Speech by

DESLEY BOYLE

MEMBER FOR CAIRNS

Hansard 27 August 1998

WORKPLACE RELATIONS AMENDMENT BILL

Ms BOYLE (Cairns—ALP) (12.42 p.m.): When the coalition Government pushed Queensland workplace agreements on the industrial community in March last year, it promised innovation, flexibility and benefits to both employers and employees, yet nothing could be further from the truth. The coalition's praise for QWAs in this debate denies reality. Like some Alices in Wonderland through some distorted looking glass, they deny that their legislation has been a failure. QWAs are individual agreements that are characterised by secrecy. Unlike awards and collective agreements, QWAs are not subject to public scrutiny. There are heavy penalties for disclosure, which, understandably, gives rise to suspicion. Unlike QWAs, Labor's opposition to those agreements and its intention to remove them from the legislation has never been a secret.

Removing QWAs from the current legislation is not a backward step as the coalition would have us believe. It is a necessary step if there is to be fairness in the system. Like VEAs before them, QWAs have not delivered what was promised. QWAs were flawed in their foundation. They were a bad experiment that could never have been expected to succeed. The previous Government refused to recognise that. Even now, the former Minister, the honourable member for Clayfield, still asks this House to give QWAs more time. However, the Department of Employment, Training and Industrial Relations' report on QWAs is damning in its findings, and the coalition must concede that.

This report reveals that employees covered by QWAs have suffered substantial erosion of their entitlements. For example, 38.7% of QWAs increased the ordinary weekly hours, 53% increased the span of hours and 42.5% removed overtime. This focus on increasing the number of hours that can be worked consecutively without appropriate compensation has detrimental consequences. Not only might it lead to decreased worker morale, there are possible workplace health and safety issues that could arise. The secrecy of QWAs can impact detrimentally on parties to the agreement in a number of other ways. Most obviously, QWAs can create inferior wages and conditions of employment, particularly for those most vulnerable in the community. For example, employees working on a casual or part-time basis, apprentices, trainees and young job seekers are particularly vulnerable as they are likely to have little bargaining power.

The coalition would have us believe the equation that individual contracts equals freedom of choice. Nonsense! What choice does an unemployed person have when offered a job contingent on the signing of a pro forma QWA, a QWA that removes overtime provisions, increases hours of work or removes allowances while giving little or no increase in the rate of pay? The coalition legislated that removal of choice in the Workplace Relations Act 1997. This is not mere supposition; it is fact as evidenced by the report previously referred to. As my Federal colleague the Honourable Bob McMullan recently observed, employees in the expanding retail and service sectors face demands to work longer and more flexible hours. That is causing excessive tiredness and social alienation and is interfering with family routines. For low-paid employees forced onto individual contracts of employment with no realistic opportunity for a union to represent them, there are grave risks of exploitation and perpetual poverty traps. This Government's commitment to reducing Queensland's unemployment rate to 5% is real. However, we refuse to sacrifice the human element of employment in order to achieve this goal at the expense of workers' entitlements and employment conditions.

QWAs are detrimental to both employees and employers. They directly promote division and unhealthy competition between employees in the workplace. The seeds of suspicion and mistrust are sown in the minds of workers who have secret individual agreements. It is no surprise that he or she wonders: is that employee being paid the same amount as I am? Hidden and different conditions and entitlements in a workplace lead to unhappiness, confrontation and disputation, not to harmony, productivity and fair pay and conditions. The coalition's Taylorist view that workers are simply a dispensable commodity is evidenced by the underlying design of QWAs, that is, unscrupulous employers have been given the opportunity to force unfair conditions and rates of pay on employees desperate for employment. If one employee does not agree to the terms of the QWA, then another who really wants the job will. That is an unfortunate reality in our current environment of competition, unemployment and job insecurity. It is also unacceptable. Employees and prospective employees have lives, families and rights. They deserve to be valued and treated decently. It is not just employees; this system is also unfair to decent employers who have to compete with the unscrupulous ones.

