STATE-BASED LABOUR RELATIONS REGULATORY FRAMEWORK

Motion

Resumed from 21 June on the following motion moved by **Hon Louise Pratt -**

> That this house calls on the federal government to acknowledge the right of the state of Western Australia to maintain our state-based labour relations regulatory framework, including -
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> (a) the right of Western Australia to enact and enforce its own statutes dealing with industrial relations for the betterment of Western Australian workers, employers and the general community;
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> (b) the historical role and scope of the Western Australian Industrial Relations Commission; and
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> (c) labour relations policies which offer an alternative from commonwealth regimes.

HON SALLY TALBOT (South West) [4.05 pm]: Members will recall that when this debate was adjourned yesterday I was taking the opportunity after our three-week break to do a bit of a survey of the debate so far, partly for the benefit of members and also because I have discovered that there is a huge interest in the community about the topic covered in Hon Louise Pratt's motion. I talked about how Hon Louise Pratt had given an account of how the centralist tendencies of the Howard government are forcing state governments into positions that potentially are not in their interest in areas such as education, an issue that was debated in this house yesterday; tax; health; law reform; and the national water strategy, over which the Prime Minister is holding us to ransom.

I then referred to Hon Ljiljanna Ravlich's comment that, "If it ain't broke, don't fix it". The fact is that Western Australia already has a good and fair industrial relations system. If members are in any doubt about that, they need go no further than the economic indicators that are available. They all show how well our system is working. In 2004, Western Australia had record low unemployment figures. Unemployment was at less than five per cent for seven consecutive months. Over the same period, this state's economic growth was running at more than seven per cent. Even members on the other side of the house use words like "spectacular" when they refer to growth rates in Western Australia. Of course, in the past three years Western Australia has beaten every state in Australia in its productivity. As Hon Ljiljanna Ravlich said about the system, "If it ain't broke, don't fix it".

Hon Kate Doust gave the house a detailed account of how members opposite are having a bob each way when it comes to the debate on this motion. She unpacked exactly what the Liberal Party seems to mean when it bandies around terms like "award simplification". Award simplification clearly means loss of entitlements; for example, superannuation, paid jury duty and the career path provisions that are such a core part of the award system as it has developed in Australia. Hon Kate Doust also raised some important points about the likely results of removing protection against unfair dismissal, especially for workers in small workplaces. The reality is that if people in a small workplace single themselves out in any way, they are already in a vulnerable position and may need recourse to unfair dismissal provisions to protect themselves. With the removal of those provisions, people will be less likely to bring issues concerning occupational health and safety, discrimination or bullying to the attention of their employer.

A case is documented in one of the Australian Council of Trade Unions' fact sheets that is in circulation at the moment. It is a story about a 19-year-old named Wes who has a boilermaker's apprenticeship. Like many young men of his age, Wes has long hair and is not the smartest-looking bloke around. Despite that, he is a pretty reasonable apprentice boilermaker. Somebody pointed out to him that he was being underpaid by about $3 a week. Having a son of that age I know that some young people are not particularly quick to take up such things in a way that older people might. Wes lived with the situation for a few months. He then calculated that, over the period of his apprenticeship, it would cause him to lose a couple of thousand dollars. He subsequently rang Wageline to check the conditions of his award wage. He found out that he was being underpaid by $3 a week. He plucked up his courage and pointed that out to his boss. His boss asked since when had he been in the position to tell him how to run his business. He sent Wes back to work. The following week Wes is called into the boss's office and is told that, unfortunately, there will not be enough work to keep him in employment beyond the next month and that, reluctantly, his employment with the company will be terminated. That story is based on a real situation. Members on this side of the house will be gratified to learn that Wes had some recourse to justice through the unfair dismissal regulations. He was able to be compensated for being treated unfairly. If the proposals flagged by the federal government come into operation, people like Wes will be out on their ear.

