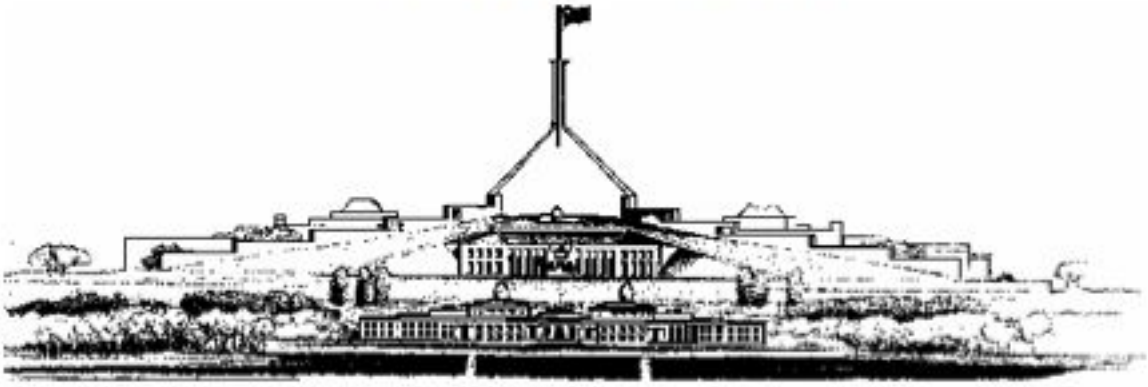
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

Federation Chamber

GRIEVANCE DEBATE

Workplace Relations

SPEECH

Monday, 27 February 2012

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date	Monday, 27 February 2012	**Source**	House
Page	1968	**Proof**	No
Questioner		**Responder**	
Speaker	Broadbent, Russell, MP	**Question No.**	

Mr BROADBENT (McMillan) (20:52): Industrial relations policy that is fair, bound by the rule of law, free to allow business innovation and free from the excesses of government intervention has been the cornerstone of more than half a century of Liberal thinking by prime ministers Menzies, Holt, Gorton, McMahon, Fraser and Howard. Menzies best set out the Liberal Party's philosophical genesis on this in his reflections in *Afternoon Light*. He made the following points:

Socialism means high costs, inefficiency, the constant intrusion of political considerations, the damping down of enterprise, the overlordship of routine. None of these elements can produce progress, and without progress security will turn out to be a delusion. These views did not represent a belief that private enterprise should have an 'open go'.

Menzies recognised the responsibilities of the state to provide social and economic safeguards. Through the prime ministerships of six Liberal leaders these principles have remained consistent while being appropriate in their flexibility to allow for the contemporary time and history those prime ministers governed.

Today, I want to outline the following areas where I believe Australia desperately needs industrial relations reform. These reforms are essential to productivity, international competitiveness and the Australian concept of a fair go. Whilst in the midst of an unprecedented moment in the political history of this nation, we still face daily challenges that demand our immediate attention. To not redress the inadequacies of current policies is to hold Australia back for longer and prevent us from fulfilling our potential as a nation sooner.

In 2010, the coalition put out the call to business to speak up and voice their concerns on Labor's IR laws. My colleague the member for North Sydney said he thought it was hugely important that members of the business community engage more directly in the policy debates that will shape Australia's economic future. Mr Hockey said in the *Australian*:

The squeaky voice will get the oil in this parliament and we need advocates for mainstream change to balance against sectorial interests.

He also made a point of backing the right of his coalition colleagues to debate changes to Labor's work laws to boost productivity. He said:

People are entitled to their views and I would be disappointed if colleagues were afraid to debate significant policy issues.

Well, the squeaky wheel has spoken. It spoke up in the same article, with comments by Michael Chaney as Chairman of the National Australia Bank and Woodside Petroleum. It has since spoken up, with the Australian Chamber of Commerce and Industry and other peak industry groups representing their members' businesses and every day since it has pleaded, with phone calls, letters and emails from small business operators nationwide, imploring federal members of parliament on all sides of this House to stand up and do something on behalf of people who do the right thing by the law and by their employees in this country and who ask only for a fair go in return. Australian industrial relations reform is stuck in a stagnant policy quagmire on both sides of politics. The government have been derelict in their duty to present responsible legislation.

Instead, the Gillard government has been so regressive in its arcane attitude towards a modern-day, globally responsive and flexible Australian workplace. The attitudes of the Hawke and Keating governments towards necessary reform would be a welcome breath of fresh air in today's parliament.

It is essential that, as a matter of priority, the Liberal Party articulate a clear policy position on industrial relations. People are crying out with ears primed and bated breath for an alternative that takes account of global and modern times, that is forward thinking and outward looking and that, in essence, is fair and reasonable.

Australians have seen what they do not want. They are now desperately waiting to hear something that our nation does need. Among a number of truly concerning actions brought to and decided by Fair Work Australia, we only need to glance back several short months to the recent action brought against Qantas. Like so many disputes under the current Labor regime the issue was the cause of the dispute, not the quick solution that eventually came at the end of that notorious weekend at Fair Work Australia.

The government fairly quickly claimed credit for praise it was not due at the conclusion of that dispute. It had

asked Fair Work to intervene, knowing that irrespective of whether the outcome was to reject Qantas's action or suspend it, there would be a 21-day period for a resolution, after which Fair Work could mandate a solution.

