Speech by

Mr BRUCE LAMING

MEMBER FOR MOOLOOLAH

Hansard 10 June 1999

INDUSTRIAL RELATIONS BILL

Mr LAMING (Mooloolah—LP) (12.39 p.m.): This Bill gives me an opportunity to speak on an issue about which I continue to have a deep interest, and that is the issue of employment. The question is often posed as to whether Governments should be addressing employment or unemployment, as they are not necessarily the same issue. Both are vitally important. Employment is important because it represents jobs—new jobs, which in turn represent economic development, exports, wealth creation and infrastructure development in both the private and public sector.

Unemployment, on the other hand, is a social issue which must be addressed from the perspective of near elimination or, at the very least, reduction to a socially acceptable level. I note that the level acceptable by the pundits seems to have been revised upwards in recent years. To accept this revision is to accept the continuation of the contribution that unemployment makes to so many of our current social problems. I am not going to place a figure on an acceptable level today, but perhaps I will do that during another debate on another day.

Today's debate concerns industrial relations and therefore has more to do with employment and the potential to promote or discourage employment through the industrial relations structure. I intend to refer to the unfair dismissal provisions, the former coalition's record in this regard and to the issue of youth wages.

I would firstly like to address an aspect of the Bill which I believe will concern most, if not all, small business employers and should also, even if indirectly, concern the thousands of job seekers in Queensland. I refer, of course, to the unfair dismissal provisions. The area I will cover relates to exemptions under the existing Act—the Workplace Relations Act 1997. The Act allows for the exclusion of employees from the dismissals chapter and lists a number of employees who are excluded. Employees excluded from this chapter are also detailed in the Workplace Relations Regulations 1997.

Firstly, let me address the issue of the size of the business. There was no exemption for employers who employ no more than 15 employees with respect to unfair dismissals under the Industrial Relations Act 1990. The fact that the unfair dismissal provisions related to all employers, regardless of size, proved to be a major disincentive for small businesses to employ.

With the introduction of the Workplace Relations Act 1997, the coalition Government considered exempting those employers who employed no more than 15 employees, and the Workplace Relations Regulation 1997 was amended. This amendment related to the exclusion of employees from the unfair dismissal provisions of the Workplace Relations Act 1997.

The amendment took effect from 1 July 1997. This exemption has been in place for approximately two years and, to date, there has been little evidence to indicate that this exemption has been abused by small businesses. This regulation exempts such employers with respect to the provisions applying to larger employers if the dismissal is harsh, unjust or unreasonable. The provision is that the employer on or after 1 July 1997 first employed the employee and the employee has not been employed for more than one year. As a result of such a provision, small businesses can look to employ staff without the fear of going through an unfair dismissal claim.

The Beattie Labor Government proposes to withdraw this provision from its proposed new legislation. The deletion of this exemption is set to have a significant impact on small businesses. The

impact of such a reform will result in small businesses once again reverting to the ways of old, that is, their reluctance to employ persons or to employ casual employees.

Whilst one may argue that most unfair dismissals are settled at the conference stage, it is important to note that there are costs associated not just in what figure may be agreed upon as settlement but also loss of working time and consultancy costs. The ramifications of taking away this exemption are such that small businesses will be reluctant to give a job opportunity for fear of having to face an unfair dismissal claim. A large number of small businesses have supported the retention of this provision.

Now let me address the issue of the level of remuneration to the employee. Under the Industrial Relations Act 1990, any employee, regardless of wages or remuneration packages, was afforded the opportunity to pursue an unfair dismissal application. The coalition Government, through the Workplace Relations Act 1997, introduced employee exemptions from the dismissal chapter. For employees whose annual remuneration immediately before the dismissal was more than $64,000, this exclusion applied. Restricting those employees who earned in excess of that figure was based on the fact that these employees have the means of pursuing a claim of unfair dismissal through the common law jurisdiction. The low costs associated with filing and conciliating a matter of unfair dismissal for employees through the Industrial Relations Commission is minimal. Therefore, this allows people on lower incomes to pursue the matter without incurring costs which they otherwise may not have been able to afford.

The important point, however, relates to the definition of the "$64,000", that is, the remuneration package that an employee may receive up to the value of $64,000. For example, an employee who receives annual wages of $55,000 plus a car allowance of $10,000 would be exempt from the dismissal part of the Act. The Beattie Labor Government proposes to change this definition to one of wages rather than remuneration, thereby increasing the field of employees who may make an application. The new definition excludes those employees earning annual wages of more than $68,000. What are the regulations? Do they define the $68,000? The Minister might like to clarify that point. Should this change mean that the employees must earn $68,000 in real wages rather than the example that I have given, the ramifications of that change will result in increasing the number of people who make application to the commission for unfair dismissal.

