



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



## **THE SENATE**

# **WORKPLACE RELATIONS AMENDMENT (PAID MATERNITY LEAVE) BILL 2002**

## **Second Reading**

## **SPEECH**

**Thursday, 11 March 2004**

BY AUTHORITY OF THE SENATE

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## SPEECH

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**Senator JACINTA COLLINS** (Victoria) (4.25 pm)—Labor welcome the opportunity to debate today the Workplace Relations Amendment (Paid Maternity Leave) Bill 2002. As indicated by Senator Stott Despoja, only yesterday Mr Swan indicated Labor's solid support for a paid maternity leave scheme. I should highlight at this stage—to avoid any confusion which others have generated in the past—that Labor's view is that such a scheme should be provided for with no additional cost to small businesses. This has clearly been stated many times, including in the Labor Party platform unanimously endorsed at Labor's national conference of January 2004. Although Labor support 14 weeks paid maternity leave, we do not believe that this bill is the correct vehicle for its introduction. Whilst Senator Stott Despoja might like a Democrats private member's bill in the Senate to be the path through which the government—or, indeed, the opposition—might indicate their policies, I think that is highly unlikely and implausible. But this does give us an opportunity to indicate Labor's view on a number of the issues that were raised through the process of this bill and its consideration in the committee.

Our view in relation to paid maternity leave generally was foreshadowed in the Labor senators' report to the inquiry into this bill by the Employment, Workplace Relations and Education Legislation Committee. We do not believe that paid maternity leave is purely an industrial issue and we therefore question whether the Workplace Relations Act is the proper legislative vehicle for such a significant reform. Labor also have concerns about a number of details in the bill. Specifically, we remain unconvinced that the bill proposes the best solution to the complex issues around public and private funding and to whom the payment should be made—whether that is employers or employees. Labor believe these issues warrant further consideration—which we are currently conducting.

Let me go back to the critical issue here: why do we need paid maternity leave? Labor believe that paid maternity leave is a critical part of a modern policy response to work and family issues. There is an element of history here which I do not think the report itself commented on, and certainly Senator Stott Despoja did not in the discussion here today, with respect to Australia's obligations in relation to maternity protection. Labor were on course to getting us to meet those commitments. What this bill does not deal with, as far as I can see, is the current maternity allowance. It was around the time I first came into this place, in 1995, that Labor introduced the maternity allowance. It might not hurt for us to revisit some of that history and the basis for it. The present maternity allowance, which was consequently adapted into the maternity allowance and the maternity immunisation allowance, was introduced to provide for seven weeks basic income support for women who had babies as long as they were under an income threshold of, essentially, the family tax benefit higher income cut-outs. That amount, which now is just over \$1,000, was calculated roughly at the time of seven weeks of basic income support regardless of the income of your partner—unless it lifted you well above the family tax benefit thresholds. Labor's objective at that time—and, indeed, I think that if we had made government afterwards then we would have implemented it—would have been to double that payment to equate to the 14 weeks.

Whilst it was basic income support—and I note that the report canvasses a number of options for precisely what income level we should look at for paid maternity leave—I am surprised that very few of the commentators and participants in this debate have not remembered and have not acknowledged that Labor did in fact get us halfway to meeting our minimum international obligations. In reflecting on why we need paid maternity leave, I think that Labor are able to demonstrate that we do have form, we were trying to address this problem and, had we continued in government, we probably would have resolved some, if not many, of the issues of concern.

When we reflect on the government's response, we find that the Prime Minister has often sought to rebut the arguments for paid maternity leave by saying that it is not a panacea for work and family balance. That it is not a panacea may be so, but it is an important part of work and family policy. Given the government's view to date, its hedging, sending off to inquiries and not responding to recommendations from the Sex Discrimination Commissioner should not be so surprising to some in this debate. I have before me an article dating back to September 1986 in which Mr Howard says maternity leave may have to go. The article says:

The Leader of the Opposition ...

at that time it was Mr Howard—

has said he would consider scrapping maternity leave for federal public servants.

He described the 12-month leave entitlement for women—

remember, most of this 12 months is unpaid leave—

who have been employed for more than 12 months as 'very generous' and said a coalition government would look to abolish it.

We need to remember the government's starting point: they question whether this type of benefit should exist. In comparison to Labor's position so far of seeking to address the matter, the distinction is quite stark. Labor recognises the need for paid maternity leave to be supplemented by other work and family policies like giving parents a better chance of getting part-time work when they return from parental leave if that is what they want. No, paid maternity leave is not a panacea but it is a key way forward for Australian families. Paid maternity leave is about the health of our mothers and children. It provides mothers with the support they need at the time of birth.

