

THE SENATOR'S REPORT

Change of Government ..

The fresh energy, ideas and sense of purpose of the new Rudd Labor government is a reminder of how important change and renewal is. Mr Howard's conservatives seemed tired, defensive and out of touch. In time it will be Labor's turn to confront change and renewal. In the meantime, hopefully the promise of their early tenure will be realised on all fronts, environmental, social and economic.

An accountability task

The Finance Minister recently put out a press release, advising of my (unpaid, let me stress) appointment to advise on improving Budget transparency.

"Minister Tanner today announced that Australian Democrats Senator Andrew

Murray has commenced a review of Budget transparency issues as part of the Government's Operation Sunlight reforms. Senator Murray is a widely-respected Senator with major expertise in issues of financial transparency and parliamentary accountability. He has been active in numerous Senate inquiries that have recommended major Budget and financial reforms. Senator Murray will review options for greater disclosure of Budget and financial information, and provide a report to the Government before 30 June 2008.

This is a significant down payment on Operation Sunlight. Operation Sunlight is the Government's plan to improve Budget accountability and transparency. The Rudd Labor Government is determined to improve Budget and financial information provided to the Parliament and the public.

Key practical reforms to be implemented from this Budget include:

- streamlining and enhancing the information agencies provide to Parliament;
- simplifying the presentation of Budget Papers.
- and requiring agencies to provide clear information about currently funded operations.

Further improvements will be made during the course of 2008 and be informed by the work of Senator Murray. The Government is delivering on its election commitment to improve transparency, openness and accountability in the presentation of Budget and financial information."



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Not with a bang but a whimper

The public could be forgiven for having an impression, as a result of media coverage of the passage of Labor's *Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008*, that John Howard's WorkChoices IR regime is over. Some may have thought the Bill's easy passage meant that WorkChoices' ended 'not with a bang but a whimper'. (The line comes from TS Eliot's *Hollow Men*.)

The bill undoubtedly made some aspects of WorkChoices fairer, but the old regime endures, and much of its character will survive the substantive bill due later this year to fully implement Labor's IR policies.

Despite the rhetoric, the Coalition and Labor are mostly on common ground. Like the Coalition, Labor supports a unitary system, secondary boycotts, restricted right of entry, very restricted right to strike, secret ballots, restricted awards, and so on. They even both support unfair dismissal (UFD) rights. The argument is over the threshold, not the principle – the Coalition supports UFD for organisations with more than 100 employees, Labor for those with more than 15 employees.

Even on AWAs, rhetoric and reality differ. This debate is far from over. The reality is that a new Labor version of individual statutory agreements (ISAs) was introduced with this Bill, and despite its 'transitional' name, could, along with many existing pre-WorkChoices AWAs and WorkChoices AWAs, continue for many years yet.

Australian employees fall into these broad categories:

- awards only (Federal/state) - 21% or about 2.1 million people
- collective agreements (registered/unregistered; union/non-union) - 44.5% or 4.7 million people; and
- individual agreements (statutory/common law) - 34.5% or 3.7 million people.

There are more than half-a-million people on ISAs. Many Australians on WorkChoices AWAs will be happy to see the end of them, but it is stretching a point to think that means that half-a-million Australians were all opposed to the very different pre-

WorkChoices AWAs, or are all now opposed to ISAs as a distinct class of industrial instrument.

The easy demonisation of all ISAs by the very evident failings of just one of many versions of ISAs (WorkChoices AWAs), is indefensible from a policy perspective, despite its political success. Common law agreements put employees far more at the mercy of employers than do ISAs that are fair and properly regulated. The common law is unwritten law based on custom or court decisions. With respect to employment matters, Australian common law precedents are often historically rooted in English master-servant concepts, often with a bias towards master, the very criticism levelled against WorkChoices AWAs.

There are three basic types of individual employment agreements :

- those based solely on statute;
- those based on common law but with awards applying to them (hybrid statute/common law agreements);
- and those based solely on common law.

Labor is proposing the hybrid individual agreement, with two types – arbitrarily divided on

what basis no one knows - one above \$100 000 earnings, where supposedly completely flexible common-law agreements apply (but subject to statute through the yet-to-be-finalised National Employment Standards); and those below \$100 000, with stronger statutory protections, and a reference back to the applicable award.

