Speech by

Mrs E. CUNNINGHAM

MEMBER FOR GLADSTONE

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WORKPLACE RELATIONS AMENDMENT BILL

Mrs LIZ CUNNINGHAM (Gladstone—IND) (5.07 p.m.): This debate provides us with the opportunity to revisit a Bill passed in the last Parliament. It is one of a number of pieces of legislation that significantly affect people in this State. Some of the impacts were difficult to project. Therefore, this debate provides us with a wonderful opportunity to revisit this legislation to see how it worked in its implementation.

I wish to speak about two major issues today. Yesterday the member for Ferny Grove raised a number of my comments in the original debate on the Workplace Relations Bill. I thank him for raising those concerns. They are as valid now as they were then. I spoke on a number of issues in the original debate. That Bill was complex and proposed significant and sweeping changes for industrial relations. At that time, after reading, holding meetings and gathering a significant amount of information, I supported the two matters that I will raise today, that is, QWAs and the 20 allowable matters, or the award simplification.

My support for QWAs was based on a number of important facets. One was the fact that there was a no disadvantage test. Another was that there was access by participants to the QWA, particularly the employee, to a bargaining agent. That could be a union representative. Another was that that union representative could be invited in, and there was no right on the part of the employer to preclude that person from working with the prospective signatory to the agreement.

As the Bill was passed, that is exactly what occurred. A new employee entering into a QWA has to be given five days to review the contents of the QWA; an existing employee, 14 days. The employer must hand them a sheet of paper that outlines their rights in the process, and that sheet of paper is created by the Employment Advocate. As an independent arbiter, the Employment Advocate sets out the role of the various parties in the QWA agreement. So the parties to the agreement are advised of what is available to them; they do not do it in isolation.

I understand, and in part I agree, that situations would arise in which a party to a QWA could be disadvantaged. That is human nature, unfortunately. Incidents of disadvantage under the pre-existing regime were raised with me before the Bill was passed. People were being disadvantaged under the award system—under enterprise bargaining. We are never going to be able to legislate to stop that disadvantaging because a person who wants to do the wrong thing will find a way of doing it.

One of the documents that was used by the Government to support the removal of QWAs from the Industrial Relations Act was the report on Queensland workplace agreements. I valued the opportunity to be able to read through that document. I noted that there were 1,516 employees currently covered by QWAs, with a further 601 lodged but not yet approved. I know that a number of other QWAs have not been lodged simply because people were told prior to the election that there was no point; it was a waste of time, because if there was a change of Government QWAs were going to be abolished. So a number still have to be lodged.

I also note that, in the 17 months since the introduction of QWAs, only 0.2% of the total workers covered by Queensland awards and agreements have been covered by QWAs. This fact is being used in great measure in this debate to say that, because there is such a low take-up, QWAs are not necessary in enterprise bargaining or the industrial relations program for this State. When I read that I thought, "If only 0.2% of Queensland workers are on QWAs, what is all the grief? Why is there so much concern that QWAs should remain?" It is obvious that those who were taking them up were those in niche employment areas in which QWAs particularly suited their type of employment.

Another issue was raised in the report summarising the issues that are covered by QWAs. It is on the bottom of the first page of the executive summary. It talks about the percentages of QWAs that increased ordinary weekly hours, increased the span of hours, removed or decreased penalty rate entitlements, removed overtime, removed annual leave loading, removed allowances and removed or decreased sick leave entitlements. I was looking in the report for some acknowledgment that some of those allowances or payments were incorporated into annualised salaries. That was not in the report. I am not convinced that it is not an issue that should be incorporated because I know that, in some of the workplace agreements in which I have been involved, a number of those allowances were bundled together and then placed into an annualised salary. I could not find that information in the report.

There has been a lot of support for QWAs, and from some fairly unlikely quarters. There was an article in the Courier-Mail on Thursday, 28 August 1996 which talked about flexible agreements to create real jobs. I note that right from the time that this Bill was tabled, the Courier-Mail has been supportive of the QWA process—the options that would be made available to workers and employers with appropriate protections. The Courier-Mail continues to hold the line that it held in April 1996. In 1996 it said that there is a need to streamline work practices and unwanted union interference in non-union workplaces and for employees and bosses to have greater freedom to negotiate agreements with each other. In August this year, it said—

> "QWAs are also subject to a 'no disadvantage test' which ensures that employers can not use the agreements to reduce conditions—a test that is backed by Industrial Relations Commission scrutiny."

Generally the Courier-Mail, which is usually fairly quick to condemn anything that comes out of this House, was very supportive of the QWA process.

A number of people wrote to me about the issue, particularly targeting the QWAs. Clubs Queensland objected to the abolition of QWAs. Mount St Michael's College wrote to me about the abolition of workplace agreements. Its major concern stated in the body of its letter was about the actual fundamental bargaining which was introduced by the Labor Party when it was previously in Government. Perhaps somebody in the Government who is an expert in enterprise bargaining could give this group some assistance to reduce the amount of trauma that this is creating at that school.

R. D. Williams wrote saying—

> "All we ask is the freedom of choice and we would appreciate your help in maintaining our freedom of choice ..."

regarding the abandonment of the previous Government's QWAs.

