



Speech by

**Mr G. HEALY**

**MEMBER FOR TOOWOOMBA NORTH**

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Hansard 10 June 1999

### **INDUSTRIAL RELATIONS BILL**

**Mr HEALY** (Toowoomba North—NPA) (12 p.m.): The Government's Industrial Relations Bill 1999 will clearly send Queensland back to the Dark Ages of union domination and workplace fear and is definitely anti-small business and anti-jobs.

**Mr Purcell:** There are reds under the bed, I suppose.

**Mr HEALY:** The member for Bulimba must not have any small businesses in his electorate. If he has, he certainly has not spoken to them.

**Mr Purcell:** I speak to my small businesses and they have no trouble with this legislation at all.

**Mr HEALY:** When did the member do that? I speak to them all the time and I can assure the member for Bulimba that they say exactly the opposite.

This legislation is a retreat to the industrial relations laws of the bad old Labor days of Government. This legislation will discourage businesses from employing new people and will place at risk many existing jobs. Never before have we seen a piece of legislation that not only has created fear amongst the small business community of this State but also has caused division and anger amongst the Labor movement right across this State.

**Mr Santoro:** They do not care, do they?

**Mr HEALY:** They do not care. As a perfect example, I will read into Hansard a letter to the editor that appeared in the Toowoomba Chronicle last Saturday. It states—

"Peter Beattie as Premier had an opportunity to put in place industrial legislation that would truly benefit the real workers of this State. He and his Ministers choose to ignore the wishes of Labor Party supporters and stands condemned. The real beneficiaries are solicitors and their like.

Peter Beattie ignored the opportunity to standardise the hours of work at 38 hours per week, to implement long service leave at 13 weeks after 10 years' service and also the Beattie Government ignored the opportunity to have juniors paid on competency not their age.

Another area of contention is the mechanisms to be used in reaching certified and project agreements, most of which will cause extreme difficulties to all parties. One result will be that new business will not be attracted to Queensland.

Peter Beattie speaks about"——

**Mr Purcell** interjected.

**Mr Santoro** interjected.

**Mr DEPUTY SPEAKER:** Order! I would like to hear the member for Toowoomba North. The cross-Chamber interjections by the members for Clayfield and Bulimba will cease. If the member for Toowoomba North wants to take an interjection, he will, and I will accept that. Those members are just wasting the time of the House with interjections across the Chamber.

**Mr HEALY:** Thank you for your protection, Mr Deputy Speaker. I will continue reading this letter into Hansard. It states—

"Peter Beattie speaks about jobs, jobs, jobs. What he isn't telling you is that casuals are excluded from minimum standards.

Perhaps this is where he intended to create jobs as employers convert permanent employees into casual employees to avoid the payment of annual leave and sick leave."

One might think that letter was written by a coalition supporter. One might think that letter was written by even a member of a conservative party. But it was written by none other than the AWU organiser in the Toowoomba area—good old Dudley Watson. Quite a few of my colleagues in the Toowoomba area will be very much aware of where Mr Watson's loyalties lie. He has given coalition politicians a pretty hard time over the years on a whole range of matters, particularly when it comes to industrial relations. He is doing his job. I repeat a couple of words from that letter. I think no truer words have been spoken. It states—

"One result will be that business will not be attracted to Queensland."

Mr Watson is from the AWU. It is the AWU that we have heard publicly has major concerns about this piece of legislation and that we have heard publicly may even suggest disaffiliation with the Labor Party and perhaps could put at risk the 24,000 jobs in the racing industry that will depend on the TAB privatisation process being approved at the ALP State conference this Saturday.

**Mr Purcell:** Do you want to take a bet?

**Mr HEALY:** I am glad the member for Bulimba supports TAB privatisation. I hope that he can convince some of his colleagues who I know will vote against it and put at risk the jobs of 24,000 people who are relying on a wage from the racing industry in this State.

**Mr Santoro:** Maybe members opposite would like to hear that figures released today show that the unemployment rate for Queensland has gone up by half of one per cent.

**Mr HEALY:** That is an interesting figure. That is going to play a major role in the implementation of this legislation in the future and will mean even worse effects. Under our legislation, the coalition in Government produced the lowest unemployment level in eight years.

**Mr Santoro:** This is after the Premier came in here this morning and boasted—

**Mr DEPUTY SPEAKER:** Order! The member for Toowoomba North has taken one interjection. This is not a conversation on the Opposition side of the House.

**Mr HEALY:** This legislation is backward-looking legislation which shows a fundamental lack of understanding of the Australian economy and a distinct lack of understanding of the needs of small business in the 1990s. Small business has adapted to change. It is obvious that this Labor Government has failed to do that.

