

Industrial Relations Society of Western Australia
Matt Viney on behalf of Minister for Industrial Relations
Saturday, 25 October 2003.

As Victoria's Parliamentary Secretary for Industrial Relations, I'm delighted to be here for what promises to be a dynamic conference. Minister Hulls regrets he cannot be here, but on his behalf I'm privileged to have the opportunity to speak to you today.

Changing Nature of Work in the 21st century

The world of paid employment has changed irrevocably in the last few decades. The security, and the limitations, of the past have receded and today's employees are faced with a new flexibility and a corresponding uncertainty.

The old gendered paradigm has largely been abandoned, single income families with dad at work and mum at home now accounting for just 27.5 per cent of families. We work longer hours, the proportion of employees working 50 hours or more having increased dramatically, and one in four workers is employed on a casual basis, earning less than \$15 an hour and without basic conditions such as annual leave or sick pay. Given the predictions that nearly half its workforce will be casualised by 2050, Australia runs a real risk of creating an underclass of under-employed and underpaid workers, with severe consequences for family life. These consequences are not lost on the Victorian Government. We know that these figures have a human side to them, a side which is reflected in dramatically increased stress levels and added burdens on family life, and Industrial Relations Victoria has conducted research on the impact that the new world of work is having on families.

This research indicates that men and women are being pulled in different directions. Mums are looking to find a balance between working and caring for their families, the majority (62.5%) working part-time, but in work that is far more likely to be insecure, with few promotional opportunities.

While men are far more likely to be working in secure, full-time jobs, they now find they need to work harder and longer just to stay in the race. The inevitable consequence is that many find they have insufficient time to spend with their families or to take on caring responsibilities.

Bracks Government Believes in Better Work/Life Balance

The Victorian Government believes that Work/Life Balance should not be a peripheral issue. We believe that it is central to a healthy and productive economy. Maintaining personal or job satisfaction, re-entering the workforce or working part-time, earning a living while remaining an active participant in our family and community: this juggle demands more than just good hand-eye co-ordination. It demands energy that taxes us as individuals, and therefore our well-being as a community.

Smart companies already know this. They know that a workforce that has achieved a balance feels valued, a feeling that is reflected in performance, in productivity and in the bottom line. Yet this knowledge continues to elude the Federal Government, who seem convinced that a national approach of 14 weeks paid maternity leave will bring about the end of civilisation as we know it and whose review of work and family policies has concluded that the current confusion of family tax benefits, baby bonus and child care benefits is "...about right in providing effective choice..."

Unlike the Federal Government, the Bracks Government acknowledges that there are all sorts of families in Australia, all with different needs, incomes and expectations. Unlike the Federal Government, we believe that Australian families are smart and creative. Unlike the Federal Government, we do not see ourselves as social architects, with one homogenous vision for Australian families: father home from the office, mother making the gravy and *Pick A Box* flickering in the background.

Of course, one of the greatest hurdles in this debate is the way in which it is defined. Repeatedly we see employers or governments acknowledging the need to ‘accommodate’ family responsibilities and conceding the cost to the workforce of losing valuable employees.

The Bracks Government knows this and knows that different choices are in the interests of different families. We believe it is the responsibility of all of us to throw the doors wide – to ensure that, wherever possible, there is the opportunity for families to shape the way they want to participate in paid employment and take care of their loved ones. We must seek permutations and combinations that will suit the diversity of all Australians, from the family with two parents who want to work or who *have* to work; the family where mother *or* father is primary care-giver at home; to parents who work part-time, or single parent families.

We want to work with employers *and* unions to find innovative, cost effective paths to work/life balance. On 30 April, the Payroll Tax (Maternity Leave and Adoption Leave Exemption) Bill 2003 was passed in Victoria, providing a payroll tax exemption as from 1 January 2003 to businesses providing up to 14 weeks paid maternity and adoption leave. This year’s Victorian State Budget provided over \$11 million over the next four years for “Return to work Grants” to help meet the training costs of parents who want to return to work but have been out of the workforce for at least two years caring for their children. We have also allocated \$2 million over 4 years to work/life balance programs which will research and promote best practice solutions.

