



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

BILLS

**Fair Work (Registered
Organisations) Amendment Bill 2014**

Second Reading

SPEECH

Monday, 14 July 2014

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Questioner
Speaker Neumann, Shayne, MP

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Mr NEUMANN (Blair) (20:13): I speak in relation to the Fair Work (Registered Organisations) Amendment Bill 2014 to express my opposition to it. The government has reintroduced legislation before the chamber—a bill they have submitted earlier in this term of parliament, back in November. We did not support it then and we will not support it now. The whole purpose of this legislation is driven by rank right-wing ideology. This is not about registered organisations and their best interests, or the best interests of industrial relations, and fairer, simpler and decent workplaces—this is motivated by ideology.

In some countries the division between the major political parties is driven by religion, in some it is driven by geography and in others it is driven by language. In Australia, the divide between the major political parties is on industrial relations, and it has been for decades. Labor on this side has stood up for working people; on the other side, they have stood up for the interests of capital. Labor believe that employers and employees can work productively and constructively in the workplace, without coercive, investigative and onerous powers being put on by bodies created for the purpose of imposing ideology in the workplace. We saw that when those opposite were in government back before 2007, and we are seeing it resurrected yet again. It is in their DNA. They just cannot help it. It is reflexive. It is what they believe in their blood and bones, and that is to prosecute and persecute workers in the workplace. So we will not support this legislation.

We believe the bill exceeds the penalties that are necessary in the workplace to make sure that registered organisations do the right thing. The bill exceeds penalties in the Corporations Act, which governs so much of corporate Australia. The government promised it would regulate registered organisations in the same way that companies, directors and shareholders are dealt with, but that is not what is happening here. What this bill actually does, as it has done before when it was introduced previously and when we opposed it, is establish a registered organisations commission; it amends the Fair Work (Registered Organisations) Act 2009. That registered organisations commission, headed by a registered organisations commissioner, will have more investigative and coercive powers than those available to the general manager of the Fair Work Commission. There are some more onerous disclosure provisions and, of course, greater penalties in terms of civil contraventions. There is also some criminality introduced in terms of criminal offences with respect to officer's duties which are discharged in the exercise of the work for those registered organisations.

Registered organisations are absolutely crucial to Australia's workplace relations system. They play a very important role in the maintenance of productive, flexible and fair workplaces. Australian employers and their employees are entitled to representation in their workplaces. They are entitled to representation before the courts and before tribunals which deal with areas of disputation, whether it is internal within one state or across state and territory borders. They are entitled to that representation to advance their concerns and their interests. When governments consider policies in relation to industrial relations, employers and employees are also interested in how it affects their rights, their interests and their obligations. They are entitled to that representation free of corruption by employers, by employees and also by the bodies that represent those interests. They are entitled to know that their membership fees are not being misspent. As the Australian Industry Group stated in their submission to the Senate Education and Employment Legislation Committee inquiry into this bill:

Overwhelmingly the officials and staff of registered organisations of employers and employees are dedicated and ethical people who work very hard for the benefit of their Members, their industries and the broader community.

This is absolutely accurate and correct.

In my time as a federal member of parliament and in my days before that, as an employer and as someone who has lived in the Ipswich and West Moreton community all my life, I must say that I have had very productive and genuine dealings with representatives of both employer and employee registered organisations. However, we must acknowledge that, although corruption is rare, it does occur in business, in government and in the community. I want to make it plain that Labor will not tolerate corruption by union officials or by officers of

employer bodies. We support appropriate regulation of registered organisations in Australia's workplaces. We support a properly empowered regulator. We support appropriate and tough penalties for those who do not follow the rules and for those who break the law. It does not and should not matter if the registered organisation found to be breaking the rules represents employers or their employees. We demonstrated this when in government.

In 2012, Labor in government then toughened the rules for registered organisations. We made their finances more transparent to their members. We dramatically increased the disclosure responsibilities. When the now Leader of the Opposition was the minister in charge of workplace relations he achieved this with legislation that he initiated in this place. The then Labor government acted to strengthen the regulation of registered organisations, whether trade union or employer organisations. That regulation, which currently governs the workplaces of this country, is the strongest it has ever been.

