

Australian people. First they defended Work Choices, then they junked it, then they defended bits of it. The coalition members did not get it in two years, and they don't get it now.

The conservatives are out of touch with ordinary working families. In the circles in which they mixed, people thought Work Choices was fine. But, in the lunchrooms and on the factory floors all around Australia, and over the back fences and in the pubs and the shops, people were talking. People knew they were being duded. People knew that they were being betrayed by the supposed friend of the battlers. Even now, the Liberals have great trouble accepting that workers and families rejected Work Choices. The Australian people knew it was unfair. The Australian people said, 'No way.' With this bill, we take a step towards repair, towards a fairer, balanced system.

Ms BIRD (Cunningham) (1.04 pm)—The **Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008** is a historic bill, and I am very delighted to make a contribution in support of it. I am particularly delighted since I was denied the opportunity to speak on the bills under the previous government that introduced the schemes which we are now reforming. I note that there has been some grumbling on the opposition side about their capacity to be consulted and hold Senate inquiries and so forth. I will just point out to them that we have not gagged any of their side in this debate, unlike what happened to so many of us on this side of the House during the introductory bills under the previous government.

This bill begins the process of consigning to the dustbin the Howard government's Work Choices legislation. This bill begins the process of restoring to Australia's workplaces and industrial relations systems fairness and balance. I note that the member for Parkes previously called on those of us on this side to not swing the pendulum too far and to retain a sense of balance. I can assure him from my own experience in my area. I meet regularly not only with my local trades and labour council but with my local business chamber. The AiG have an office there, and I talk regularly to them, and we do have a Liberal Party senator in our area. However, the experience is that, while the business chamber and the AiG might get to talk to her, the unions cannot get within cooe of meeting with her to raise their concerns. So I would assure the member for Parkes that those of us on this side of the House regularly provide balance in our listening to the concerns of our constituencies, and perhaps his comments would be better directed to his own side.

This bill clearly rejects the completely partisan way the Howard government dealt with industrial relations and the introduction of Work Choices. This bill contains clear objectives and is the result of policy announced prior to the last election campaign, which ob-

tained an overwhelming mandate from the Australian people. In drafting the bill, the government engaged in comprehensive consultations. As the Minister for Employment and Workplace Relations noted in her speech, employer organisations and trade unions were involved, as were state and territory governments.

Two meetings of the National Workplace Relations Consultative Council took place, comprising employee and employer groups, across a diverse range of industries as well. The council's specialist subcommittee, the committee on industrial legislation, discussed the government's proposals in this bill, the award modernisation process and the proposed National Employment Standards. Each of the state and territory ministers for workplace relations were consulted on the bill's provisions. This is in stark contrast to the process of introducing Work Choices by the Howard government throughout 2005. Work Choices was sprung on Australians with no notice and there was minimal consultation. In keeping with the partisan nature of the former government, only a range of employer organisations were given an opportunity to input into Work Choices. Only employer groups were given special previews of it. This government, instead, released Forward with Fairness in April 2007. The Forward with Fairness policy implementation plan was released in August 2007. Our policy was given a baptism of fire by a range of employer groups, the media and especially the *Australian* newspaper and, of course, the Howard government. We developed the policy framework around key principles, released the policy publicly for scrutiny and assessment and stood to argue the case for fairness and balance in Australia's workplaces. We did not sneak in and drop a bombshell as did the Howard government with Work Choices. Every Australian voter at the federal election knew what Labor would do in industrial relations. Equally, every Australian had a fair idea what the Howard government would do with Work Choices. In fact, the former Prime Minister, John Howard, in the 2008 Irving Kristol lecture in the United States on 6 March this year still proclaims Work Choices. He said:

The new government in Australia is pledged to reverse those labour market changes. That will be a mistake. It will be the first time in twenty-five years that a major economic reform in Australia has been reversed.

The approaches to Australian industrial relations between this government and its predecessor are stark. I took the time to outline the way our government went about designing its industrial relations policy deliberately. We promised fairness and balance. This bill will achieve those twin objectives. These objectives are achieved because we are clear on the principles we advance and because we set about consulting and engaging both employer organisations and trade unions including other levels of government. The Workplace Policy Director of the Australian Chamber of Commerce and Industry, Peter Anderson, put it this way in

an opinion piece published in the *Sydney Morning Herald*:

The fact that the government proposes a transition to its new system, rather than a big bang, will be important ... Its commitment to consult unions and employer bodies gives it a chance to get the detail right - something Work Choices did not do.

