

EMPLOYEES' ENTITLEMENTS, COMPANY INSOLVENCY

Grievance

MR KOBELKE (Nollamara) [9.36 am]: My grievance is to the Minister for Labour Relations and relates to the absence of a fair and efficient scheme to protect employees' entitlements. This has been a major issue in the eastern States for the past few years. Large and small companies have gone belly up and in the process have denied employees access to their entitlements. It appears that some companies have deliberately gone into receivership to protect directors or as part of a scam arrangement. In those cases, employees were more vocal because they had lost all their entitlements.

Western Australia has had these problems but they have not been as prominent, nor have they involved such large companies. A clothing manufacturing business in New South Wales closed down leaving the employees not only without work but also unable to access their entitlements to annual leave, long service leave and so on. However, because the director of the company was the Prime Minister's brother, the Federal Government stepped in and made a one-off payment. Following that totally unsatisfactory response to the problem, Minister Reith introduced a scheme which is far from adequate and which foists onto the States half the cost of honouring some of those entitlements. I say "some of those entitlements" because the scheme is inadequate and does not recompense anywhere near the workers' full entitlements.

The Labor Party wants a proper scheme. Over the past two years, I and my Labor colleagues in other States have been calling on the Commonwealth Government to introduce a fair scheme. Such a scheme would require a national approach; it cannot be done by the States. The scheme would not only provide money to cover those entitlements but would also tighten up the processes involved. The Commonwealth Government must take the lead on this because it relates to Corporations Law. The authorities may need to get at the directors. If the closing down of the company is a sham, the directors must be held responsible for the payment of those entitlements. We must also address the priority of creditors. Currently the banks and the Australian Taxation Office have first claim and the employees get what is left.

I will provide two examples that have been brought to my attention before I seek the minister's response about what the Court Government has done to provide support for employees whose entitlements have been taken from them as a result of the closure of a company. In the past few months I have met with employees from two companies. One was Accurate Manufacturing Pty Ltd, which also traded as Wienrich Pty Ltd.

In March this year, an administrator was called in and workers were asked to work for an extra week to complete some unfinished fabricated products. That extra week's work was to return some additional money to the company, which it was hoped would meet the claims of some of the creditors, including the employees. They did the extra work and completed the tasks, but they were not paid for that even though money was earned from the sale of the finished product. I met four of the six workers from that small company, who have been unable to get their entitlements amounting to approximately \$60 000. That says nothing about the superannuation scheme, because that company, which was obviously sailing more than a little close to the wind, had not paid its superannuation obligations for some three years.

Another company, Airside Maintenance Services Pty Ltd, was placed in liquidation by the Australian Taxation Office in March this year. A few months ago I met with 10 of the 18 employees who lost their jobs with the closure of that company. They indicated that they were owed approximately \$250 000, which they were unable to obtain due to the closure of that company. It was the same old story. They found out that their superannuation had not been paid for two to three years. All their superannuation entitlements that were supposed to be guaranteed by commonwealth law had not been paid. One of the workers, whom I will not name - I will give the minister a copy of the letter - received a letter from the Employee Entitlements Support Scheme, the commonwealth agency running the Reith scheme. Through the Employee Entitlements Support Scheme he was offered \$3 182.22, which is much less than the amount to which he is entitled. A sentence from that letter reads -

Consistent with the operational arrangements for the Scheme, the amount delivered by the Scheme has been reduced by 50 per cent because the WA Government is not making a contribution.

This inadequate and unfair scheme is relying on the State Government to contribute half the amount that is paid by employees whose entitlements have been stolen from them. I am not saying the Government should pay it, because it is a poor scheme. However, if the minister thinks the State Government should not pay, we need to know what the Court Government is doing to pressure the Federal Government to put in place a proper scheme. Those employees are being hung out to dry. They are not receiving the support they deserve in a system that is trying to protect the rights of members of our community. I am asking the minister to put on the record clearly why she does not support the Reith scheme.

That scheme is far from adequate and I want to see a much better scheme implemented. We should be pushing the Federal Government to implement something. I do not think the minister has put on the record the Government's position on this scheme. If the Government will not support the scheme, what is it doing to pressure the Federal Government to put in place a proper national scheme that will guarantee entitlements to employees of companies that go bankrupt or into receivership?