This incident just about brought the nation, via stranded passengers, a national carrier in turmoil and the rest of Australian business and industry at the whim of the Transport Workers Union, to its knees. It would be in this dark shadow that the coalition should be basing its response for a fair, workable and modern approach to workplace relations fairly, clearly and unbowed by the regressive union reactionaries, desperate to maintain the control they have wrested since 2010.

While the government branded Qantas's behaviour during this time as 'militant and extreme' and threw about lines such as 'industrial terrorism', it was Qantas that gained widespread but ginger support from business and industry for its last-resort action.

Australian industry empathised with Qantas because they were hamstrung by the same IR laws that Qantas had shackled around its neck, as well. Australian industry are desperate for an Australian government that understands the modern Australian workplace, that is moderate and empathetic with both employees and employers, and is not afraid to make hard decisions amid Labor hysteria where it is in the Australian national interest.

Paul Kelly noted in the *Australian* during this dispute that the Fair Work legislation had shifted industrial relations in three ways in this country. 'First, the statutory power is now with unions, not the employer, and individual contracts are banned. Second, the new law means bargaining is more about rights and disputes are longer. Even Qantas held this line publically during its dispute—it was out there every day affirming the point that the dispute was not about money; rather it was about management control between Qantas and the unions. Three, the law stifles productivity gains in a globalised market, especially for a company like Qantas, which is competing against international companies who have more flexibility to run more efficient business models.'

With the Qantas case looming as a foreboding reason for why change is needed, I want to set out the areas in which I believe change is most warranted. The Australian Chamber of Commerce and Industry has undertaken significant policy work in this area because it recognises the costs at stake. Industry groups like ACCI are at the coalface of small and large businesses approaching them on a daily basis, desperate to seek a better answer than what the current government is providing, but unsure about what the alternatives provide.

ACCI and other industry representatives have been clear about their concern on the current set of problems besetting industrial relations policy in this country. I share their concern. I want to lay out the following areas that demand redress.

Despite significant reforms under the previous and current governments, Australia still has excessive award regulation. This includes the transition to modern awards. The federal government deserves recognition for reducing the number of awards but should not be complacent about the fact that problems remain—for example, the traditional hours of nine to five for the services industry do not address their modern-day working requirements. Penalty rates, particularly for sectors with most of their busy periods falling on weekends, are not being addressed sufficiently by government. I heard Martin Ferguson speak on exactly the same thing a few weeks ago. There is also huge frustration from small and medium businesses about labour cost rises flowing from

modern awards. The government has reneged on its 2007 promise not to increase these costs. The impact has been exacerbated by the fact that the penalty rates rise was due to a reorganisation of regulation and not because of a merit based review of penalty rates in the services industry by Fair Work Australia. I again call upon the government to commit to merit based hearings. The government has been preoccupied with assuming that a one-size-fits-all approach is a workable situation for business, regardless of whether they are a mum-and-dad corner milk bar or a listed Australian company like Telstra. The fact is that this is not a tenable situation and small business is crying out for recourse. Flexibility and employer discretion are two concepts missing from the

government's existing framework of Fair Work Australia, and this is something that has come to the fore in the Qantas depute as well as from bodies like ACCI. ACCI notes that the collective bargaining emphasis on the fair work laws is out of step with the workforce in the private sector, which is only 14 per cent unionised—and it is hard to argue with the facts on that.

Being practical for a moment, collective bargaining for small and medium-size employers is just not reasonable, and most of their workforce either has a tiny proportion of unionised members or, more commonly, none at all. These employers do not deal with staff employment in a collective manner anyway. In my own small business, we dealt with our staff fairly and on an individual basis, and they in turn appreciated being recognised and rewarded for the unique skills and enthusiasm they brought to their work.

In the limited time I have tonight I want to implore all sides of this place to revisit the following areas which desperately require our better efforts: one, we should recognise the failure of the individual flexible agreements to provide an effective alternative to industry wide rules. Again, the application of this assumes that the mum-and-dad milk bar has the same workplace structure as an ASX listed corporation; and, two, we must have regard for the fact that individual agreements need to work in practice, not just theory. This requires two ingredients. Agreements should contain a no-disadvantage clause. I will repeat that: agreements should contain a no-disadvantage clause.

I am completely committed to ensuring that employees are no worse off during any revisiting of this or other IR issues. Individual agreements are not a magic bullet; they are one part of a broader approach to helping to improve reward for effort and fairness for employees and employers alike in a modern global economy. It is no secret that collective bargaining is too bogged down in a process-intensive framework that is not delivering results for employees or employers.

Businesses are knocking our doors down to make the point that protective industrial action is no longer seen as a last-resort option and is instead now seen by unions as just one tool in a kit box of bargaining options. We need only look at any number of current disputes to see this. Instead, the concept of genuinely trying to reach an agreement should mean just that. The framework is not really promoting good bargaining and agreement making outcomes. It is just increasing an already adversarial contest with more weapons drawn. There is a real concern among business about the size of wage outcomes, especially when linked to productivity gains that lag significantly behind. The example of the increase in the wages of the— *(Time expired)*