There is one basic point to decide: do you need ISAs to provide protections and choice to employees that the common law does not provide? A great weakness of Labor and others is to argue that collective agreements are the alternative to individual common-law agreements. That assumes that the choice between the group and individual is always present. That is not so. Where individual agreements are likely to pertain, or are the preferred choice, the only alternative to the common-law agreement would be an ISA. Without ISAs the only choice is a Hobson's one, an individual common-law agreement or nothing, take-it-or-leave-it.

Time will tell, but I hope Labor will in the end design an individual statutory employment agreement system as an alternative to individual common-law contracts, with the following characteristics:

- fair statutory provisions;
- fairness provisions oversights and enforced by an active regulator;
- the ISA's are underpinned by a credible safety net of wages and conditions;
- ISAs are subject to a global no-disadvantage test referenced back to the applicable award; and
- fast low-cost disputation processes are available.

Unanimous support for full alcohol inquiry

At the third try in six years, my motion for a comprehensive alcohol inquiry got unanimous support. By this motion, the Senate has asked the Government to initiate a comprehensive inquiry into alcohol to address its abuse. Given the commitment of Mr Rudd to addressing the abuse of alcohol, I look forward to an inquiry and report that can make a real contribution to reducing abuse, while simultaneously improving the policy settings for the industry and consumers. The Senate Motion read:

1. *That the Senate, noting concern in the community at the abuse of alcohol, asks that the Government refer the following matter to a parliamentary committee, an appropriate body or a specially-established task force for inquiry and report: The need to significantly reduce alcohol abuse in Australia, especially in geographic or demographic hot spots, and what the Commonwealth, States and Territories should separately and jointly do with respect to:*
 - (a) *the pricing of alcohol, including taxation;*
 - (b) *the marketing of alcohol; and*
 - (c) *regulating the distribution, availability and consumption of alcohol.*
2. *In undertaking the inquiry, regard is to be had to:*
 - (a) *economic as well as social issues;*
 - (b) *alcohol rehabilitation and education;*
 - (c) *the need for a flexible responsive and adaptable regulatory regime; and*
 - (d) *the need for a consistent harmonised Australian approach.*

Another national apology needed

I wholeheartedly supported the national apology to the stolen generations. Former Prime Minister Keating first acknowledged the harm done to the Indigenous people of Australia, in his great Redfern speech. This was followed up by Prime Minister Rudd, both with the apology and the promise of more remedial action. He made a fine speech, fitting both to the occasion and to the importance of this statement.

The policy of forcible removal directly contributed to the alienation of Aboriginal society today. Its effects have been profound, not only for the survivors but also for subsequent generations, who continue to suffer the enduring effects of the removal from parents and grandparents. The contemporary problems facing Aboriginal society cannot be understood without reference to this shameful history.

There are two main aspects to apologising for the sin of forcibly removing Indigenous children from their families: one is to apologise for the policy and the other is to apologise for the execution of the policy. The stolen generations policy was racist in intent. It was not a welfare policy of removing neglected children who were at risk in dysfunctional families. It was designed to get so-called 'half-caste' children out of black families and to begin a process of assimilation into the white community.

There were already federal and state welfare laws allowing for the removal of children at risk in dysfunctional families. No other legislation was necessary, but racially based legislation and regulation was introduced for the specific purpose of removing Indigenous children from their families, their communities and their country. Yes, there were Indigenous

neglected children who were at risk in dysfunctional families and who were removed for welfare reasons. But most children were removed regardless of their specific home circumstances.

If the execution of the policy had resulted in high standards of care then that would have been a mitigating factor in the children's removal. But the execution of the policy was mostly bad, and churches, agencies, state and federal governments all failed in their duty of care.

Other children badly treated in institutions in turn deserve a national apology. There are three Senate reports into children raised in institutional and other forms of care. The *Forgotten Australians* report conservatively estimates that, taken together, there are some 500,000 people in Australia who experienced life in orphanages, children's homes or other forms of out-of-home care last century. They are the 7,000 to 10,000 child migrants, the 30,000 to 50,000 Aboriginal stolen generations children and the 450,000-plus Australian-born, non-Indigenous children raised in orphanages and other forms of out-of-home care.

These three cohorts exhibit the intergenerational effects of harming children, whereby, if you hurt a child, a harmed adult will often result. As adults, people harmed in care have endured lives tarnished by welfare dependency, substance abuse, mental and other health disorders, relationship and parenting problems and endless searches for identity. To this very day, many continue to suffer from the loss of identity and family, from feelings of abandonment, from a fear of authority and from a lack of trust and security.

**Please call my Electorate Office
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additional information**