As I said, the background to this this bill is really important. We made it a requirement that officers of a registered organisation disclose to that organisation the remuneration paid to them by the organisation, by a related party to the organisation or because the officer is a member of a board due to being an officer of the organisation. We made it a requirement that officers of a registered organisation disclose to that organisation any material personal interest that they or their relatives—spouse, parent, child, grandchild, grandparent, brother or sister—have or acquire relating to the affairs of that particular organisation. We made it a requirement that the registered organisation disclose to their members and to the Fair Work Commission by 31 December 2014 and every year thereafter the remuneration which the five highest paid organisational officers and the two highest branch officers had been paid in that previous year, the material personal interest which the officers had disclosed and all payments to related parties of the organisation, including payments to entities controlled by officers of the organisation. It is through the Labor government's actions that members of registered organisations now know more than they ever did before and can have confidence in the organisations which seek to represent them in the workplace. We acted to broaden the Fair Work Commission's power to investigate suspected rule breaking by those registered organisations or individuals associated with them. When this rule breaking was proved, we acted to broaden the Fair Work Commission's powers to prosecute that breach.

The minister is a regular commentator on the Health Services Union, even when the matter is before the judiciary. He justifies this bill and changes made previously through constant references to the HSU. He says that this bill will sort it all out. What he will not admit is that the current legislation—the Fair Work Act and the registered organisations act—already contains the powers to deal with HSU matters. We already have in the registered organisations act prohibitions on members' money being used to favour particular candidates in internal elections or campaigns and provisions in relation to criminal proceedings being initiated where funds are stolen or are obtained by fraud. The current legislation ensures that the Fair Work Commission can share information with the police when appropriate for an investigation. The legislation currently provides for statutory penalties where a party knowingly or recklessly contravenes an order or direction made by the Federal Court or the Fair Work Commission under the registered organisations act or the Fair Work Act. These things exist already; they are already in place. There is no need for the legislation before the chamber to be brought before the House again.

The Fair Work Act already places on officers of a registered organisation a fiduciary duty that is very much similar and akin to the obligations that a director has under the Corporations Law in relation to the disclosure of personal interests, the disclosure of payments to related parties, being required to exercise a responsibility with care and diligence, acting in good faith and not acting improperly to use their position for political advantage. These are already obligations in the law. If you breach those obligations the Fair Work Commission has broad powers to investigate and if necessary prosecute. If officers are found guilty they face a range of serious penalties. This is not fancy. This is not fiction. This is what the law is currently. All of that would occur under the Fair Work Act and the registered organisations act as they currently exist. So why is the government trying to do this? As I said before, this is about ideology. There is no rhyme or reason, other than pure ideology, for these changes. The penalties are draconian. They are not supported by industry. The Australian Industry Group said of what the government is trying to do:

If the proposed criminal penalties and proposed massive financial penalties for breaches of duties are included in the RO Act, this would operate as a major disincentive to existing voluntary officers of registered organisations continuing in their roles, and would deter other people from holding office.

The penalties in this legislation are punitive. When you consider what a person can face in civil and criminal prosecution under this legislation for a failure to disclose or for reckless use of their position you can see that

these penalties would act as a disincentive, as the Australian Industry Group has said. Who would volunteer if there are massive penalties for a mistake? Why does this bill seek to introduce criminal penalties for behaviour that is already covered by and subject to criminal law in other legislation? This is not about the government being concerned for registered organisations. This is part of an agenda. It is irrational. The government is not interested in good policy or empirical evidence. This is about the government's DNA and their blood and bone. They hate unions and they hate those who represent workers in the workplace.

We have always remained open to the government's discussing good industrial relations policy and the concerns they may have about defects in the system and about deficiencies that could be remedied, but we cannot support this legislation. If the government were fair dinkum about tackling corruption, regardless of the type of organisation involved, they would not have this legislation before the chamber. Why is the bill silent on non-registered organisations? The bill is not about good governance at all. I believe that Australians will see the bill for what it is, yet another ideological attack on Australia's unions and Australian workers. They have established the royal commissions into the trade union movement. They have done so many things since they have been in power, as the member for Throsby said in relation to cleaners and elsewhere. They just cannot help themselves. This legislation is not about good governance or better workplace relations. It is not about reducing red tape. It is simply about ideology. We will oppose this bill. It is another broken promise like their budget of betrayal and broken promises. We will not stand for it. Australians should oppose it; they will see the bill before the chamber for what it is, another attack by a government that has no regard for Australian workers.