



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**BILLS**

**Fair Work (Registered  
Organisations) Amendment Bill 2013**

**Second Reading**

**SPEECH**

**Wednesday, 11 December 2013**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

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<b>Questioner</b>	<b>Responder</b>
<b>Speaker</b> Bandt, Adam, MP	<b>Question No.</b>

**Mr BANDT** (Melbourne) (18:53): This bill is the wind-up to the government's attack on people's rights at work. First they will come for people's unions and then they will come for people's rights at work. There is a fig leaf covering this legislation. It says that this legislation is supposedly about ensuring some kind of parity between how corporations are treated and how unions are treated. But on the simplest of examination it is clear that that is not the purpose of this bill and that that justification does not hold at all. It is no surprise, though, that the coalition members would start from that point because to them everything is a business and everything ought to be run as a business. There are probably very few members, if any, sitting on the government benches who have worked for a union or even been a member of a union. Thus, it is absolutely no surprise that they do not understand what unions are about and some of the fundamental differences between unions and companies.

Companies are regulated by company law because companies exist to seek to make a profit; they exist to return money to their shareholders. A whole system of law had been generated around that putting obligations on directors of companies to act in the way that is going to generate maximum return for their shareholders. Separately to all of that, when you set up a company you can choose whether you are going to set up a private company or a public company and go and seek capital by listing on the exchange and so on. If you do the latter, a different set of obligations applies to you. ANZ is regulated in a different way to the company that might be set up to run the corner shop or a small business.

Unions are completely different entities. A fundamental principle of a union that guides its internal structure and its purpose is not making money for shareholders but being a democratic organisation that will act in the interests of its members. That is the test that the legislation regulating union should apply. It is legitimate that the laws regulating companies have as an element that directors have to act in such a way as to make a profit. But there is a completely different motivation when it comes to unions.

The Independent Panel on Best Practice for Union Governance, in a way that sums it up succinctly, put it like this:

A number of researchers have questioned the merit of drawing on a 'corporate model' of accountability, pointing out that trade unions and companies are very different types of organisations. Their rationales for formation, the purposes they serve, and the nature of their membership are key differences. Union members have a democratic interest in the organisation of a union, rather than a financial or proprietary interest. Unions should be viewed as membership-based mutual interest societies rather than businesses.

The function of unions is not to profit from dealings with the general public. They operate as non-profit organisations. Their potential to harm individuals with whom they have financial dealings is nowhere near as great as that of private or public companies. Unions do not have shareholders with significant financial investments at risk. Shareholders may have large financial exposure to a company by reason of the size of their shareholding; by contrast union members have necessarily invested only their generally fairly modest membership fees.

That should be enough to dispose of the so-called rationale for this bill.

But if you take it a step further you understand the blatant hypocrisy that is driving this bill. Let us assume that the government is serious when it says that unions and companies should be regulated in the same way and think that through for a moment. The legislation that regulates unions requires union rules to provide for the democratic functioning and control of organisations. The people who run them—the equivalent of the CEO; the secretary of a union—have to be selected by election and those elections have to be conducted by the AEC or a similar organisation. And the members of those organisations have rights to come in and depose the people who are running their organisations at will.

If the government is serious when it says that there needs to be one set of laws governing unions and companies, then let us be serious about it. What it is effectively saying is that every mum-and-dad company running a corner shop needs to have a system of election overseen by the AEC. The CEOs of publicly listed company should be elected by the shareholders in an election conducted by the AEC. Is that what the government is going to propose? Of course not, because it is not interested in consistency.

What you also find, if you look at all closely, is that unions at the moment are subject to disclosure of their financial affairs in a way that, I tell you what, if you asked most private companies, 'Are you prepared to disclose your finances in the same way that unions have to', they would run a mile—they would run an absolute mile. If the government were serious about one set of laws applying to both then they would require private companies to be disclosing their real financial records on a regular basis, with a level of oversight that is currently not in place with regard to those private companies. You would be asking every small business, every mum-and-dad company that exists, to open their books and put them up on the internet—because that is effectively what unions have to do at the moment. It is not the case that this government is at all interested in having one set of laws apply across the board.

You understand the hypocrisy even more when you compare the government's approach to unions with that of other organisations. When it comes to charities, the government cannot run fast enough to dismantle legislation overseeing charities and not-for-profits—because for them, apparently, federal legislation that might have some teeth to it is an invasive act into the running of their business; yet, when it comes to unions, apparently they are fair game.

Again, if you want to understand the hypocrisy, have a look at how they treat the building industry. You open up the newspaper to see that the Leighton group of companies has apparently started approaching members of Saddam Hussein's regime to do a deal with them, potentially in breach of Australian law, and there is not a peep from the government about it. Despite the fact that it is apparent that AFP and ASIC have not been talking to each other for a couple of years, there is no interest at all in inquiries or royal commissions into deals with Saddam Hussein's regime. They turn a blind eye to all of that, yet they cannot run fast enough to set up a secret police force to oversee workers in the building industry.

Apparently, it is okay if you just happen to work in the building industry, through no fault of your own, for you to be treated as someone with fewer rights than an accused criminal. The government say it is okay for a secret star chamber to be able to pull you off the street and haul you in for questioning, and when you are released you cannot even tell your husband or your wife or your family where you have been, because that would be in breach of the legislation. So, apparently, when it comes to the building industry, it is okay to attack unions but they will turn a blind eye to mates in the boardroom who are accused of incredibly serious offences.

This government, which comes in and tells us it cares so much about individual freedoms, is the first one to say, 'Yes, everyone deserves equal rights, which is why we are bringing in this bill—to treat people in different areas equally.' But that is not the case if you are a building worker, it is not the case if you are a refugee, it is not the case if you are someone who wants to marry the person you love and they happen to be of the same gender. This government uses principles of equality of treatment, and uses individual liberties, selectively and turns a blind eye to abuses whenever it suits.

This bill is a classic example of that, because while they are busy off doing one thing with charities, and while they are busy doing everything they possibly can to give Christmas presents to big business to allow them to flout some of the most basic protections that exist in this country, they are turning the blowtorch on workers and their unions.

With this legislation apparently red tape is bad when it applies to charities but it is okay to tie unions up in red tape—and that is exactly what this legislation would do. This legislation is about saying there will be enforceable oversight over registered organisations that does not exist with respect to companies, that does not exist in other sectors—'But we will make you jump through hoops that the Pty limited company would quail at.' We do not have liberalism coming from the Liberal Party; we have reaction masquerading as liberalism. Apparently the state needs to get out of the way everywhere, except when it comes to unions, where it is okay to pass laws that are invasive, that regulate the internal affairs of people who have come together to protect their own interests, and to apply the kinds of penalties and heavy-handedness to them that is not being applied elsewhere.

For those reasons I will not be supporting this bill.

The DEPUTY SPEAKER ( Mr Broadbent ): Before I call the member for Isaacs I would like to congratulate him on receiving the prestigious Button Award this evening and the citation that went before that. Furthermore, I would like to congratulate former member the Hon. Judi Moylan and current member the Hon. Melissa Parkes for their receiving the Missen Award. Congratulations, the member for Isaacs.