This opinion by ACCI is worth its weight in gold, particularly given its rather foolish solid endorsement of Work Choices previously. I am happy to note that the bill will upon commencement forever abolish Australian workplace agreements. AWAs, especially after the introduction of Work Choices, were used to cut workers' pay and conditions, something we saw extensive evidence of during my participation as an opposition member in the IR task force inquiry that Labor instigated.

The Deputy Prime Minister issued a media release on 20 February indicating just how wages and conditions have been cut under AWAs. Analysis provided to the government by the Workplace Authority—analysis the previous government denied existed—reveals that, of the 1,748 samples of AWAs, 89 per cent removed at least one so-called protected award condition. The analysis reveals that 83 per cent excluded two or more protected conditions, 78 per cent excluded three or more, 71 per cent excluded four or more, 61 per cent excluded five or more and just over half—that is a majority—excluded six or more so-called (remember the stamp on the previous brochures) protected conditions. The analysis reveals in addition that 70 per cent of the sampled AWAs removed shift loading. Bear in mind that these AWAs remained in force for five years, yet incredibly 75 per cent of them did not provide for a guaranteed wage increase during the life of the AWA. That is five years with no guarantee of any sort of wage increase.

It really is no wonder that workers faced with no guaranteed wage increases could not cope with the increased costs of living that they were facing under the Howard government. So out of touch did the Howard government become that it did not care that workers were relying on the monetary value of overtime loading, shift loading, penalty rates and incentive bonus payments to help pay the house mortgage, pay their private health insurance, pay for their petrol that had been going up and pay their higher grocery bills. Just how out of touch the Howard government had become was made clear on the *Four Corners* program on 18 February this year. The former Minister for Employment and Workplace Relations, the member for North Sydney, told the program:

Quite frankly when I took over the job I don't think many Ministers in Cabinet were aware that you could be worse off under Work Choices and that you could actually have certain conditions taken away without compensation.

He then said:

And once I started to raise those issues with colleagues and when they became more informed of the impact of Work Choices, we introduced the fairness test.

The honourable member for North Sydney was then asked by *Four Corners* to name his colleagues who were not aware that conditions could be stripped under Work Choices. Not surprisingly, he refused. I do not actually buy that explanation from the honourable member for North Sydney. The Howard government collectively was more than aware that Work Choices could strip workers of wages and conditions. It was revealed in the infamous biography of John Winston Howard by Wayne Errington and Peter Van Onselen, published last year, on page 370 for those who would like a direct reference:

The model for reforms was presented to Cabinet on no less than three occasions, with Andrews—

the then minister—

sent away each time to improve drafting. One cabinet minister specifically recalled Andrews explaining to Howard and the rest of Cabinet that there was no getting around some workers losing out under the proposed legislation. But timing took precedence.

The Howard Government had simply grown out of touch and did not care. I am delighted that, under this bill, Australian workplace agreements will be abolished from the date of its commencement. Never again in Australian industrial relations will an individual instrument override a national safety net. Individual agreements may exist, but these agreements will be common-law contracts, built upon—that is, over—the minimum national safety net.

The National Employment Standards, which will contain the key minimum entitlements for all Australian employees to apply from 1 January 2010, are currently the subject of discussion and consultation with interested parties and individuals. The expanded national safety net of entitlements will benefit employees. Employers will also benefit from having a simple, straightforward set of minimum conditions that are easy to follow and to comply with. Awards will be modernised, and this bill sets out the new allowable matters to be contained in awards. This bill will introduce a genuine no disadvantage test. The new instrument—the individual transitional employment agreement, ITEA—will be introduced for transitional use and subject to the bill's no disadvantage test. The ITEA will be tested against an applicable collective agreement or, if there is no such agreement, an applicable award. Collective agreements will also be required to pass the no disadvantage test against the full applicable award. Employers will no longer have the power to unilaterally terminate a collective agreement that has passed its nominal expiry date.