Federal Agenda Doesn't Cut It

The bottom line is, the Federal legislative framework and surrounding agenda cannot respond to the changing face of paid employment. From the *Workplace Relations Act*, which Victoria has repeatedly accused of being stranded in the Jurassic era, to the Cole Commission and its resulting legislative proposals, the Commonwealth persists in viewing IR as a chance to play bully boy. This view is of course founded in a philosophical

perspective that has long been the tradition amongst conservative politicians, the majority of them ^{knowing that} ~~perceiving~~ the trade union movement ^{was} ~~as being~~ the foundation upon which the Labor Party stands. It follows, then, that if the strength of the union movement is diminished, so too will the political opposition to any conservative Government.

The previous Federal Minister was an avid devotee of this ideology, and while he may have moved on, the rest of us are left with the expensive legacy of his philosophy. We have only to look at the leaking of the so-called 'secret volume' of the Commission's reports to see the latest chapter in a saga of carelessness that is slowly destroying the credibility of the Royal Commission and its findings. Its euphemistically titled offspring, the *Building and Construction Industry Improvement Bill*: is yet another example, an Orwellian piece of IR doublespeak that means the opposite of what it says.

The Victorian Government recognises the need for cultural change in the building industry. We know that there are problems, problems caused by the confrontational culture of the industry and aided and abetted by the conflict-based *Workplace Relations Act*. But this culture won't be fixed by the new Bill, if it ever makes it through the Senate, because this Bill doesn't get the balance right. It has failed to capture the imagination and failed to garner more than a modicum of support from stakeholders, union and employer alike. This failure to garner support is in part because the Bill is being imposed on an industry that, in Victoria at least, is flourishing.

Watching the credibility of the Commission's findings unravel and the reverberations of the Commission's heavy handedness impact on investment and jobs, it is hard to be convinced that the \$60 million has been worthwhile. This scepticism is only reinforced by the legislation itself, which fails to address even the most obvious flaws in the WRA and which has missed an opportunity to address some of the real issues in the industry.

The building industry is notorious for under-payment or non-payment of some employees. There is also evidence of tax evasion by some participants in the industry. The Bill does nothing to address these issues. Nor does the Bill address the phenomena of so-called “phoenix” companies, those companies that cease trading, leaving sub-contractors unpaid, only to resurrect themselves under a different guise. Although wet behind the ears in his portfolio, the new Minister is well aware of this and other flaws in the WRA. If he is genuine about making his mark on the Ministry, rather than just following in the monastic steps of his predecessor, he will withdraw the Bill and address these issues

Victoria's Reform Agenda

Let's turn away from the fiasco of federal attitudes and look at what we can do to achieve genuine reform. What we need is legislation that tackles concrete issues and, in Victoria, we are committed to positive reform of the *Workplace Relations Act*, reform that will focus on tackling reality. International and Australian best practice continues to demonstrate that the only way industry will continue to prosper is where there is a partnership approach between unions, employers and governments. This approach must be underpinned by an independent umpire with the power to conciliate, and if necessary arbitrate, disputes that the parties are not able to resolve themselves.

We also believe that people in the industry are best placed to regulate their own arrangements, arrangements which should be respected by Governments at every level. Industry should be able to conduct business in a climate free from threats and intimidation, not amidst Big Brother Government micro management.

That is why we have argued against the establishment of an Australian Building and Construction Commission (ABCC), as we believe that industry would be better served by increasing the powers and resources of the existing AIRC. That is why we also oppose Abbott's bequest of a Code of Practice and Guidelines which are not subject to Parliamentary scrutiny or stakeholder review and which, under this new legislation, will be

enforced by a secret police force seemingly designed to snub the rightful jurisdiction of state police forces already empowered to investigate suspected breaches of the law.

Of course, urgent reform of industrial relations legislation is needed, reform benchmarked against international best practice. But this reform should not be punitive, adding further weight to the already heavy handed devices in the *Workplace Relations Act*. Instead, there is a better way, a way we can broaden the debate beyond strikes and lockouts to an inclusive approach which harnesses the skills of employees to improve business competitiveness. An approach which encourages employers and employees to embrace real world challenges such as work life balance.

