



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**BILLS**

**Fair Work Amendment Bill 2014**

**Second Reading**

**SPEECH**

**Thursday, 15 May 2014**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

---

## SPEECH

**Date** Thursday, 15 May 2014  
**Page** 3953  
**Questioner**  
**Speaker** Hayes, Chris, MP

**Source** House  
**Proof** No  
**Responder**  
**Question No.**

**Mr HAYES** (Fowler—Chief Opposition Whip) (17:31): It may be of no surprise to the House that I rise to oppose the Fair Work Amendment Bill 2014 and support the amendment put forward by the shadow minister for workplace relations. This bill is a clear attempt to demonise the union movement and leave workers across this country alone in their desire to pursue better working conditions and standards. The bill proposes to limit workplace access in order to eliminate unnecessary disruption to workplaces. But, in restricting the right of entry, it also presents a barrier to an employer's ability to access unions with a view to pursuing genuine collective bargaining. I will come back to the issue of demonising but, as I say, the bill is creating barriers to entry by requiring union officials to obtain various entry permits from employers before they may enter the workplace, effectively giving employers power to control their employees' exposure to a union's influence. If someone calls a union official into the workplace that person can be identified and that could lend itself to other forms of vilification—probably not from the trade union movement but maybe from the employer.

As my colleague has indicated, as has presumably occurred in the North West Shelf, if one union is found to enter the workplace too frequently all other unions can be excluded from the site. This is a clear attempt to banish the influence of unions from the workplace. This applies to all unions including unions registered under the Workplace Relations Act, who have a statutory responsibility imposed upon them under their registration. It is not simply targeted at consortiums of interested parties designed to promote a stronger bargaining influence for employees. There has been no let-up on this—members opposite continually tell us about the horror stories of how unions have allegedly interfered with various businesses in their electorates and how no employer that they know would never take undue advantage of these new laws; as a matter of fact, it is now considered the Holy Grail to have a greater degree of flexibility in the workplace.

The bill is a clear attempt to play dirty politics, particularly in targeting unions operating in the building and construction industry, principally the CFMEU, the Australian Workers' Union, the Transport Workers Union and the Electrical Trades Union. The members of these unions work in some of the most dangerous industries across Australia, with about 40 fatalities occurring each year on building sites alone. In the main, union representatives put in a pretty big effort and an honest effort to look after the genuine interests of the workers employed in the industry, and they deserve a little bit more than the contempt which has been dished up to them by this government.

I have a personal interest in this topic. I have two sons working in the building industry. I know of some of the risks that are taken on simply by operating on various industrial sites. I know of all the efforts, statutory or otherwise, designed to make the workplace as safe as possible. Regrettably accidents happen—and with a high degree of frequency on these industrial sites. Unfortunately my eldest son, Nicholas, happened to be working at a site at one of the plants referred to by the previous speaker, on the North West Shelf. While he was working there as an electrician the person working next to him was crushed to death. I am not saying that the death resulted from a shortfall in the safety regulations. I understand that accidents happen and I understand that there is a propensity for risk in heavy industries. I am simply saying that that is what occurred. I am sure that I am not the only one standing in this place who has children employed in the trades. For me, I would say it would be a good thing to have a third party looking out for the safety of employees. So, I make no apology when I oppose this bill. I do not do it simply for political gain, but I do it as a parent. I want to make sure that my kids are as safe as possible when they are working on their building and construction sites.

I must also admit that I do not come to this debate with no experience in industrial relations. The government often cites the fact that many of us in the opposition were once trade union officials. Prior to going into business, I too was a union official and proudly represented workers throughout the country, when I was engaged with the Australian Workers Union and, subsequent to that, when I was engaged with the Police Federation of Australia—after all, police officers too are workers and they are effectively covered by the legislation which is being debated tonight.

I appreciate both sides of the employment relationship; however, I know that when it comes to employee relations there is not a level playing field. It is not a matter of entering into negotiations one-on-one with everyone having equal freedom and flexibility when negotiating. It is not that bipartisan.

I clearly understand that business needs to be prosperous, competitive and efficient and that, through its efforts, it generates and provides jobs. On this side, we are all about jobs. We are about job creation. What we object to and, no doubt, what the trade union movement objects to is situations where employers utilise regulation simply for the purpose of exploiting their workers. The personal vendetta of those opposite against unions and the union movement is well known. I accept that. I understand that the Liberal Party are anti-union; it is in their DNA. Their unscrupulous agenda against working Australians is something that we should be more concerned about. They are simply disguising it as an attempt to make workplaces more flexible, when what they are doing is reducing the employee's ability to actually participate in genuine collective bargaining—actually reducing the unit price of labour when entering into a wage negotiation.