The next contribution to the debate was by my colleague, Hon Graham Giffard. As we all know, he speaks with considerable experience about the union movement. He is a great defender of its traditions.

Hon Norman Moore interjected.

Hon Graham Giffard: Coming from you, Norman, that is a compliment.

Hon Norman Moore: He should be very proud of his achievements in stopping things from happening!

Hon SALLY TALBOT: We are all very proud of Hon Graham Giffard's contributions. I was particularly impressed by his comments about how the awards system is built into the very heart of what unions do to protect and advance the interests of their members.

Hon Jon Ford took up the point about the core and motivating force at the heart of the Howard so-called reforms. He showed how the Liberals' position is not based on any sound industrial principles; it is not based on any in-depth knowledge or experience of labour market principles. It is built on an ideological fixation with busting the powers of unions. As the member pointed out very eloquently, unions are not defined by the stereotypes that flash through the minds of members opposite when unions are mentioned; they are not defined by their state secretaries. Unions are the mums and dads of Australia. They are the people who do not have enough clout standing on their own to take on the big resource companies, the Business Council of Australia or the Australian Chamber of Commerce and Industry. It is plainly nonsense to think that individual workers can negotiate on a level playing field with the multinational companies that provide much of the employment in Western Australia. The reason for that is quite straightforward. Individual workers want family friendly working hours and safe workplaces. Multinational companies want to maximise their profits. There is no level playing field as a basis for the start of a conversation about wages and conditions when aims are as diverse as that. Neither Hon Jon Ford nor I is suggesting that those two sets of objectives are not to be reconciled. The point is that they are most likely to be reconciled in a harmonious and productive way if unions are allowed to operate in workplaces to represent the collective interests of the workers in those workplaces.

My colleague, Hon Sue Ellery, followed Hon Jon Ford with her defence of the Australian Industrial Relations Commission and its record over the past 100 years of protecting the lowest-paid workers in Australia. I will quote part of her speech. She said -

> The government should not try to put in place a second-rate system that can only have the outcome of reducing the wages of low-paid workers; in particular, the 60 per cent of the 1.6 million Australian women who work and are paid under the award-only system.

I have quoted that section of Hon Sue Ellery's contribution to the debate because I will return to it later if I have time.

The debate continued in the new house, which was reconstituted at the end of May. I will briefly recap. Hon Ken Travers very eloquently expressed the fact that industrial relations is one of the issues that draws a firm line up the middle of this chamber. It is an issue on which we plant our flags in the ground in very different territory. That will be exemplified in the states over the next six months or so as we take this debate further. He also gave a very illuminating account of the development of federal-state relations. I thought it was very interesting to hear his comments about the very specific and very limited powers under the Constitution that are accorded to the commonwealth to become involved in industrial matters. I sense we will return to that point a number of times in the coming weeks.

Finally, my colleague, Hon Ed Dermer, took us back to the thirteenth century to trace the evolution of the Westminster system and to draw the parallels between the relative civility - even though we have to use the word "relative" at times almost in inverted commas - of the Westminster style of government and a workplace that is characterised by harmonious industrial relations.

In summary, things are firming up with the federal government. We are beginning to read in our morning newspapers and hear on the radio news reports and the ABC's *AM* program more colour and movement about what the federal government intends to do. I have managed to reduce it to nine basic points. It has not been easy to tease out what are the issues. One of the main reasons there has been a degree of confusion about what Howard is intending is that there was no mention of industrial relations in the federal election campaign last year. Why was that? It is not too far-fetched to suggest that interest rates proved to be a much more sexy topic to campaign on even though every acknowledged expert in Australia said that the campaign being waged against the Australian Labor Party on interest rates was blatantly a scare campaign and not based on factual evidence or reality. Even though part of that reality is that the level of household debt today is six times higher than it was when interest rates hit their peak in the 1980s, I suggest that the truth is that Howard could never have campaigned on this issue. I am tempted to even go as far as to suggest that this is not really Howard's campaign. This is the Business Council of Australia's campaign. This is the Australian Chamber of Commerce and Industry's campaign. We know already about Howard's willingness to embrace agendas that are set by groups like the BCA and the ACCI.