What has become more and more alarming in recent times is the number of stories you hear of mothers returning to work well before they should. Perhaps in Australia—unlike some other countries—this is surprising to some people, but it is a recent trend as economic circumstances, such as mortgage rates and even child-care issues, start being brought to bear. Many mothers are feeling these pressures. There is a good reason why most OECD countries, most developed countries, aside from Australia and the United States have paid maternity leave: to try to ensure that mothers will be supported whilst they are out of the work force during the minimum period of roughly three months when they should not be working, when they should be caring for a newborn child. The health and wellbeing of both the child and the mother highlight that that is the most desirable social outcome.

The 240,000 Australian women who have babies each year need time to recover from childbirth and be with their newborn baby. It is shameful that Australia is the only developed country, other than the United States of America, which does not provide a national paid maternity leave scheme. Australia needs such a scheme to support happy, healthy mothers and happy, healthy babies. We talk about having a national agenda for early childhood. Whilst we continue to lack a specific strategy there, one clear component of that strategy should be support to enable mothers during those few months around the birth to be at home with their baby. As I said, contemporary pressures today result time and time again in cases where that is not able to occur.

If we look at the current level of paid maternity leave in Australia, we see that only 38 per cent of female employees have access to paid leave. Few Australian women receive the 14 weeks recommended by the International Labour Organisation, whose equality of opportunity in the work force survey found that only three per cent of about 1,600 organisations surveyed offered paid maternity leave of 14 weeks or more. The average period of paid maternity leave in federal enterprise agreements is eight weeks.

Perhaps more concerning than the absence of paid maternity leave is what is happening nowadays in relation to unpaid maternity leave. A recent piece of research which was published just last month in both the *Age* and the Sydney *Sun-Herald* highlights that many women are not using or are unaware of their entitlement to unpaid maternity leave. Marian Baird, who compiled the study, found that three out of four parents did not use or did not know of their entitlement to unpaid parental leave after the birth of the child. The survey found that only 16 per cent of women and 10 per cent of men had taken advantage of it. It found that fathers were significantly less likely to take unpaid leave but that women earning more than \$70,000 a year were more likely to take time off without pay to care for their newborn. So those actually taking the time are those on well-established incomes who can afford to take time off without pay. One has to continue to be concerned about the number of women, and in some cases men, who do not have the income or the assets to enable them to afford time off without pay and who continue working to the detriment of themselves and their children.

Dealing with some work issues, a national paid maternity leave scheme will ensure that no Australian women are forced to return to work for financial reasons before they have recovered from childbirth or before they feel their child is ready to be left in care. Today most Australian women have either full-time or part-time work and the number of women in paid employment is greater than ever before. In 1966 the proportion of women in the work force was 35.3 per cent. Today this proportion has risen to a record 56.3 per cent. Paid maternity leave helps women retain their connection to the workplace. A recent survey done by the government's Equal Opportunity for Women in the Workplace Agency found that the retention rate of women returning to work after maternity

leave was more than 10 per cent higher in organisations that offered paid maternity leave than in those that did not. Productivity, staff retention, employee loyalty and corporate image can often receive a substantial boost through family flexible work practices.

Westpac have reported that their retention rate of female employees increased from 54 per cent in 1995 to 93 per cent in the year 2000, partly as a result of introducing paid maternity leave. They have calculated that an increase in the return to work rate of 10 per cent in three years would cover the cost of its paid maternity leave scheme. When their return to work rate went up over 30 per cent it represented a significant return to the organisation on their investment. However, we know from the history to date that despite these organisational benefits there is considerable resistance to businesses and enterprises going down this path. The enterprise bargaining approach has not worked in this area and this is why the government must address the need for a national scheme.

Workplace connection is not the only one of the many strong reasons to support the need for a national paid maternity leave scheme. The Labor senators' report on the bill pointed to the evidence of Professor Wendy Weeks, who provided a convincing list of reasons for paid maternity leave other than just the fertility rates. She stated that, firstly, paid maternity leave has been acknowledged by international instruments such as CEDAW and the ILO Maternity Protection Convention as a human right; secondly, it is a basic family and workplace policy in the great majority of developed nations, with the USA and Australia being, as I said, the two exceptions; thirdly, it will go some way towards addressing systematic discrimination on the basis of gender if it is provided on a national level rather than, necessarily, just on an enterprise and ad hoc basis; fourthly, it will provide some income security for women; fifthly, it acknowledges the social and economic worth of parenting; sixthly, it is supportive of families in their choice to have children; seventhly, it is responsive to women's health needs pre and post partum and during the establishment of breastfeeding—another social objective we need to reinforce; and, finally, it values the work that women do carrying, delivering and caring for infants as work in itself.