The retail industry in this State will be particularly hardest hit by the provisions of this legislation. The retail industry is the largest employer in the State. In February of this year the retail industry in Queensland was providing employment for 267,800 people. That is an ABS labour force figure. The majority of businesses in the retail industry are small retailers—approximately 90%. That is, the businesses have fewer than 10 employees. The retail industry is the State's largest employing industry, with one in every six of the State's work force and one in every five female employees. It remains the largest employer of Australians, particularly the young, with one in every two employees being aged between 15 and 20 years. According to DETYA predictions and projections, the retail industry is to provide one in every five jobs in the period to 2005.

The retail industry is comprised of myriad types and sizes of retail businesses, each having its own customer demands, operational imperatives and employment requirements. It demonstrates that, while 97% of all retail businesses are small businesses employing fewer than 20 employees, some retail categories are more dominated by small businesses than are other types. The retail category in which small retailers contribute most to total retail employment is specialised food retailing. Small businesses in this category employ 17.8% of all retail employees, including an estimated 8.5% in takeaway food.

I know that there are concerns on the part of people, particularly those involved in the food sector industry. I will quote a couple of lines from a letter that was sent to the Premier by a small retailer in my electorate. I do not know the politics of this particular gentleman. All I know is that he sent me a copy of this letter, which was sent to the Premier. It states in part—

"Having invested our superannuation and hard earned savings into opening our own business two years ago this month; and currently employ 22 staff members ...

We believe our success, in part, is due to our employer/employee relations whereby everyone is encouraged to be part of the team ... being great believers in consultation before implementation ...

We support the ideology of the union movement and believe there is an important role for the unions to play in the workplace today ...

However we are totally opposed to the proposed legislation as it is a retrogressive step taking us back many decades ..."

Here is a small businessman who believes that there is a place for the union movement—as we on this side of the House do—but not under this retrogressive legislation.

The retail industry is highly labour intensive and operates on extremely small net profit margins. The industry is highly seasonal—in other words, hour by hour, day by day, month by month and even week by week. For example, pension week versus non-pension week is subject to extreme peaks and troughs. Its trade characteristics do not lend themselves to a stable, evenly spread work force across the day, month or year. If retailers staffed their stores to match the maximum trading rate, they would be non-viable because of the extra costs associated with employing maximum staff over less intensive trading times. However, if they staffed their stores to match the minimum intensive training periods, they would have insufficient staff to cover large portions of the trading period, whether that be day, week or year. The retail industry's ability to continue to contribute to Queensland's economic wellbeing and to offer employment, particularly employment to young people, is closely dependent on its ability to maintain and increase its market share of consumption expenditure.

Let me turn now to some specific provisions of this legislation which will have the greatest impact on small businesses. Firstly, I refer to the dismissal provisions and the proposed mandatory three-month probationary period for all employees. From a small business point of view, whilst the introduction of this three-month probationary period for all employees is encouraged to allow employers to terminate any unsatisfactory employee for a valid reason during this period, it will not provide an assessment period for employees. The removal of the exemption from unfair dismissal provisions for businesses with up to 15 employees is causing enormous concern for small employers.

Under the previous provisions, small employers had 12 months in which to consider the introduction of the new employee and their business. This period allowed employers the appropriate time to train employees, where necessary, and to implement the appropriate counselling and warning procedures to ensure that the employee was aware of the employer's concerns and where and how it was necessary for the employee to improve. The introduction of a three-month probationary period now requires an employer to make the decision of whether an employee is suitable within the first three months and also to effectively implement the counselling and warnings during this very short period. This creates pressure in small workplaces for both employee and employer and is simply not adequate enough time.

The removal of the exclusion provisions for small business will impact on the number of employees that this large section of the retail sector will consider recruiting. The previous exclusion period provided a much-needed buffer for small business to properly assess whether an employee was competent in the small business and, at the same time, fitting into the small workplace. Small employers will be fearful if they do not now properly exercise the decision to terminate within the first three months, that is, the probationary period, of an employee's contract. They will be tied into possibly lengthy and costly unfair dismissal proceedings, especially where law firms are allowed to appear before the Queensland Industrial Relations Commission. These firms will now undoubtedly openly tout for business in this area, and this, in turn, will almost certainly lead to a reduction of employment by the small-business sector or a shotgun approach to employees who experience some difficulty in grasping job requirements in their first three months. As I indicated earlier, approximately 90% of the Queensland retail industry is comprised of small businesses with fewer than 10 employees.

In relation to the law firms—the Minister himself has done a complete backflip on this issue of allowing lawyers to argue cases in the Industrial Relations Commission. It was the Minister who himself said in this Chamber on 30 January 1997—

"One of the reasons why the industrial relations system in Queensland was more successful and far more cost-effective than the equivalent systems in New South Wales and Victoria was that lawyers were kept out of a lot of the areas of the system—areas where they were not needed. Many a lawyer in the southern States has grown fat on becoming a so-called expert in industrial law ... where it was far better to have union advocates and advocates employed by the employer organisations."