Over a number of years there has been an increasing tendency to move towards a centralist way of imposing Canberra's will on the states. There has also been an increasing tendency to move towards what might loosely be described as an American-style approach to things like health care, where what really matters is the type of credit card people have in their pocket when they are admitted to the accident and emergency department, and to education, where the type and quality of education, particularly at a tertiary level, depends on the size of mum and dad's bank balance; and, if it is not very large, people are burdened with debt for about the first 35 years of their working life. There is now an increasing tendency to try to Americanise the industrial relations system. That is why I have said we have cause to be very afraid of this kind of tendency when organisations like the BCA are bandying around terms like workplace flexibility and are quoting American statistics at us in their attempt to demonstrate that the removal of the unfair dismissal provisions, or the dismantling of the minimum wage determination system, will somehow increase the level of employment. The fact is that in America the deregulation of the industrial relations system has reduced the minimum wage by 12 per cent in the past five years. It is figures like that that cause me to say that we need to be very afraid of this kind of tendency.

I believe we can distil these proposed changes into nine points. The first is the phasing out of enterprise bargaining in favour of Australian workplace agreements. I do not think there is any ambiguity about that. The other eight points are giving employers the right to hire and fire employees without restriction; the stripping back of the award system to its bare bones; the restriction on the right of workers to take industrial action; the restriction on union access to workplaces; the abolition of the national wage case; the radical cutback of the Australian Industrial Relations Commission; the inevitable increased use of guest labour; and, finally, the federal takeover of the state industrial relations systems. I will now deal in more detail with some of those points. We are getting a raft of truly magnificent quotes from the federal Liberal government. I say truly magnificent in the sense that when I tell people in the south west that some of their national leaders are using phrases like "ease of entry, ease of exit" as though that was some kind of desirable mantra or industrial relations principle, it literally takes people's breath away. "Ease of entry" is clearly what Howard means when he talks about phasing out enterprise bargaining in favour of Australian workplace agreements. What lies at the heart of this is Howard's desire to make Australian workplace agreements easier to offer and easier to be approved.

Those members who read yesterday's *The Australian* would have been interested to see from an article on the front page that the federal Minister for Employment and Workplace Relations, Hon Kevin Andrews, has been having a bit of a practice run to see how this will play out in practice. He has been doing a little test on his own department. The article states -

> For the past nine months, Mr Andrew's department has been locked in a battle with half its 3000 staff, who are holding out against the Government's preferred course that they sign AWAs.
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> In Mr Andrew's Department of Employment and Workplace Relations it is official policy that all new staff are only employed on AWAs.
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> But the department recently told 15 employees in Melbourne that if they wanted to continue working, they would need to sign AWAs.
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> The staff were even provided with forms that already had the yes box ticked to the question: "I acknowledge my commitment to sign an Australian Workplace Agreement." . . .
>
> Department staff on fixed-term contracts were also told they would have to sign AWAs if they wanted permanent positions. This condition was also later withdrawn.

The article states also -

> Trade-offs so far rejected by staff include reductions to redundancy entitlements, removal of a remote location allowance and watering down of grievance procedures.

This is very alarming. I suppose if we can take any heart from that story it is that, so far, the government has had to back down on its attempts to force those employees in Melbourne onto AWAs.