The changes introduced by the coalition Government resulting in employees being exempted from the dismissal provisions of the Act were for reasons relating to the high number of unfair dismissals filed in the commission. The reason for changing the exemptions relating to 15 employees has a significant impact on the vast majority of employers. Further, the change to the definition of the capped amount of wages could further increase the number of persons able to access the system and thereby increase the number of dismissal claims being heard in the industrial commission.

I turn now to what has been occurring in recent years in Queensland in the industrial relations field. To assist honourable members, I refer to a September 1998 edition of Review of Industrial Relations Legislation in Queensland. Firstly, I refer to "Industrial Action". The report states—

> "In Queensland, levels of industrial disputation have declined significantly over the past decade. This decline, common to a number of countries, began before the 1990s changes to legislation. Queensland's strike rate was once one of the highest in the country and contributed to Australia's reputation as one of the most strike prone nations in the world. As shown in Figure 2, which I table, industrial disputes in the 1970s and the early 1980s in both Queensland and Australia were very high, averaging between 600 and 800 working days lost for every thousand employees each year. In the mid to late 1980s, the strike level in Queensland dropped to an average of little more than 200 working days lost per thousand employees and decreased to about 100 working days in the 1990s.
>
> There are a number of factors that contributed to this dramatic decline in working days lost. These include a general decline in strikes in industrialised countries, the deterioration in the labour market over the period, as well as the shift in employment to areas with less history of collective action.
>
> This decline in strikes has occurred despite the move to a more decentralised industrial relations system. The Queensland Workplace Relations Act 1997 contains provisions that permit industrial action by employees and employers for the purpose of bargaining over enterprise agreements. To date, these provisions have not been associated with an increased level of strike action.
>
> In terms of accessibility of the industrial relations system, data is not readily available in Queensland or other jurisdictions. Such data would be useful for estimating the performance of many aspects of the legislation. Generally the requirement in Queensland that the arbitration system is a 'layperson's tribunal' has meant a lower level of legalism and technical form than in some other state systems."

It is interesting to listen to Government members quoting recent employment trends. All honourable members welcome any such trends, but what must not be overlooked in all of this is that these levels have been achieved under the coalition's industrial relations legislation. The Bill before the House has every propensity to stall and, indeed, reverse the trend started by the former coalition Government—a trend that, fortunately, has a momentum to continue until the present time. This is not an employment creation Bill; this is an employment growth risk Bill.

I am pleased to see that the youth wage regime has not been manipulated in this Bill. To do so, it would have had a savage effect on the already unacceptable levels of youth unemployment. Queensland shares with Tasmania an unenviable position on the youth employment ladder. Not only must the Government address this issue positively, but it must not do anything to worsen the situation. I would like to address youth unemployment in more detail.

I refer to a submission by Mr Bob Day, managing director of Homestead Award Winning Homes Pty Ltd and president of the South Australia HIA, to the AIRC inquiry into junior rates of pay. So concerned am I, personally, by Australia's current unemployment situation that I believe it is appropriate to share part of this submission with the House in response to this most important debate. Mr Day referred to youth suicide, youth alcoholism, homelessness, alienation, poor health, the collapse of the family, drug addiction and related crimes—the list is all too familiar. It is commonplace to suggest that there are no simple solutions but there is something close to a solution: a job. It is a simple solution, but the lack of flexibility in the youth labour market means that appallingly high percentages of young people are excluded from the world of work. Over the past five years, youth unemployment is a problem which has directly affected four out of every ten households having 16 to 24 year old family members. A regulatory system that excludes so many from employment and prevents employers from giving them work must eventually be exposed for the scandal that it is.

Australia's rear-view mirror approach to industrial relations is still based on the theory of conflicting interests, completely at odds with the realities of the modern workplace. Historically, Australia developed a centralised wage fixing system as a result of the political consensus, which also gave us tariff protection. It is safe to say that without one we would never have had the other. High tariff walls led to what has been called the cost-plus mentality. Whatever goods cost to manufacture, including the cost of labour, the manufacturer would simply add his margin to arrive at a price. However, at some point we have to stop deluding ourselves that we can increase the price of goods or services such as labour without it resulting in a decrease in demand for those goods and services.

Price does matter and pricing young people out of the job market is not just employer rhetoric, but a harsh reality over which we have no control. The idea of competency replacing junior rates is a notion that appeals to many in the union movement and elsewhere, because it is marginally more defensible on the basis of equity than the present archaic arrangement, although the proposed mechanism for calculating such competencies is equally implausible. The concept of voluntary acceptance of a wage unrelated to an award system seems to offend those who see it only as exploitation, but this view is demeaning to the commonsense of those it purports to protect, as well as the decency of most employers. As far as the small business sector is concerned, it is an impressive invention in the relationship between employee and employer.