Victoria believes that the gaping hole in the Commonwealth's understanding of industrial reality represents a golden opportunity for the States to fill the policy vacuum and move the debate in a more positive direction. We only have to look at the political landscape to recognise the potential. The existence of Labor Governments in every state and territory in Australia provides a unique opportunity for us to work together to chart a different industrial relations agenda.

Ten Point Plan

Nine months ago Minister Hulls released a Ten Point Plan for the reform of the *Workplace Relations Act*. In March this year Industrial Relations Ministers met at our bi-annual conference and all state and territory governments agreed to establish a working party to recommend changes to the WRA consistent with the 10 point plan. The then Federal Minister declined to participate in the working party but, hopefully, the new Workplace Relations Minister will not adopt the same blinkered approach.

The 10 point plan allows businesses to grow while providing security for employees. In contrast to the WRA, the 10 point plan promotes a culture that steers people towards international best practice. It cements the role of the independent umpire, the Australian

Industrial Relations Commission (AIRC) and proposes that its powers be enhanced to allow it to properly resolve disputes, reversing the Commonwealth's current policy.

The Plan also promotes the concept of good faith bargaining as part of a cultural change which will allow the AIRC to play a constructive role in the negotiation process, rather than stepping in only where negotiations have failed. Victoria believes that good faith bargaining is a common sense process that makes enterprise bargaining a less stressful experience for all concerned, and that leads to better outcomes.

Of course, a number of businesses use good faith bargaining already. Sometimes called a 'no surprises' process, it works best in conjunction with other forms of flexibility and cooperation in the workplace. But it does not have to be limited to a select few, and we only have to look at New Zealand to see that it can work for the whole industrial sector. In New Zealand, government, employers and unions have signed up to a Code of Practice which has at its centre the simple proposition 'that the parties to the bargaining must deal with each other in good faith and must not, whether directly or indirectly, do anything to mislead or deceive each other.'

Victoria believes that, if it works in New Zealand, it can work here. We want the WRA amended to empower the AIRC to provide good faith bargaining orders on application of the parties to enterprise bargaining. Such orders could include processes for the conduct of negotiations, including meeting times, and conduct during meetings. Orders could also be made for requirements regarding substantive issues being negotiated. We believe that the AIRC should not be hamstrung in its capacity to allow bargaining arrangements and or to certify agreements that the parties see as mutually beneficial.

Time for the States and Territories to Take Charge

The 10 point plan and its associated national working party represent a unique opportunity to deliver real and long term cultural reform in this important arena. The next Industrial

Relations Ministerial Council is in November in Melbourne and Victoria is looking forward to working with every State and Territory to take the reform movement forward.

This meeting will, in many respects, represent a cross-roads. The previous Federal Workplace Relations Minister was repeatedly invited to participate in the working party but refused. In doing so he wasted an opportunity to engage, not only with the states and territories, but more generally with the industry. A new Federal Workplace Relations Minister represents hope for a more co-operative approach, and while Kevin Andrews could take the tried and failed unilateral road of his predecessor he has a unique opportunity to engage more broadly with stakeholders and develop a degree of consensus around the need for and shape of reform needed in the industry. If he embraces this opportunity, he could have legislation endorsed by key stakeholders. He could also have a precedent for working cooperatively with states and territories. A precedent which can be the basis for delivering a national, unitary system of industrial relations.

Most of us here know that the way forward for the building industry is via positive reform of the WRA, not via singling out the construction industry as a special target. The new Federal Minister has the opportunity to discard the ideological blinkers worn by his predecessor. As we've said before, Abbott was stuck in the Jurassic era. Time will tell if his successor believes in evolution. Either way, it is time for the States and Territories to take charge and provide the leadership that has been lacking for so long. If we can work together, we can coax the Commonwealth into the 21st century. Working in partnership, across government at every level and across industry, we can bring industrial relations legislation into line with industrial relations reality.