In addition, the issue of fertility rates cannot be ignored in the debate about paid maternity leave. Australia's birthrate has dropped dramatically over the last decades. Australian women are having, as Senator Stott Despoja highlighted, fewer babies. The birthrate fell from 3.5 babies per woman in the early 1960s to just 1.7 in 2001. This is the lowest rate on record, down from 1.75 in 2000 and much worse than previous lows of 1.86 and 1.94 recorded in 1991 and 1981. Many women are delaying having a child until they have completed their education, established their career and purchased their first home—and perhaps paid for their education as well. The median age for women having their first child has risen to 30 years. The downturn in Australia's birthrate is contributing to our ageing population. This may lead to a greater proportion of the population that needs to be supported by the working-age population and will potentially contribute to problems for Australia's economic future. Yet this government's response, its own Intergenerational Report, did nothing to address this critical issue; nor did the more recent report of the Treasurer when it had a chance to address some of the intergenerational issues highlighted by our lack of support for families with young children.

A work and family framework is one of a range of measures that can contribute to a national strategy for helping arrest Australia's birthrate and help Australian families. For life now is tough for Australian families under this government. Whilst John Howard has said that he thinks that a policy mix for working families is 'about right', at the same time he says it is a barbecue stopper amongst average punters. Essentially, you cannot have it both ways, and Labor certainly does not agree that the current mix is about right. The Howard government's attacks on workers' conditions have stripped many provisions for working parents from industrial awards and diminished the ability of workers to bargain collectively. This was recognised by the Prime Minister's own interdepartmental task force into work and family, which noted that the government's award simplification process had removed a provision that gave parents returning from part-time leave the right to ask for part-time work. Labor is committed to restoring this right, and it will be constructive and not destructive. We need to be very constructive about women's access to part-time work—another one of the promises of the Prime Minister that he will address—and the effective marginal tax rates that that often attracts as their work interacts with the social security and tax system. Again, this is something that we have not seen any action on although it has been an issue on which rhetoric has flown for quite some time.

When Senator Stott Despoja was reflecting on the International Labour Organisation, it reminded me of one element of the Australian industrial relations system that I do value quite dearly—one that still, fortunately, does remain. Conditions that part-time workers attract, if they are actually characterised as part-time—and we know what has happened with the growth of casual work—are the same as entitlements of a full-time worker. This is something that I took for granted for many years until at the ILO I discovered that in many European countries they did not have the same tendency to provide the same entitlements to part-time workers as they do

full-time workers. This is a critical component of our industrial relations system that we must preserve—and indeed enhance. This is why Labor says that we need to look at ways through our industrial relations system of enhancing the ability, particularly of parents with young children, to move to part-time work if that is what they need to do to manage their work and family lives and if it is reasonable within the business environment in which they or their employer are operating.

Unfortunately, the enterprise bargaining philosophy has not been delivering this, as indeed it has not been able to deliver paid maternity leave. Perhaps it is one of the most fundamental aspects of the system that the Prime Minister and many others ignore when they think, 'Well, people can bargain for these additional entitlements.' They fail to understand the intrinsic nature of the bargaining relationship between most employers and their employees. Most employees are not in the position to issue demands for additional pay, additional conditions, paid maternity leave or definite access to part-time work.

**Senator McGauran**—Then why are AWAs growing?

**Senator JACINTA COLLINS**—Senator McGauran asks me about this point. Certainly the power relationship means that a casual or part-time checkout operator within the Coles Myer corporation is not in a position to bargain over those sorts of conditions. In fact, they are often struggling to bargain about some regularity of their working hours so that they can fit with their access to child care so that they can indeed work if they have a young child. These are the issues that confront average workers on a day-to-day basis. Unfortunately, some of the changes that have occurred in our industrial relations system have made this worse. We now have workers who have lost their protections about when they can have their rosters or their work changed, and that then prevents them from combining their work with suitable child-care arrangements. They cannot access the type of work they need. The government needs to understand this aspect of the situation, but unfortunately it seems far from comprehending the problems of day-to-day life for many workers with young families.