Whilst this bill contains some historic reform provisions, the opposition still does not know whether to

support or oppose this bill. We have seen in the contributions of opposition members today the great dilemma they are having in finding a consistent voice on this. Both the Leader of the Opposition and the Deputy Leader of the Opposition made this clear in weekend interviews. At the last election, Australians voted for the restoration of fairness and balance to industrial relations, wages and conditions. The government's agenda, started by the introduction of this bill, intends to restore that balance and to restore fairness. The previous government went too far. I look forward to the introduction of the next phase of the government's legislative agenda on industrial relations and to making additional contributions during this term of the federal parliament.

Ms OWENS (Parramatta) (1.16 pm)—What we are doing today is something that is rather unusual in the history of recent Australian governments in that we are essentially repealing a major piece of legislation which is central to the lives of a large number of Australians. It is not usual in Australian government, because over many decades the Australian people have chosen to provide a second voice, if you like, sometimes with one party in the state government, another in the House of Representatives and another with the balance of power in the Senate. While most of us on both sides of the House have at times found that structure very frustrating, one would have to say that it has served the Australian people well in that, over decades, each party when in government has been unable to move as fast as it would like and has been pulled back to the centre a little bit by the Senate.

As a result of that, and also of the respect that most of us have for the institution of democracy, there has been caution on revolutionary change in Australia. Most of our changes to legislation have been incremental rather than revolutionary. I was pleased that in the election campaign, when we talked about making this quite substantial change, we promised incremental arrangements through the [Workplace Relations Amendment \(Transition to Forward with Fairness\) Bill 2008](#), which would ease the transition to the new arrangements for business. This bill certainly does that. It recognises in essence that businesses that entered into arrangements for AWAs under the law need time to transition to the new arrangements.

That, of course, was not the approach of the Howard government when it won control of the Senate. It introduced Work Choices with no warning to the Australian people. People, both in my electorate and around the country, made perfectly reasonable decisions about their family life and the way they manage their family—which property to rent, whether to buy, how much they could afford, whether one or both parties worked, whether one or both did overtime, whether they put their children into private schools and whether they

went on holidays this year—based on the perfectly reasonable assumption that our industrial relations system was stable. Suddenly, of course, it was not. Overnight, the assumptions that underpinned the choices that families had made were ripped away. Many families were suddenly worse off financially because of that. When we in Labor decided that Work Choices had to go, we put it clearly to the people of Australia. Over a 12-month period, the people of Australia were given the opportunity to consider exactly what we planned to do and, on 24 November last year, they voted overwhelmingly to get rid of Work Choices.

This new transition arrangement starts to move us towards a fair industrial relations system that recognises that both families and business must do well if our society and our economy are going to flourish. It recognises that there is a very real relationship between business, families and the success of both. In a local context, in my electorate, if businesses want to do well, they know quite well that their customers are employees of the business down the road. If the business down the road is able to reduce wages and conditions, then that affects the capacity of those people to spend money at the local hairdresser, the local restaurant, the local coffee shop and the drycleaners. Families also recognise that, if the local businesses do not do well, then jobs are in short supply as well. Any industrial relations system that elevates the needs of one above the other, as Work Choices did, and which allows one to flourish at the expense of the other, will eventually cause both to be damaged and, ultimately, to fail.

Make no mistake: while the government of the day seemed uninterested in the impact that Work Choices had on families, the failure of families is devastating. It is not just a family matter. When families fail in one of the many ways that they can, it introduces a cost both to society and to our economy. We talk a lot about business needs; the government of the day in introducing Work Choices talked ad nauseam about the needs of business. Of course businesses need flexibility to employ in a way that allows them to plan ahead and to flourish. But while we might not call a family a business, it is an economic and a social unit that must do well. Work Choices substantially damaged the capacity of families to do well in the many ways that we need them to do. There is a cost if families fail in their internal relationships. When Work Choices ripped away the ability of families to commit time to each other—whether through the increased use of split shifts; through, as in my electorate, the increased pattern of people losing their full-time job on one day and being employed as a casual the next; or through businesses being able to change rosters without notice and rip away penalty rates—families themselves started to lose the capacity to plan the way that they related to each other during the week. Who was going to pick up the