I received one or two letters from people who were concerned about the retention of QWAs because of their own political position. I also received a letter from the Queensland branch of the Transport Workers Union seeking the abolition of QWAs for a number of reasons. The first reason was a Federal issue. It said that QWAs had been used by employers to blatantly break taxation laws, and the second reason was that the agreements, which were supposed to be subject to a no disadvantage clause, are often finalised in the State in a non-ratified form in which workers are shockingly disadvantaged. When I checked, I found that there is no way that a QWA can formally be achieved unless it is, firstly, agreed to by both parties and it is forwarded to the Enterprise Commissioner for its testing as far as the no disadvantage test is concerned. So non-ratified QWAs are illegal documents; they are not recognised in the State.

The branch secretary also raised with me the fact that employers abuse workers through facilitation clauses. That was not a term that I was familiar with. In particular, I could not remember it from the Industrial Relations Act. Upon checking, I found that the facilitation clause is not in the legislation or the regulations; it is in the awards as part of the wage case decision and applies only to collective approvals, not individual agreements. So the primary concerns of the secretary with whom I spoke appear to be slightly unfounded.

An individual also faxed through his QWA agreement to me. One point of that agreement says that it is an understanding between the contractor and the driver and does not include industrial relations or unions. One of the previous speakers talked about QWAs being drafted, signed and agreed to without the proper scrutiny. Somebody from the Opposition side of the Chamber said that they are now illegal and that the employers should be reported. I will be contacting the person who sent me that QWA because, if it is an illegal document and they are being disadvantaged, it should be reviewed and the employer should be brought to task because it is inappropriate.

Mr Sullivan: It is happening all the time; the individual employee feels powerless to do anything about it.

Mrs LIZ CUNNINGHAM: Maybe there needs to be a campaign to advise them of their rights—to be able to have those QWAs reviewed. A number of other people wrote to me particularly about

training. I had meetings in my electorate at which people said that they wanted QWAs to be retained to allow training opportunities to continue. The individuals could still receive the training as casual employees, but they would not be able to get the same training certificate unless they were in a full-time employment situation. Under the QWA, that situation could be achieved.

On balance, I will be supporting the retention of the QWAs for a number of reasons. All the protections that were in the Bill were placed there in good faith a year or so ago. I was concerned that there was an inappropriate, inadequate protective regime for the two parties involved in a QWA. However, all the areas of concern that were raised were already covered. A QWA cannot be formulated without being properly scrutinised. An employee cannot sign the document and have it ratified by the Enterprise Commissioner unless it passes the no disadvantage test. Employees have the opportunity to obtain advice from the Employment Advocate.

I looked at the possibility of the Employment Advocate coming from outside the departmental structure so that he could honestly operate with no conflict of interest. However, to do that we would have to set up a separate bureaucracy, which I was loath to do. I have not received any complaints that the Employment Advocate was acting in a partial or biased manner. I have received no complaint at all about the Employment Advocate. Indeed, I have received no complaints about the work of the Enterprise Commissioner.

When I went through all the issues that had been raised with me on a formal level, I found that the opposition to QWAs is ideological. It is a philosophical difference between those who are soundly in favour of QWAs and those who are opposed because of their political position.

The other matter on which I wanted to comment relates to the issue of allowable awards. I am less supportive of retention of this aspect. When the allowable matters were raised in the previous Bill I gave them a great deal of consideration. I have not been directly involved in a lot of union negotiations. I do not even understand the intricacies of the 320 awards in this State. I do not work in that field. Perhaps the member for Nudgee knows more about those sorts of issues. As a result, I took advice and listened to a lot of people.

The purpose of the 20 allowable matters is to simplify the process of recognising what matters had to be taken into account when a person's wage structure was being determined. The comments that were being made to me by the then Opposition, the Labor Party, were that people currently employed would be disadvantaged because matters that had to be considered in their wage structure would disappear into a vapour, and therefore the amount of money that they were receiving for that issue would also vaporise. That was something that concerned me a great deal. Everyone I know who has been working in a position for some time budgets according to their wage. None of us can afford to have a significant drop in our take-home pay. It is a matter of reality.

In the period of time since the 20 allowable matters were put into place—albeit the existing awards remain at this time— nothing has happened in this State. There have been a small number of award changes federally—63 out of approximately 3,200. There is a drop in the bucket! In Queensland we have 320 awards and not one of them has been formally simplified.

I did have a discussion with a member of this Chamber, for whom I have the greatest regard, who advised—and this is more to do with QWAs—that there has been simplification of awards which have already been put in place. We were talking particularly about QWAs, but the conversation crossed over a little bit. There has been work done by the unions to simplify the award system in order to make it a little easier for people to deal with it. In spite of the work that has been done, nothing has progressed.

The proposal that the shadow Minister for Industrial Relations has put forward is to extend the period of negotiation for a further 12 months. I have indicated to him that there is one more piece of information that I want to receive tonight before I decide my final position on the matter. The concerns that I had 18 months ago about the disadvantage to workers in award simplification have not gone. They remain. If there is no risk that simplification will disadvantage workers in areas that should be considered in fixing their wage structure, I would certainly be most supportive in seeing it retained. There was an 18-month trial period to see if the simplifications worked. That has not occurred. This is the opportunity to revisit it. I am certainly inclined to support the abolition of award simplification pending the receipt of that last piece of information.

The Workplace Relations Act was a difficult one for me to work my way through. It directly impacts on how people work, how they enjoy their work and how secure their work is. QWAs present an opportunity for flexibility. Certain streams have come to me with strong arguments for the retention of QWAs—hence my position. Equally, the award system is intrinsic to a worker's security. As I said, I am inclined at this stage to support the removal of the simplification.