Furthermore, QWAs interrupt normal working conditions. QWAs are designed to lock an employee into the terms and conditions of the agreement for the life of the agreement. That is problematic on two fronts. Firstly, it suggests a shaky tenure, a temporary appointment, where employees may not feel confident in committing themselves to a long-term goal, such as buying a house. There is no guarantee that an employee will be offered the same conditions when the QWA expires. That is unlike the award system, which has nothing to hide and places no use-by date on entitlements. Workers can get on with their lives. Secondly, by being bound to the rates of pay and conditions of a QWA for the life of the agreement, an employee could find himself or herself in a situation of winning a higher position and not being remunerated accordingly. That is in direct opposition to awards and collective agreements, which provide for different classification levels and progressive pay scales.

Another potential problem with QWAs is that a situation may exist in which there are a number of employees with the same capabilities, doing the same job, all with different QWAs containing different conditions and rates of pay. Additionally, because a QWA is a secret and approved on an agreement-by-agreement basis, it is open to employers to negotiate inequitable agreements among employees in the workplace. Stemming from this is the possibility that an employer could discriminate on the basis of sex, race or other attributes under the guise of making a tailored, individual agreement and no-one would ever be the wiser. So much for equal pay for equal work in a non-discriminatory workplace!

As to the issue of flexibility and contrary to the impressions of the honourable member for Indooroopilly, who in his rambling, rose-coloured remembrances of his Government's time made mention of small business, consultations with employers in Cairns as well as my own experience as a small business employer made it clear that although employers want flexibility, they prefer not to negotiate secret deals one by one with each employee and they prefer not to use up precious time negotiating one by one with each employee. Instead, they prefer options such as varying the award or making a collective enterprise agreement.

It is also worth highlighting the potential cost to parties in negotiating a QWA. The legislation provides that a bargaining agent can represent either party. It is reasonable to suggest that if a solicitor or an industrial advocate were representing one party, the other party would also wish to seek representation—if, of course, he or she were in a financial position to do so. This is another hidden inequity. What chance does a person, who badly wants a job, have of being able to afford a solicitor or industrial advocate to negotiate on his or her behalf. Next to none!

Furthermore, the cost to large employers is increased as they try to negotiate, implement and administer a number of individual agreements. Additionally, every time a new employee is engaged or an existing QWA expires, a new agreement has to be negotiated and put through the lengthy filing and approval process. Compare that to collective awards and agreements that apply to the whole workplace and do not need to be altered as employees come and go.

QWAs or any other form of secret individual agreement are not the solution to providing innovation, flexibility and fairness in Queensland workplaces. An open, collective system of awards and agreements is. This is not to deny that individual contracts of employment exist and have always existed but they are exactly that—common law contracts for employees such as those in management positions who fall outside the realm of the award system and who have much more equal bargaining power with their employers.

Contrary to what the previous Government led people to believe, QWAs are not a form of deregulation of the labour market; they are simply another form of regulating employment and wages—a form that regulates away from the accepted benchmarks of decency, fairness and equity. Unlike awards and collective agreements that can be publicly scrutinised and evaluated, QWAs regulate in private and are shrouded in secrecy. This secrecy has created the opportunity for the exploitation of employees by undermining their wages and working conditions. QWAs do not honour private

arrangements between individuals but hide the fact that these arrangements are ripping people off and are cutting real wages and conditions. Employers who are unscrupulous must not be given the chance to exploit employees by taking away their rights and opportunity to have a say.

Job insecurity is a fact of life. Workers are unsure whether they will have their job next week, let alone in a year's time. Many workers are struggling to get by to feed their families decent meals or to pay their rent or mortgage. In this sort of environment, QWAs are resigning these workers to lives of poverty, insecurity and despair. Consequently, the swift removal of QWAs from the industrial relations system is essential for the welfare of Queensland workers.

I listened to yesterday's diatribe against unionism by the honourable member for Surfers Paradise and former Premier, and I was dismayed—that is, until he referred to us as "Braddy's bunch". I say to him that I am proud to be on the side of honest, open, stable employment. In that way, I am proud to be one of "Braddy's bunch". I congratulate the Minister on introducing this legislation that is now before the House.