

Chapter Two

Opposition Senators' Report

2.1 In a little over five years this committee has dealt with nineteen amending bills to the *Workplace Relations Act 1996* (WR Act). These bills have represented, *in toto*, attempts by the Government to weaken the entitlements of employees across the whole spectrum of their relationship with employers, all of this in the name of 'balance'. These matters include the conditions of the termination of employment, the rights of association and representation, the rights to collective bargaining, and now the rights to have award wages matters fairly dealt with by the Australian Industrial Relations Commission (the Commission).

2.2 With this bill the Government proposes to legislate to direct the Commission to give prime consideration to matters which, if followed by the Commission, will weaken the wages safety net which is relied on by a high proportion of low paid workers to maintain their standard of living. Opposition senators note from the Explanatory Memorandum that in drafting the bill, the Government consulted the Australian Chamber of Commerce and Industry (ACCI), but makes no mention of consulting other parties, including the ACTU which represents a high proportion of people who are claimed to be the beneficiaries of the amendment.

2.3 Opposition reports have previously noted the provocative mistitling of government workplace relations amendment bills. The purpose of this bill is at odds with the idea of protecting the low paid. It will, as the Government intends, have the effect of forcing down the wages of the already lowly paid, creating a sub-class of barely subsistence employees to undertake work which is traditionally undervalued. There is an assumption made that if wages could be reduced, a fair proportion of the currently unemployed would be absorbed into this employed sub-class, presumably on the basis that with a reduced payroll, employers could then find something productive for them to do. Labor senators know of no empirical research which supports this proposition, and none has been provided by the government.

The economy and the safety net award

2.4 At each year's safety net review the Commission is presented with two conflicting views on the likely effect of an increase in minimum award rates. The Commonwealth, usually supported by employer organisations, argues that there will be a substantial effect on the capacity of business to increase the rate of employment, particularly in that sector of industry which employs unskilled or low-skilled labour. This sector of the workforce is intended to be the main beneficiary of award adjustments.

2.5 The ACTU and state governments (currently all Labor governments) have over recent times argued that effects on employment will be negligible. Labor senators point out, as does the ACTU submission to the Commission each year that there is no

empirical evidence to show a connection between safety net increases and the employment of low-skilled employees. They note the comment from the Queensland government submission in regard to the Commonwealth's arguments before the Commission:

In responding, the federal government have tended to steer clear of the empirical data, instead relying more on simplistic interpretations of economic theory – an increase in price (wages), by definition, leads to a fall in demand (employment). This might be partly because it is difficult to isolate the effects of past safety net increases from all the other factors that impact on employment, but it is more likely because their position is not strongly supported by the empirical evidence.¹

2.6 The committee notes that the Commission has consistently found little evidence that past safety net increases have had any substantial effect on employment generally or on specific groups such as the low-skilled. As the Commission reported in its 2003 safety net decision:

a general assessment of employment data, including a focus on more heavily award reliant sectors, does not disclose any basis to suggest that past safety net adjustments have had significant adverse employment effects;

there remains a continuing controversy amongst academics and researchers as to the employment effects of minimum wage improvements. As noted by the UK Low Pay Commission the research undertaken often produces conflicting results;

the various studies do not establish that moderate increases in the minimum wage, of themselves, will diminish aggregate employment effects;

whilst there is no automatic relationship between the two, real wage growth can adversely affect aggregate employment growth. The extent of such effect will depend upon the prevailing economic circumstances and the extent of the real wage movement;

in respect of the modelling undertaken by the Commonwealth, consideration of the net impact on aggregate wages costs of the ACTU's claim, absent a monetary policy response through increased interest rates, suggests a very limited impact of the ACTU's claim on economic growth and employment;

the ACCI, AiG and Retail Motor Industry surveys provide no data as to the magnitude of employment effects and the results in relation to the proportion of firms reporting particular effects should be treated with some caution. The surveys do, however, support a conclusion that there are employment effects of safety net increases with respect to some employers, such effects operate differentially and adverse employment effects are more

¹ Submission no: 23, Queensland Government, pp.7-8

evident in relation to those employers directly affected by safety net increases.²

2.7 As the Queensland Government submission noted in relation to this decision, the Commission had quite correctly come to the conclusion that after six previous safety net decisions, any adverse employment effects of those decisions should be revealing themselves in the employment data. No such effects could be demonstrated.³