This bill has been pushed forward and is only being debated tonight, quite frankly, to ensure that this government looks tough when it comes to industrial relations, because it cannot do what it really wants to do to. What this government wants to do and what the Liberal Party wants to do is recreate Work Choices. They would like to see it made possible once again. Despite it being 'dead, buried and created,' I think they are looking for a resurrection.

**Mr Frydenberg:** Cremated.

**Mr HAYES:** Cremated—I take the interjection. What they are looking for is a resurrection. They want to see that so-called flexibility reintroduced.

I would like to talk a little bit about that flexibility, because we heard a lot about that and a lot about what was good for businesses from the Howard government. You are right, Mr Deputy Speaker: in those days my electorate was another electorate, Werriwa. It was very much a working class area, with a lot of underprivileged people and a lot of Housing Commission homes. I spent a lot of time with people out there when this came through—the innovations of the new flexible agreements being entered into. I called at the various workers' homes, and they would tell me that they were given an agreement to sign. The agreement was not, 'Look, we are going to sit down and have this negotiation,' and, 'We want you to come back and discuss it'—not even as an ambit claim. This was, 'You either take it or leave it.' If you did not take the agreement then you opted out of being allocated the overtime shifts. Every agreement I saw, and I assure the House that I saw many, was struck on minimum wages. We are not talking about some inflated sort of wage structure and people running around in suits and ties; we are talking about people who were on bare minimum wages. They were being offered, 'You either sign the agreement or you don't pick up any of the overtime shifts and you don't get the shift allowance.' And those shifts were really what made it worth their while being there.

As I say, I attended many of those houses and spoke to people—many of them were in tears. They felt that they had no other option than to sign the agreement. As one young bloke freely told me, 'I can't read the agreement; I can't read. But if I don't sign it, I don't have a job.' He actually asked for representation and that was denied him. I still see this young bloke around after many years now. This was just something so profound to think that a person could not even read the agreement but was expected to sign it. That was part of this 'flexibility'.

I did have the opportunity to speak with a couple of people on the board of that company—a couple of them were very well-known figures in Olympic circles. I asked them, 'Why did you do this to your employees?' They thought about it and said quite honestly—they had no axe to grind, I suppose—'Because the law allows us to do it.' They thought: 'If the law says that we can do this and we can effectively pay people below the wage rate if they sign the contract—if that is what you in the parliament and the government agreed to—well, why can't we do it? It's good for our shareholders.' They did not mince words on that; they did it because they were allowed to do it.

If the government is putting this bill before us today in the hope of creating some form of mutual admiration society between individual workers and companies as a basis for negotiations for the future, then that is just disingenuous, because they know it is not going to be the case. In the changes they are making through this bill, they have removed many of the protections that would protect a worker from negotiating away remuneration for non-remunerative conditions. They have removed those protections. There is no disadvantage test to that extent. If people could be forced to sign a contract—and as night follows day, I witnessed this occur—why couldn't you force a person to give up conditions by saying, 'Unless you sign this you don't get your overtime shift and you don't get other forms of remunerative benefits'?

Instead of having a protection built into the system, you simply need to get the employee to sign a statement that says, 'Trading-in these monetary conditions left me no worse off.' If you get them to sign the agreement in the first place, it would not be hard to force them to sign that statement either, I would have thought. At that point, I say that this is absolutely disingenuous.

This bill allows that no annual leave will accrue while employees are on workers compensation, and to that extent it is going a little further than Work Choices. But one of the big things are the requirements about a greenfield site. These requirements will allow employers to pick and choose who they want to negotiate with. It will allow employers not to negotiate, if they wish, for some reason or other, whether it is with a recalcitrant union or not. It also allows employers, after three months, unilaterally to go to the Fair Work Commission to have an agreement approved without the support of employees or the industrial parties.

This is something that breaks very new ground in that respect, and I am concerned there is such a lack of protection built in to ensure that the genuine interest of employees is being looked after. This is a cruel measure that should be expected from this government that has shown that it has a very significant dislike of trade unions, and that also is prepared to put as much pressure as it can on workers' wages and conditions to contain any wages growth, but all it is doing is trying to put the whip in the hands of employers.