I move now to the right to hire and fire employees without restriction. This is, of course, the "ease of exit" part of the "ease of entry, ease of exit" equation. I want to draw members' attention to some comments made not by Labor politicians but by people who analyse the labour market in a professional capacity. John Legge, a Victorian academic, has made some very interesting points about how the removal of the unfair dismissal provisions is likely to have the effect of choking innovation in the workplace. He says that a good proportion of the bright ideas in the workplace come not from the bosses who are working behind the scenes but from the people who are actually doing the job on the floor. He says also -

> Most innovations don't start with a bright idea around the board table or a flash of innovation in the laboratory, but from working people listening to customers and turning their complaints and

> suggestions into valuable ideas, and because workers observe problems at their workplace and suggest ways to correct them.
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> By putting two-thirds of Australian workers on hire-and-fire contracts, this source of innovation will be choked off. Workers with no job security don't look for ways to help their employer; they will be too busy looking for a better job. Those who think about their employer's business are as likely to be looking for ways to damage it as to help it; and if they do have a good idea they are more likely to use it to get a better job with someone else than to offer it to their employer.

He says also -

> Unfair dismissal laws and redundancy entitlements are a deterrent to bullying, harassment and exploitation. A boss or supervisor under the present regime who propositions a subordinate can't threaten to sack them if they don't play without risking an unfair dismissal suit or redundancy payment. Employees can refuse unscheduled overtime, or overtime without pay, without the threat of being sacked on the spot. Not surprisingly, bullies, harassers and exploiters will have it all their own way under the proposed changes.

As I said earlier, we need to be very afraid.

The third point is the stripping back of the award system. "Stripping back" is a bit of a generous way of describing what the federal government is proposing to do. It is stripping back industrial relations to its bare bones. It is trading away entitlements. We are now told that 20 allowable conditions under existing awards will be replaced by only five minimum conditions. How basic can one get? The five minimum conditions will be the minimum wage payable, the maximum number of hours to be worked and three types of leave in annual leave with no loading, parental leave and personal leave. The sleight of hand that has been played in the past couple of weeks effectively means that whereas once we thought that we could fight to retain conditions in awards, awards will effectively cease to exist. We have been saying for weeks in this place that awards provide a safety net in the workplace. However, the safety net coming with the Howard changes is not full of holes - it is to be taken away.

On the subject of restricting the right to take industrial action, I take the opportunity to draw the attention of honourable members opposite to exactly what is proposed. I refer to the complex secret ballot arrangements. As Hon Graham Giffard pointed out in his contribution to this debate, the Labor Party has no particular problem with looking at the provision of secret ballots in the workplace. Richard Court some years ago introduced measures that were similar to those now proposed by Howard. If members of the opposition want to retain any integrity in their contribution to this debate, they must point out to their federal leader that the pre-strike ballot provisions the Court Liberal government attempted to implement are so unwieldy and unworkable that they have never been used. The wolf dressed up in sheep's clothing here has nothing to do with protecting workers' rights, and has everything to do with the ideological obsession of members opposite to break the power of unions to bargain collectively. That includes the provisions coming to light about restricting union access to workplaces. This reform is only about stopping workers being able to voice their concerns collectively.

Problems associated with the abolition of the national wage case have been well canvassed by my colleagues on this side the house. The national wage case has for 100 years ensured that low-paid workers are not left behind. If Howard had had his way since 1996, workers on the lowest pay in Australia would be $44 a week worse off than the current situation. I referred earlier to great quotes from the federal government. I gather that the federal Minister for Employment and Workplace Relations is on record as stating that he thinks the minimum wage is about $70 a week too high. I will read to members Sharan Burrow's reaction to that comment.

Hon Norman Moore: It'll be a totally unbiased view!

Hon SALLY TALBOT: It is a well-informed view about the reality of life for low-paid workers in the work force.

Hon Sheila Mills: Most get their minimum wage through an award, do they not?

Hon SALLY TALBOT: Exactly. One must express serious doubt about that being the case under the Howard reforms. Sharan Burrow reacted to Andrews' comment that minimum wages were about $70 a week too high by stating -

> This means that he thinks that people who work full-time, including hotel workers, cleaners, waiters, bar attendants and sale assistants, should be paid less than $400 a week. This is less than $10.50 an hour.
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> Most working families are already struggling. There is absolutely no way they could survive if their wages are forced so low.

