times. The government is telling us that these are different economic times. This would be bad public policy in good economic times; in the particular economic circumstances that we face now this is reckless. The government should stand condemned for this. I hope that, between now and when this legislation goes through the committee stages and ends up in the third reading stage, the Labor government will see the light and engage with the opposition rather than try to do another little deal in the back room with the crossbenches. The opposition have said that on the fundamentals we will recognise your mandate. We might have differences of opinion but on the fundamentals we recognise your mandate. But there are areas where your legislation not only goes beyond what you said you would do before the last election but will cost jobs and will be bad for the economy. So it is incumbent upon you as the government to sit down with us and have a discussion on how this legislation can be improved.

But of course you are not interested in that because you are interested in your political strategy. You want to be able to continue to point the finger at us and say that the coalition still wants to—what did somebody say?—put CPR on Work Choices to bring it back. What the coalition wants is to have the best possible policy environment in the current circumstances to ensure that we will have jobs, jobs, jobs. We want to pursue policies that will ensure jobs, jobs, jobs. It is quite obvious—and this is not us talking in isolation—that a range of the provisions in this legislation go well beyond what the government said they would do before the last election and is bad for jobs.

In fact, I put out this challenge: if the government does not sit down with us to have a sensible discussion on how this legislation could be improved then the Prime Minister and the Deputy Prime Minister and Minister for Employment and Workplace Relations should come out and give a guarantee that not one single job will be lost in Australia as a result of this legislation. If the Prime Minister and the Deputy Prime Minister and Minister for Employment and Workplace Relations do not think that it is in the national interest for us to sit down in this current climate to have a sensible discussion about a major bill like this that is going to have an impact on the economy and jobs then it is incumbent upon them to reassure the Australian people and Australian working families that not one single job will be lost as a result of this legislation. If they cannot do that, that will speak for itself.

Much has been said about the flaws in this legislation. I have just come across a comment the Treasurer of Western Australia made during the inquiry in relation to union rights of entry. He made the point:

... that union coverage amongst our private sector workforce is very low, and it is our view that you are subjugating the 86 per cent of employees who are not union members to a level of intrusion on their rights that is neither fair nor appropriate.

What a sensible statement that is. The reality is that the Deputy Prime Minister and Minister for Employment and Workplace Relations should be in violent agreement with the Treasurer of Western Australia, because she also said that there would not be any change to the union rights of entry. Of course what the Deputy Prime Minister and Minister for Employment and Workplace Relations is telling us is just rhetoric and it is not consistent with the facts or the way they are going to emerge as we move forward.

In summary, these are serious economic times. We all know that. The government does not cease to tell us. The government, in the context of the various spending sprees they have introduced through this chamber, have told us on a number of occasions that this is the worst economic crisis since the Great Depression. At times of significant economic challenge like this, legislation of this nature ought to be properly scrutinised, it ought to be sensibly considered and the government should be open minded and big enough that when clear and significant flaws have been identified—flaws that will result in fewer jobs and a negative impact on the economy—they reconsider the path they are going down. The government should have a very close look at the amendments that are being put forward by the coalition because they are going to bring significant improvements to this legislation.