Those were the Minister's own words.

According to organisations like the QCCI, what would have been one day before the commission under the previous legislation with a settlement cost of around \$2,000 could now become four days before the commission with a \$20,000 settlement cost. And just like the bad old days pre-1996, and again now with Labor in charge of the State's workers compensation scheme, the Government has sold out to its good old mates the Labor Lawyers, who will continue to grow fat at the expense of small business in this State.

This Bill also increases the nominated period in the provision relating to the dismissal of injured employees. The period has been increased from three months to within six months of the employee

being injured. The increased period places a real burden on small employers to operate their business on the basis of a replacement employee. And added to this is the ability for an employee in these circumstances to apply within 12 months after the injury for reinstatement to their former position, as opposed to 21 days after the dismissal.

The retail industry has a demonstrated rehabilitation record with injured employees that has served to protect and assist injured employees in an early return to the work force. The lengthening of this period will not assist the stakeholders but will simply provide uncertainty for all at the workplace. The decisions made by employers have, in the past and in the main, been based on medical assessments and recommendations, not the limits of an arbitrary time frame. The extension of the period will stagnate instances where early intervention was to the advantage of the worker as well as the employer and work colleagues in providing some operating certainty and clear outcomes for all.

The extension of family leave provisions to all employees will have a significant cost impact on the retail sector, which employs the largest number of females and casuals across the State. Employers will incur costs in the employment and training of substitute employees who have to cover for the leave and the administration of the accrual for such added leave.

The other issue—and one of the more contentious parts of this legislation that really cuts to the core with small business—is the return to good old-fashioned union thuggery when it comes to right of entry. Under the previous coalition Government's legislation, the right of union officials to enter workplaces was balanced and fair to take into account the right of employers and employees to conduct their business without uninvited interference while providing unions with reasonable access to their members.

Let me remind honourable members that, under the previous Government's legislation, whilst 48 hours' notice was required to be given before entering a workplace, the registrar could waive this notice period in emergent circumstances on application by the union. Under this legislation, the reduction in the notice provision for right of entry for union officials to workplaces brings back the uncertainty and the unreasonable demands on employers. The previous right of entry provisions under the coalition's legislation requiring 48 hours' notice to workplaces worked extremely well, particularly in the retail sector. Whilst right of entry has frequently been allowed instantly or well within this time period, the 48-hour time frame has allowed employers an appropriate period to gather necessary records and copies, where needed, for union officials.

**Mr Purcell** interjected.

**Mr HEALY:** That is not the case in all cases. The member for Bulimba would know that, in the majority of cases, they did give the time to assist those union officials when they wanted some of those records.

I am advised that the Retailers Association of Queensland has not experienced any disputation with the current provisions or the provisions under the previous legislation and is concerned that the proposed reduced time frame which allows immediate access will have the potential to significantly disrupt an employer's business, the work force and, indeed, the industrial relations at the workplace.

The previous coalition Government's legislation in fact recognised the positive contribution which can be made by individual employers and employees in promoting fair and productive workplaces. It provided them with the choices and the options which enabled them to do it in a way which best suited their particular needs and circumstances. The previous coalition Government's legislation was based on the notion of a fair go all round, recognising the rights and responsibilities of both employers and employees and their unions, and it removed the bias from the system that Labor has skewed in favour of trade unions and replaced it with balance. It was legislation that ensured that there was an ongoing role for a strong and independent umpire in the form of the QIRC and that employees and employers had access to the advice and assistance of the Employment Advocate on relevant matters. The previous coalition Government's legislation simplified and streamlined—

**Mr Purcell** interjected.

**Mr HEALY:** I have taken numerous interjections from the member for Bulimba. He has not made sense in any of them. I am not going to take any more. I do not have much time left.

**Mr DEPUTY SPEAKER** (Mr D'Arcy): Order! If that is the case, I suggest the member get on with his speech and ignore the interjections.

**Mr HEALY:** I will get on with it without any problems at all.

The previous coalition Government's legislation simplified and streamlined the industrial relations system and provided all the necessary safeguards and protections. It was legislation that ensured that there was a fair and effective award safety net and that employees were not disadvantaged. This legislation being proposed by this Government is regressive legislation and shows clearly that the Labor Party in this State is not willing to accept that times have changed, that people's attitudes have changed, and that workplaces have changed and have adapted to a changing global climate of

industrial relations. The proposed changes to this legislation will not benefit employees, employers or workers and have been brought about simply to appease the CFMEU. Foreign investors will simply choose another location when they realise that they have no choice but to deal with militant unions. That will cost Queensland jobs and investment in our economy.

Time expired.

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