An argument Liberals are using to support cutting back the powers of the Australian Industrial Relations Commission is that its deliberations lack economic rigour. That is plainly nonsense, as 80 per cent of last year's wage case determinations were devoted to an analysis of the economic and technical implications of any wage increase.

I move a little more quickly now to make some final points. I have stated that the increased use of guest labour is an inevitable result of these kinds of changes, and that will drive down wages and conditions faster and further. A case arose earlier this year of a workplace in the southern suburbs of Perth importing guest labour at appallingly low wages. It transpired that the employer had not offered anything like a reasonable rate of pay to local workers who may have been prepared to take those jobs. This situation will become the rule, not the exception, if we allow the federal Liberal government's changes to take place.

I now refer to the federal takeover of industrial relations. Howard clearly wants to take us to a unitary system in which state awards and protections are abolished. This is where the line down the centre of this chamber that Hon Ken Travers referred to earlier becomes most apparent. My understanding is that members of the opposition will base all their objections to the Howard changes on the states' rights issue. Members opposite want to be seen to be resisting the power grab from Canberra. They are rightly worried that one day those grabbing the power in Canberra will be politicians of our hue rather than theirs. Although I support all comments made so far about the rights of states to run their own industrial relations systems, I suggest that members opposite have failed to see what Howard's agenda is really about. The line run by the opposition holds water only if Howard's comments are taken at face value. However, those who have been Howard watchers since he was a fledgling Treasurer way back in the last century know that the last thing one can do is take anything he says at face value.

Let me put a hypothetical question to members opposite. If they were Prime Minister of this country and they genuinely wanted to move towards a unitary industrial relations system, where would they start, and to whom would they talk first? Who would they approach to talk about the way a state's conciliation and arbitration system works and how they can work cooperatively to ensure that the IR system in Australia is as simple and straightforward as possible? Who would members start that conversation with to get an Australia-wide approach to workplace standards, right of association and collective bargaining? I put it to members that it is not rocket science: one would start with the state Premiers and territory Chief Ministers. If the federal government were serious about wanting a unitary system based on fairness, it would be the simplest thing in the world to undertake that process in association with the states. The fact is that the federal minister spent the first six months of this year studiously avoiding every possible encounter with his state counterparts. One might ask why. The reality is that the federal government does not want a unitary system based on fairness. Fairness to federal government members is a dirty word.

Here is another magnificent quote. The federal Minister for Employment and Workplace Relations is on record as saying that fairness leads to inefficiency. What a truly appalling admission for a minister for workplace relations to make! What better pointer could there be to the shape of the legislation to come?

I now make one more reference to the debate in this chamber on this motion. Hon George Cash accused us on this side of the house of being alarmist in the extreme. He drew in his contribution on a speech to the Committee for Economic Development of Australia by the federal minister titled "Where do we want workplace relations to be in five years' time?" As he admitted, it is couched in a series of motherhood statements about flexibility and choice. I truly think that the member has missed the point if he thinks that these motherhood statements can be taken at face value. As time has passed, it has become increasingly obvious that the Howard laws are about flexibility and choice, but they are not about flexibility and choice for workers. The Business Council of Australia and the mates of the BCA will be the beneficiaries of greater flexibility and choice - flexibility to coerce workers onto unfair workplace agreements and choice about whom they will fire next to keep their books neat and tidy. What are these changes supposed to be about? Are they about making life better for working people? I do not think so. How does gutting the award system, abolishing the national wage case, increasing guest labour and reducing the right to bargain over wages, conditions and entitlements make life better for working people? This is not about progress for working people; this is about crippling collective action by ratcheting up anxiety and making people feel that self-interest is the only way to get by and to face the future. It is about increasing the gap between rich and poor and the gap between workers and bosses.

Debate adjourned, on motion by **Hon Bruce Donaldson**.