Low wage jobs in the economy

2.8 The Government rhetoric which accompanies the thinking behind this legislation tells us that any job is better than no job. The Minister's disparaging remarks about 'job snobs' indicates a common populist attitude. But even if there was a discernable response to a lower wage structure, there could be no way of ensuring that an expanded demand for labour would be met from the pool of chronically unemployed. Emerging job vacancies over the past decade have been taken up to a disproportionate extent by women. It is likely that any further job creation would be taken advantage of by people outside the current labour force. Opposition senators believe that the problem which the Government is attempting to solve in a quite inappropriate manner through this amending legislation is well described in the submission from the Queensland Government:

The problem ... is not a lack of demand in the labour market by employers because wages are too high, but rather a mismatch between the jobs that are on offer and the 'employability' of those currently unemployed. Instead of instituting policies that have the effect of lowering minimum wages (relative to the current policy settings), the federal government should be considering implementing labour market programs that enhance the skills of the long-term unemployed to better match them to the existing pool of available jobs. It should also be encouraging the development of a wage structure and associated jobs that encourages skills formation, rather than jobs that are low skilled and low paid with little prospect of career development.⁴

2.9 The ACTU submission poses the question of whether the low paid have low incomes. In doing so it takes issue with the assumption that low paid workers are likely to improve their employment or career prospects over time.⁵ This applies only to a small minority of award workers. For the great majority, the nature of the work provides no such opportunity. Even if it were so, such employees still require sufficient income to provide for the essentials of life. In a recently published paper, Professor Sue Richardson suggests many low wage jobs are not only insecure, they do not lead to better paid jobs into the future and that many individuals get caught in a

² 2003 Safety Net Review decision, Print PR002003, para 175

³ Submission no.23, Queensland Government, p.8

⁴ *ibid.*, p.1

⁵ Submission no.4, ACTU, p.14

cycle of low wage job, spells of unemployment and spells out of the labour force.⁶ Professor Richardson finds that wage mobility amongst low wage workers is particularly low in the UK and the US, which is reflected in the broader conclusion that countries with greater earnings inequality have lower levels of upward wage mobility.

2.10 The Queensland Government reports the adverse psychological effect of having a ‘bad’ job. Studies have concluded that those in jobs which are low paid and offer few prospects for career improvement are no better off psychologically than those who are unemployed. This applies even to school leavers attempting to enter the workforce for the first time. The Queensland Government submission adds further evidence of the Governments futile attempts to legislate to galvanise the chronic unemployed into a burst of initiative:

Even if the Government’s amendments to the Act were to lead to an expansion of low paid jobs and those jobs were taken up by people currently unemployed rather than outside the labour force (recalling that both points are highly contentious), there is still a substantial number of negative consequences that could flow from such an outcome (aside from the low wage – unemployment cycle discussed above). One obvious detrimental effect could be a lowering of productivity growth as firms substitute low wage, low skill jobs for higher wage, better skilled, more capital-intensive jobs. Such a situation did occur in Australia during the early period of the Accord between the then Labor federal government and the ACTU (1985-1990). As award rates of pay were allowed to decline in real terms in favour of improvements in the social wage, the level of labour productivity growth in Australia declined to very low average levels.⁷

2.11 Opposition senators conclude that the attitude that any job is better than no job is likely to be prevalent among middle class policy makers who have never experienced unemployment, and who, with their high level of educational attainment, have not found themselves in depressed economic and social conditions.

Award dependency

2.12 The Government has consistently argued that its amendments to the WR Act have been directed at increasing the extent of enterprise bargaining and individual workplace agreements between employees and workers. While it is not stated explicitly in either the Minister’s speeches or in the Explanatory Memorandum to the bill, there is an obvious implication that the dependence on awards is far too prevalent. One reason for the Government’s increasing enthusiasm for unitary industrial relations regime is the eventual prospect of eliminating state awards, along with the federal award for all but a tiny minority of employees.

⁶ Sue Richardson ‘Low Wage Jobs & Pathways to Better Outcomes’, National Institute of Labour Studies, Monograph Series No 7, 2002, Flinders University, Adelaide.

⁷ Submission no.23, Queensland Government, p.12

2.13 There appears to be little support for the Government's campaign against awards. The current award system is too convenient for either employees or employers to dispense with. The Association of Professional Engineers, Scientists and Managers, Australia (APESMA) has argued that the repositioning of the award safety net toward the low paid is unlikely to give, as intended, incentives for other award dependent employees to engage in bargaining. APESMA argues that driving down pay and other entitlements will neither instill satisfaction nor inspire commitment from employees.

