



Legislative Council

Industrial Relations Bill Hansard

Extract

15/10/91

The Hon. JAN BURNSWOODS [8.17]: I am pleased to have the opportunity at last to make my first speech in this august House. Having been elected in May and having sat here on and off since July, I feel it has been a long time to wait to become a fully fledged member of the Legislative Council. I am proud to represent the Labor Party in this House in this centenary year of the Australian Labor Party, and I am particularly proud to be one of the increasing proportion of women in this Chamber. I am sure that if women had been represented here and in other parliaments in anything like appropriate numbers over the past decade the dreadful term maiden speech would not have such currency. I hope that honourable members will refer instead to first speeches. I am also pleased to make my first speech in opposition to the Industrial Relations Bill. I believe it is important to speak out against this bill, not only because its real agenda is the decimation of the trade union movement in this State, but because it represents a fundamental threat to democratic society. Democracy is not just going to the ballot-box every three or four years; real democracy requires the balancing of competing groups and interests in our society.

This bill threatens that pluralistic balance by placing restrictions on legitimate functions of one of these groups, namely, trade unions. As such, the bill raises not just industrial relations or union issues; it raises questions about the kind of society we want to live in. Why is the Government introducing this bill now? It is not needed. At present we are enjoying the lowest level of industrial disputation and the highest level of co-operation between unions and employers seen in this State for many years. The bill is not wanted, except by the New Right. Ordinary employers and workers are quite satisfied with the current dispute handling framework. They recognise that it works. The Greiner Government is out of touch. It is ideologically driven. It has no mandate for these sweeping so-called reforms.

Through my experience working in the Department of School Education over many years I know the mess that Dr Metherell and the Government made of the public education system in this State by ploughing ahead with so-called reforms in the teeth of opposition from teachers and parents. Dr Metherell has now deserted this tottering Government. The Government is still ploughing ahead with its so-called reforms in industrial relations, despite the opposition of ordinary workers and sensible employers. I fear that we are about to see the same kind of chaos in industrial relations as we have seen in education under this Government. The Reverend Harry Herbert, the general secretary of the Uniting Church Board for Social Responsibility, recently wrote that "the right to work is meaningless if it is not accompanied by the right to adequate wages and conditions . . .". Throughout history this right to adequate wages and conditions has been guaranteed by workers organising together in unions and, if necessary, collectively withdrawing their labour. In a utopian society this would not be necessary. But in the real world the rights of workers will be disregarded by some unscrupulous employers.

The spirit of the Government's proposed industrial relations legislation is for the employment contract to be between individual workers and - often - collective management, without the involvement of unions or the Industrial Commission. A future can be envisaged in which the exploitation of workers becomes the norm. This bill will not make the industrial relations system work more effectively in New South Wales. It will make things worse. As Hancock has stated, an effective industrial relations system requires the confidence of its participants. There is no worker confidence in this bill. Industrial peace is not assured by draconian sanctions on strike action. All that will happen is that the conflict will be forced underground, where it will manifest itself in covert forms, including work bans and go-slows. Problems will not go away just because workers are prevented from voicing their legitimate grievances.

Categories of workers who are already identified as disadvantaged in the labour market, such as women, non-English speaking workers, young workers and many rural workers, will clearly become more disadvantaged under this bill. The ordinary hours provisions - 40 hours averaged over 52 weeks - are clearly inappropriate for any industries with seasonal work. There is also the potential for unscrupulous employers to require, say, 50 hours over seven days for three months and then lay off workers. The bill also will allow an open slather on part-time work. The removal of award protections and the fact that all that is needed is an agreement between employers and employees on part-time work will lead to the creation of another marginalised and disadvantaged group within the work force. Inadequate minimum conditions are an inherent feature of a deregulated labour market, which this bill, in reality, advocates. Many people have voiced their concerns that the deregulation of the labour market will lead to Third World working conditions in Australia. I share their concerns.

The proposed changes to the nature of enterprise agreements will also exacerbate disadvantage in the work force. No longer will these agreements be subject to very moderate screening provisions of a public interest test. No longer will the peak employer and employee bodies have the right to intervene in the application for registration of the agreement. There is nothing to prevent an enterprise agreement from being "harsh, unconscionable, or entered into under duress". What will happen is that unscrupulous employers will try to obtain enterprise agreements directly with employees, to the exclusion of the employees' union, in order to reduce award conditions. Those with the least bargaining power such as women in low paid industries - those groups referred to earlier by the Hon. Dr Meredith Burgmann, who gave the House such excellent detail of the kinds of threats involved in this legislation - will be most at risk. It seems to be that the hidden agenda of this bill is the destruction of trade unions in New South Wales. Consider, for instance, the requirement that a union organiser must give seven days' notice to an employer before entering a workplace. Where there is a serious industrial conflict in a workplace, this requirement effectively denies members the right to be supported by their union as a matter of urgency. I can envisage, for example, the absurd situation where teachers will have to meet with their union organisers at the front gate of the school if there is a suspected breach of the Act.

