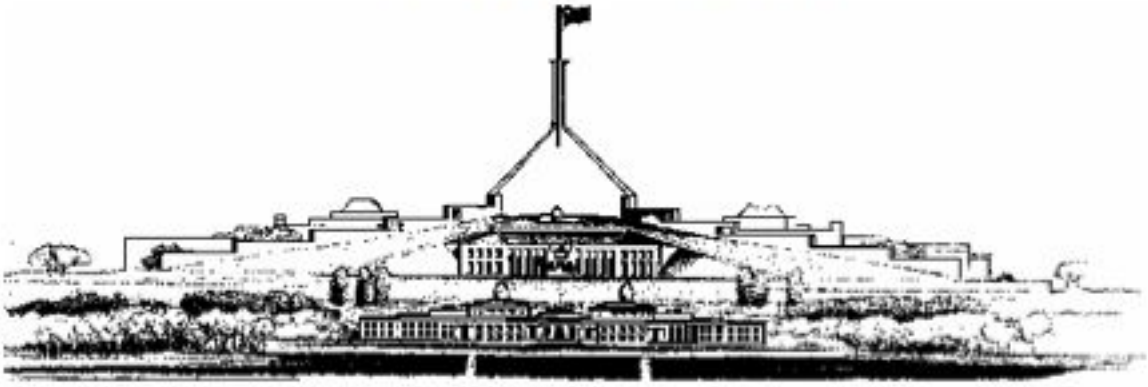
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

WORKPLACE RELATIONS AMENDMENT REGULATIONS 2001 (NO. 2)

Motion for Disallowance

SPEECH

Monday, 19 August 2002

BY AUTHORITY OF THE SENATE

SPEECH

Date	Monday, 19 August 2002	**Source**	Senate
Page	3098	**Proof**	No
Questioner		**Responder**	
Speaker	Murray, Sen Andrew	**Question No.**	

Senator MURRAY (Western Australia) (5.18 pm)—The Australian Democrats have supported the workplace relations provisions and regulations that have been in place since 1996 and we feel that, in this area of determination of casuals, consistency would be of most assistance in the market. However, Labor, witnesses to the committees that have been hearing matters to do with workplace relations and the market itself indicate that there are some significant changes occurring in a dynamic labour market. Growth in casual employment has accelerated to reach 27 per cent of all employees. However, that may not be as relevant in the federal jurisdiction as some believe. For instance, the National Farmers Union, at the request of the committee, went away and had a look at how many of their casuals in New South Wales fell under the federal law and they found that 90 per cent of casuals fell under the state law. So in most cases the state law governs casuals, not the federal law—based, at least, on that judgment.

What is the New South Wales period? It is six months. Labor would say that that proves the case. However, except for Victoria, which falls under federal law, the states vary very considerably in terms of access to unfair dismissal provisions. In Western Australia and Tasmania, casuals were not excluded at all from access to unfair dismissal provisions. I say `were' because Western Australia has recently changed its laws and I have not caught up with where it stands. Perhaps the opposition knows; I do not. As I said, in New South Wales at present the exclusion is for six months; in South Australia it is for nine months, and Queensland—another Labor state which recently changed its laws—and the Commonwealth are both at 12 months.

Those differences, I think, constitute an argument for an agreed national-state approach to this issue so that the obvious uncertainty, inconsistency and lack of knowledge of rights on the sides of employers and employees can be addressed and reduced. I do not know what efforts Labor have made to try to get consistency among the states but I think that none has been made to date on this issue. That is unfortunate, because I think commonality across them all would be good.

The Democrats believe that the larger issue of the definition of casual employees and their conditions and bases of employment do deserve serious examination in view of the rapid growth of this less secure form of employment. That is why the minister's announcement is of particular importance. The minister has recognised that argument and has agreed that this matter will need to be revisited. On the basis of the two-year sunset clause, we are persuaded to stick to the position that we have always adopted: that the exclusion for 12 months continue to apply. Therefore we will not support your motion.

Question put:

That the motion (**Senator Sherry's**) be agreed to.