



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

WORKPLACE RELATIONS AMENDMENT (FAIR TERMINATION) BILL 2002

Consideration of House of Representatives Message

SPEECH

Thursday, 11 September 2003

BY AUTHORITY OF THE SENATE

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Questioner
Speaker Collins, Sen Jacinta

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Senator JACINTA COLLINS (Victoria) (12.39 pm)—I suspect that, with the time now available, I will have the opportunity only to deal with a couple of aspects of the issues that I wanted to cover specifically relating to the amendments to the Workplace Relations Amendment (Fair Termination) Bill 2002. But before I go to that area I will revisit one of the issues that I raised in my opening remarks following Senator Murray's reflection on some anecdotal data that is available here. I have not had an answer to this question—I can only assume, through lack of answer, that the review the government promised the Democrats has never been done.

Senator Ian Campbell—I will table it if you want me to.

Senator JACINTA COLLINS—I would like you to. I would find it very interesting. If we do not conclude this discussion now, by the time we come back on Monday the data might be very useful.

Senator Ian Campbell—It proves you wrong.

Senator JACINTA COLLINS—No, it does not prove me wrong because I did not assert that you had not done it. I said that you had not answered my question.

The TEMPORARY CHAIRMAN (Senator Hutchins)—Order, Minister! Stop provoking the speaker.

Senator JACINTA COLLINS—I am very pleased that you have now answered my question. I suspect that Senator Murray thought it was up to the government to protect themselves on that point. But, if you are tabling that document, I thank you very much.

The final point that I want to make on principle—and something that I am sure Senator Murray will join with me on—relates to some of the more recent reports about what is happening to Victorian employees. It looks as if, finally, we can move towards a resolution for the Victorian employees that were referred to the federal jurisdiction by Jeff Kennett and that consistent standards of employment will be introduced into the federal jurisdiction for Victorian workers. I raise that principle because we have all been quite strong on it. The principle is that if you are going to accept that employees should have access to particular entitlements it should be done consistently. This is my biggest problem with what has been proposed, as Senator Murray outlined here. What we are really saying is that casuals should be protected by fair termination but they have to have a much longer probationary period.

I have not heard anywhere the case justifying a difference between a regular and systemic casual and a part-timer and a full-timer in what is the necessary relevant probationary period. I do not know if that argument has actually been addressed, Senator Murray. I am not aware of it. Whilst I was not acting in this role for about 18 months, it may have occurred, but I certainly have not heard it. That is the issue of principle. Unless by some principle you can argue that these workers should not have access to an entitlement, and unless you can use some principle to rationalise why that should be the case, then they should have access to protection of fair termination on the same basis as any other employee in the federal jurisdiction. Senator Murray has already indicated that he agrees with us that six months is a far more reasonable level. He has already noted that there is a fair degree of inconsistency right across this field which he sought to address in the—

Senator Murray—The Workplace Relations Amendment (Termination of Employment) Bill 2002.

Senator JACINTA COLLINS—The Workplace Relations Amendment (Termination of Employment) Bill, that's right. Thank you, Senator Murray. I think that is a critical issue for us. If we are going to be working towards a unitary federal industrial relations system, then consistency needs to be the principle. I think that this is where this arrangement is erring significantly.

There are some other concerns which I have that I will flag briefly, as I suspect that we will run out of time. In relation to unlawful termination, we supported the Democrat amendments, but on that occasion not in the

absence of access at six months to unfair termination protection. Now that we are looking at a scenario whereby casuals would only have access to unlawful termination for up to 12 months, I think it is relevant for the chamber to consider the issue that Senator Murray raised in the press today about what the real value of these provisions is for casuals. In one sense, Senator Murray argued that they were valuable but, in another sense, he acknowledged that there is not a very high level of litigation in this area and it is possibly hard to judge. But I want to share with the chamber some experience from the sector about what is really involved here.

The TEMPORARY CHAIRMAN (Senator Hutchins)—Order! It being 12.45 p.m., I shall report progress but, before I do that, I understand Senator Campbell wishes to table a document.

Senator Ian Campbell—Yes. I table a report by the Department of Employment, Workplace Relations and Small Business.

Progress reported.