MRS EDWARDES (Kingsley - Minister for Labour Relations) [9.43 am]: I thank the member for Nollamara for raising the issue. My view on the State Government's position on the protection of employee entitlements in the event of employer insolvency has been on the public record for some time. The Government strongly supports the protection of employee entitlements. In 1993 when I was the Attorney General, I put it on the agenda of the Standing Committee of Attorneys General. The standing committee had been working with the Department of Employment, Workplace Relations and Small Business in Canberra in an endeavour to improve Corporations Law to enable a more effective system of requiring directors to pay out appropriate entitlements. I firmly believe that in the event of a company's insolvency, employees should not lose their entitlements in advance of anyone else. They have a right to be paid first and foremost. I do not wear the argument that if employees were given priority over or at least the same status as secured creditors, the investment would start to dry up. I do not see any evidence in support of that. Finance companies that lend money to small businesses to undertake expansion have the figures at their fingertips. Employees do not necessarily have that information at their fingertips. One of the strong recommendations I have put on the table is that entitlements to employees should be given greater priority. That has been put to the federal minister in support of a national scheme.

Mr Kobelke: How did you put that case?

Mrs EDWARDES: I put it directly to the minister. The Government has also considered whether a state scheme could be implemented. If so, we would go it alone in Western Australia. I am concerned about the lack of data and information on the federal scheme. It is a taxpayer-funded scheme. It does not place the responsibility with employers, who are responsible for ensuring adequate provision is made in superannuation schemes for employees in the event of insolvency. I am therefore concerned that the federal scheme is open-ended.

Western Australia is not standing alone on this issue. No other State in Australia has committed itself to the national scheme without seeking further information. However, I am sure the matter will be on the agenda of the SCAG meeting to be held at the end of November.

Mr Kobelke: Why not bring it to account publicly?

Mrs EDWARDES: I remind the member for Nollamara that if the Australian Labor Party wins the next election the level of job insecurity will increase. Western Australia has a strong economy based on increased productivity. Unemployment in Western Australia has reduced to 5.9 per cent overall; the level of unemployed women has reduced to 4.7 per cent and the figure for unemployed youth has reduced to, I think, 14.5 per cent. This Government has improved the potential for the economy of Western Australia to grow. The ALP's policy will create a greater level of job insecurity for the people whom the member for Nollamara is seeking to protect.

Mr Kobelke: You are doing nothing effective on employee entitlements.

Mrs EDWARDES: This Government has been making moves -

Mr Kobelke: Quietly behind the scenes?

Mrs EDWARDES: If the member for Nollamara wants to know what I have said publicly he should check the Internet or read the Press.

The member for Nollamara has taken a heightened interest in the protection of employee entitlements in the light of the impending election. He knows that if Labor were to win the next election, more and more companies would go under due to its strong support for a return to a unionised work force. Fewer jobs will be created and investment will decrease.

Pre-December 1993, the average number of working days lost per 1 000 employees was 188. At June 2000, 79 days per 1 000 were lost. The figures released last week show that New South Wales had the highest level of workplace disputation in Australia; Victoria's figures were second highest; and Queensland's figures were third highest. They are all Labor States.

Mr Kobelke: New South Wales has very low unemployment.

Mrs EDWARDES: Those figures are due to the work generated by the Olympic Games. It will be interesting to see the figures now that the Games are over.

Before the last election in Queensland, the Labor Party took a softly, softly approach to its labour policy. The ALP in Queensland said that it would abolish individual workplace agreements if it won the election. What happened? Once the ALP took office, it did not take a softly, softly approach that allowed individual agreements

to remain in place. That option has become so difficult that very few people are negotiating individual agreements in Queensland. They are changing to workplace agreements.

Mr Kobelke: You don't care about them.

Mrs EDWARDES: We do care. The coalition Government brought in minimum conditions of employment - award or award free. Members opposite did not do that. The Government provided minimum standards of employment for non-award employees, who constitute about 25 per cent of the total work force.

Dr Hames interjected.

The SPEAKER: Order!

Dr Hames interjected.

The SPEAKER: Order! I formally call the Minister for Water Resources to order for the first time.

Mrs EDWARDES: The Government has a strong commitment to protect employee entitlements in the event of insolvency. The responsibility of employers to provide for that is undoubted. We want to put that responsibility right back where it belongs - with those employers. We want to increase the level of priority for employees.