The advantage of an award system has been that it has provided an even playing field on which employers could compete on the basis of quality of service or product rather than on the basis of cutting the pay and entitlements of their employees.⁸

2.14 The difficulty here lies with the limited ability of many employees and employers to engage in a bargaining process. As the Australian Catholic Commission for Employment Relations has pointed out in its submission, workers with little or no bargaining power within the labour market are more likely to be paid a low level of wages. They are unlikely to have the industrial position, ability or skills to bargain directly with their employer and will therefore rely on the award system to determine their rate of pay.

2.15 Labor senators note that enterprise bargaining is much more likely to be a feature of wage fixing agreements by large industries than among small and medium sizes businesses. Research conducted by ACIRRT for the Victorian Industrial Relations Taskforce 2000 shows that only 6 per cent of small businesses have certified agreements compared to 19 per cent of larger businesses. Labor senators support the comments made in the Victorian Government submission on this point.

2.16 This disparity has nothing to do with the impact of national wage rises. Small business owners lack the resources and expertise that often need to be devoted to the enterprise bargaining process. Small business owners are also less likely to belong to an employer group that can provide that expertise. In particular, a business owner who has one or two employees is unlikely to devote time and money to negotiating and certifying an agreement that will in all probability result in marginal increases in efficiency. The relative cost and returns for a business with 50 employees are of course different.⁹

2.17 In summary, there is every reason to believe that the Government's assumptions about enterprise and workplace bargaining are based more upon wishful thinking and rigorously 'pure' free labour market theories than any sober reflection on what employees and employers, in particular circumstances, find most convenient. The functions of the Commission are several, but most important to award dependent employers and employees is considered and impartial judgements. Not only award

⁸ Submission no.19, APESMA, p.19

⁹ Submission no.22, Victorian Government, p.20

employers, but enterprise bargaining parties too, are also heavily reliant on the safety net award judgements. The apparatus of the Commission is established for the public good, and while it maintains the confidence of all parties to awards and industrial agreements there is likely to be a high degree of workplace harmony.

Maintaining the independence of the Commission

2.18 Labor senators accept assurances given by the Department of Employment and Workplace Relations that the bill will not impose impermissible limitations on the discretion of the Commission, nor prevent it from making awards that are appropriate for the resolution of an industrial dispute. Nonetheless, there are some observations that may be made in relation to this question.

2.19 The committee majority considers it necessary to report its concern about representations it has received that the bill threatens the independence of the Commission. This view was put to the committee in a number of submissions, and at the public hearing, principally by the representative of the Shop, Distributive and Allied Employees' Association. It has been alleged that the principal amendment will have the effect of fettering the discretion of the Commission to weigh the arguments made before it in relation to the primary role of awards and the relative importance of the needs of the low paid.

The welfare-tax intersection

2.20 Labor senators note the arguments of the majority report in regard to this term of reference and agree with comments made to the effect that this issue, while relevant in some ways to the bill before the committee, poses policy questions that extend far beyond the scope of this inquiry.

2.21 The ACTU has acknowledged in its submission that its campaigns in favour of wage increases are criticized on the grounds that the net gain to employers for such rises are small because of tax scales.¹⁰ Labor senators agree that there is a problem in this regard and that effective marginal tax rates may have to be addressed. This a matter for the Government to address, along with the question of ensuring that the social welfare system delivers effective services to those entitled to them.

2.22 It should be stressed, however, that the issue of the 'social wage' should not be confused with the entitlement for all employees to receive a respectable 'living wage' irrespective of tax credits and welfare safety nets. The existence of the latter does not absolve employers from the responsibility of paying fair wages. Labor senators would be opposed, in any future debate on this topic, to the notion that wages for the low paid be subsidized by the taxpayer.

¹⁰ Submission no.4, ACTU, p.16

Conclusion

2.23 Labor senators on the committee can see nothing in this bill which recommends its passage. In summary:

- the bill is unnecessary as the Commission is obliged under the current Act to consider the effect of award decisions on the low paid and the unemployed, and to attempt to strengthen this provision is either to fetter the discretion of the Commission, which the Government denies it intends to do, or to provide unnecessary direction;
- the bill indicates scant regard for the importance of the safety net award system in maintaining a basic living standard for the low paid; and
- the bill makes the erroneous assumption that the undermining of the award system will force all workers and their employees into enterprise or workplace agreements.

2.24 The Labor senators on the committee **recommend** that this bill not be passed by the Senate.

Senator George Campbell
Deputy Chair