There is also a new array of punitive sanctions and penalties on unions and individual union members who engage in strike action, in addition to the existing common law provisions. Clause 194, for example, allows the Minister, the industrial organisation, that is management, or "any other person who is, or is likely to be, adversely affected by actual or threatened industrial action" to obtain an injunction from the Industrial Court to stop it. Clause 195 allows the court to penalise the parties in breach, fining and or deregistering the union and cancelling some or all of the union's existing awards or agreements. Fines are up to \$100,000 against the unions, followed by \$10,000 each day a breach continues. Fines for individuals are up to \$10,000 and then \$1,000 a day. The threats of these penalties will create an atmosphere of fear and reduce people's willingness to fight for improved conditions. It should be remembered that the majority of unions undertake strike action only as a last resort and often in the public interest as well as the interests of their own members. It is well known that unions in dangerous industries such as mining and building had to fight hard for many years to win safe working conditions. They formerly had conditions that no humane society would now tolerate, but at the time the workers and their unions had to fight their employers every step of the way to win improved conditions.

It suits the Government to attack the Teachers Federation, but teachers have had a long history of alerting parents and the community to poor conditions in schools. They have refused to teach in unsafe classrooms, most recently for instance those containing asbestos or polychlorinated biphenyls, or in stifling demountables and poorly designed classrooms in far western New South Wales. Teachers have refused to take over-sized classes and unwieldy composites in which children cannot learn properly. They have refused to accept the ill-conceived integration of profoundly disabled children in ordinary classes. They have refused to allow untrained teachers into schools. The Industrial Relations Bill attempts to stop teachers and other unionists from alerting the community to bad government decisions and unhealthy or unsatisfactory conditions. It is an attempted whitewash. Many of the clauses in the Act dealing with the internal management of unions represent an unwarranted interference in democratically run organisations. In particular, the requirements for re-registration 18 months after the proclamation of the Act, if it is carried, raise the possibility that the Government might choose to ensure the deregistration of a union it wants to get rid of.

The clause restricting political donations, clause 434, is particularly ludicrous. Almost all unions are democratically governed. The members and their democratically elected officials should have the right to administer their funds in any way they see fit to protect their members' interests. Members have recourse if they are not satisfied with where the money is going; they can challenge the officials under their own internal rules. Alternatively they can vote the officials out. To be fair, should there not be equivalent legislation restricting donations from companies? What is the difference? What is happening with the issue of political donations is a departure from the realm of industrial relations into the murky world of public funding. It is misleading to think that unions only make donations to political parties. Unions as a body are about improving conditions, not only for their own workers but for other people as well. The Teachers Federation, for example, has a long history of making donations to disadvantaged groups, including Aboriginal and ethnic organisations. In many cases the need for

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financial help is clear and urgent and the union has responded quickly and generously. This valuable function will be impeded if the process is overly bureaucratized. Disadvantaged groups are in need of funds immediately. They cannot afford to wait until the appropriate forms are filled in for lodging with the Industrial Registrar.

The Minister for Industrial Relations may be under the misapprehension that unions are forever handing over their members' money to the Australian Labor Party. Certainly his outrageous allegation about the Teachers Federation taking "without any choice, \$20 . . . out of a teacher's wage in a particular week to go the Labor Party at the time of an election" suggests he is obsessed with that union. The Teachers Federation has never levied its members to support the Labor Party, contrary to the statements made not only by the Minister but by other members in the other place. I contend that there is absolutely no need to dismantle a system which has been successful and which is perceived as legitimate by the major participants in industrial relations in this State. The changes represent a dangerous experiment which ironically will take place in an era of unprecedented industrial harmony. The changes also represent an unwarranted threat to the role of the traditional trade union movement. The radical transformation proposed by the Government's Industrial Relations Bill attacks the notion of real democracy in this State, democracy which entails that workers have an adequate voice in their working lives.

Finally, Mr President, I seek your indulgence to pay a few traditional thank-yous. All honourable members in this House recognise that they would not be here, they would not have been elected, without the efforts of many people. I would like to pay a brief tribute to a number of such people: to my colleagues in the education department over many years, especially Jim Fletcher, and in the New South Wales Teachers Federation over 20 years; to my comrades Stephen Lesslie and Susan Gregory and many others in Drummoyne and more recently in Ryde and Gladesville; to my sisters in the Labor Women's Movement, such women as Kate Butler, Delcia Kite, Frances Rees and, above all, Pam Allan; and finally, to my parents, Vern and Katie, for their love and support over more years than seems fair. I thank the House and look forward to making a contribution to it in the future.