It is time we scrapped these outdated attitudes towards employment. The only relevant consideration should be the value of the labour itself to the person hiring it. If all youth employment in Australia today was provided by firms with the resources and staffing policies of BHP in the 1960s, we would not have a problem. Such companies would be able to amortise over time the cost of subsidising junior wages considerably in excess of the value of the work being done. Unfortunately, the bulk of prospective employers of young people are in the trades or medium to small-sized businesses which simply do not have the margins to afford such luxuries. Youth unemployment already costs the Australian community more than $2 billion a year. It is simply inequitable to expect small businesses and tradesmen to foot the entire bill, and it is unrealistic to pretend that they can afford to do so and still remain competitive, yet it is widely acknowledged that the small business sector has the greatest potential for generating new jobs. However, under the present arrangement such prospective employers are precluded from providing gainful employment and on-the-job training to young people who are desperately looking to get a foot on the employment ladder. Employees who want to sell their services to an employer at a price that the employer can afford are likewise prevented from doing so.

There are perfectly sound reasons why prospective employees might want to reach an arrangement outside an award. A greater degree of independence, a contribution to their own keep, job satisfaction and, of course, the incentive of future opportunities are among the more common motives. The only sensible and intellectually consistent position is for junior wage rates to be based on the value of the work to the person purchasing it, to be set by agreement between the employers and the employees. At the moment, nearly all junior wage rates are set at levels that make them uncompetitive in the job market. Those to whom such a prospect is anathema appear not to have

applied the traditional test of cui bono, who benefits. In whose interests are such arrangements? Certainly not the young unemployed!

To those most directly affected by the intransigence of the process, it is increasingly plain that it has less to do with concerns about social justice and a lot to do with the highly politicised role of the trade unions and the tribunals themselves. Therefore, it is politics rather than economic or social consideration that blocks our young jobless from access to the world of work. Unions are more concerned with protecting their own interests than those of their members and the young, who are generally well aware of their need to acquire skills if they are to become productive employees. They will not thank those who have precluded them from on-the-job training.

It was once the case that bricklayers employed lads to carry their bricks, as plumbers employed young people to dig trenches. In exchange, the lads were taught a trade. Until the cost became prohibitive as a direct result of centralised wage fixing, this arrangement suited all parties and was well understood by all. Historically, the collapse of that employment generating system is well documented. In 1951, a first-year apprentice was paid approximately 7.5% of a tradesman's wage and there were virtually no unemployed teenagers. By the mid 1970s the wage rate had doubled to 15% and the term "youth unemployment" began to have some currency.

Mr Roberts interjected.

Mr LAMING: There is more to come. The wage rate is now 40% and youth unemployment is now regarded as the single most important social problem of our time. In the Sexton report, 70% of respondents, unprompted, characterised the issue in those terms. Approximately 70% of respondents also said that they would support the introduction of a youth wage equivalent to the dole or Austudy in return for full-time apprenticeships, employment or training.

The rhetoric of equity in income distribution pales even more quickly for those who have no job and have been priced out of the market thanks to a centrally determined award wage. Over-regulated wage fixing systems, by contributing to the destruction of jobs, add to the inequity that they profess to correct. In the context of unskilled works, P. P. McGuiness recently observed—

> "It makes sense not to compel employers to pay such a high minimum wage, but instead to preserve living standards thought socially appropriate through the tax system and social security system."

That answers the interjection. McGuiness continued—

> "If, for some reason, you want employers to pay more, this is best achieved through the tax system."

The same applies to youth wages. The burden of supplementing the value of labour to the employer so as to achieve the unrelated goal of a minimum wage ought to be met by the community at large. After all, like the individual youth, the community is getting considerable benefit from the fact that they are employed. The intangible benefits that an employer confers by taking on a young employee are as significant and probably more profound in their consequences than the wage transaction itself. Anyone who doubts this greatly underestimates the capacity of young people to understand where their own best interests lie. They can see the benefits of starting on a low wage to learn a trade, and there is increasing evidence of their wholly justified resentment of paternalistic State interference which prevents them from receiving those benefits.

From a young person's perspective, there must be something especially galling and hypocritical about society's double standards regarding employment. On the one hand, we prize young people who take volunteer work and, on the other hand, we hold in high regard those who have found employment, yet woe betide anyone who offers or accepts an arrangement in between. This is a no-go area, although it is self-evidently a fertile field for mutually acceptable and agreeable arrangements between the parties. It is inconceivable that the present system, with all its inflexibilities, will be allowed to continue indefinitely to exclude so many of our young people from the world of work. Not even the most relentless demonisation of the motives of small business employers could achieve that end.

The struggle for the liberalisation of the existing wage regime has echoes of the campaign against slavery, invoking Ernst Howe's description of it as a "bitter conflict with contemporary sentiment and the interests of gigantic power". Australia's industrial relations are still based on the theory of conflicting interests, completely at odds with the realities of the modern workplace. I believe that the ideas put forward by Mr Day are worthy of further consideration.

It is well past time that we look beyond the politics of yesterday and at the challenges of today and to the solutions of tomorrow. Sadly, this Bill addresses only the first of those. I table a clipping from today's Courier-Mail which indicates that even Japan has identified the need for Government to take a different approach in addressing unacceptable levels of unemployment.
