



Speech by

**Hon. K. LINGARD**

**MEMBER FOR BEAUDESERT**

---

Hansard 10 June 1999

### **INDUSTRIAL RELATIONS BILL**

**Hon. K. R. LINGARD** (Beaudesert—NPA) (10.19 p.m.): Recently, a prominent trade union figure reminded the Government and the public of Queensland that the Labor Government was the political arm of the trade union movement. How true this is becomes clear when one considers the Bill before this House. The unions have imposed their ideas and undoubtedly contributed many sections of this legislation. When one looks at Chapter 12 of the Labor Party Bill dealing with industrial organisations, one can see the imprints—the large footprints of the unions stepping back into the past to the old days of union control.

**Mr Sullivan** interjected.

**Mr LINGARD:** The member should not start. I have always said that I will never throw dirt in this House unless dirt is thrown at me first.

**Mr Sullivan:** I didn't throw dirt.

**Mr LINGARD:** The member should just remember what I have said. I have said some bad things in this place but I have never thrown the initial dirt.

I want to talk specifically about the legislation governing industrial organisations— legislation that is about the demolition and the death of democracy in unions. When the previous Government introduced the Industrial Organisations Bill into this House on 26 November 1996, the Minister said—

"The Commission of Inquiry into the Activities of Particular Queensland Unions, conducted by Marshall Cooke, QC, and known as the Cooke inquiry, revealed a range of problems that were rife within trade union organisations. Many of these problems still persist today. In addition, as is indicated by the many letters and telephone calls of complaint I have received, there is considerable dissatisfaction amongst many union members regarding the performance and behaviour of their unions. Labor did virtually nothing to ensure unions were accountable to their rank and file membership. To make matters worse, the previous Government undermined the Cooke inquiry by starving it of funds. Inquiry staff did not even have a computer to complete the report."

Labor and the union movement never wanted the Cooke inquiry and tried at every turn to kill it off, and it did so when it won power in Queensland in 1989. The Cooke inquiry exposed too many skeletons in the cupboards of the unions and the Labor Party. The Cooke inquiry reports tell a damning story. Marshall Cooke said, in his sixth and final report—

"This inquiry has not been the easiest to conduct. The connection of the union movement within the Australian Labor Party injected political overtones into the inquiry. With the change of Government on 2 December 1989 there was a general expectation that the Goss Labor Government would terminate my Commission or at least restrict my Terms of Reference."

Cooke said—

"This was not the case. However, the links between the government and the union movement did create tension between the government and the Inquiry. The ongoing investigations of the inquiry were a topic of Parliamentary and political debate from time to time, which was reported extensively in the media. Criticism levelled at me and the Inquiry ranged from mildly hostile to down right defamatory. When I accepted the Commission in August 1989 I decided to give no media interviews but to allow full access by the media to public sessions of

the Inquiry and full access to documents tendered at those public sessions. This policy has ensured that media coverage has concentrated on the work of the Inquiry and has not been unduly distracted by any political controversy."

The Industrial Organisations Act 1997 implemented the majority of the recommendations of the Cooke inquiry. The Act removed the orts of the past in some unions. It improved union accountability and, importantly, it introduced and confirmed democracy in trade unions. These features—accountability and democracy—have been removed from the Bill presently before this House. The positive and responsible outcomes of the Cooke inquiry are dead. At last, the trade unions in this State have slain the dragon of industrial democracy which has worried them ever since Marshall Cooke came onto the scene. This is not an idle comment, and I shall now try to be more specific.

I turn to the fifth report of the commission of inquiry—the inquiry into the Australian Workers Union, July 1991. At page 29, after quoting from Bill Ludwig's address to the 1991 delegates meeting about democracy in the AWU, commissioner Cooke said—

"Reality does not measure up to the rhetoric. Queensland is the only branch which does not have an annual general meeting at which rank and file members have a direct opportunity to express their views or to formulate policy binding on the officials. There is no open forum to which rank and file members may go as of right and have their say about their union's affairs."

**Mr Robertson** interjected.

**Mr SPEAKER:** Order! If the member for Sunnybank wishes to interject, he should do so from his own seat.

**Mr LINGARD:** I am quoting Cooke directly. Cooke said—

"Mr Ludwig expressed the view that the annual delegates' meeting was equivalent to a general meeting of members. This is obviously not so given the voting system prevailing and the fact that only full-time paid officials are elected as delegates. The delegates' meeting is an orchestrated gathering of officials of varying pre-determined rank and influence rather than an egalitarian assembly of the membership. Mr Ludwig stressed that agenda items for the delegates' meeting can be initiated by rank and file meetings."

Mr Cooke detailed what Mr Ludwig said. He said—

"You will find in here ... items for a delegate meeting. They come from rank and file meetings with 15 members or more present and they carry resolutions to send to the delegate meeting where they are debated and discussed with representatives of the whole of the State rather than just those members. These resolutions passed by the delegates' meeting are binding on matters of policy."

Marshall Cooke went on to say in his report—

"Such agenda items would have to go through a filtering process, which of course, is controlled by officials."

Cooke says—

"The danger inherent in the Queensland system is that power is concentrated in the hands of the branch secretary who can control the district secretaries and the organizers and through them the job representatives. Federal Rule 53 in the union rulebook empowers an organizer to appoint or dismiss a job representative. Moreover, the rule also requires the branch secretary's approval for all appointments as job representative. Rank and file input into uniform policy formulation is virtually zero.

The concentration of political power in the union leads inevitably to the point where critics of officials or official policy are branded troublemakers and accused of disloyalty to the union. That attitude was epitomised by what the general secretary, Tom Dougherty, wrote in *The Australian Worker* 10 February 1943"—

and Marshall Cooke quoted—

"If anyone was in the organisation and not prepared to carry out the instructions of the General Secretary he had no right in the organisation."

The new Industrial Relations Act 1990 declares its statutory objects in section 1.3. One of those is—

"... to encourage the democratic control of industrial organisations, in the participation by their members in the affairs of the industrial organisations."

Administrative action is now required to make that objective a reality. In doing so, what Mr Justice Wright said in *Ford v. Federated Miscellaneous Workers Union of Australia* at page 163 should be borne in mind. He said—

"... the 'control' reserved to members must be more than theoretical; the provisions for its exercise must be reasonably practicable, and not so cumbersome or slow-moving as to be a mere illusion."

Section 13.12 requires the rules of a union registered in Queensland to make provision for the control of committees by the members. That control must be real, not illusory. Rules by themselves do not ensure participatory democracy. Even the best drawn rules can be manipulated.

The centralisation of power in the Queensland branch has unhealthy consequences for the union Australiawide when it is appreciated that the Queensland branch secretary led a group of eight delegates to the 1991 convention at which the total number of delegates was 30. Although this does not rival the heyday of Boss Fallon between 1935 and 1942, when Queensland delegations to convention actually exceeded the total number of all other branches added together, it is nevertheless a sizeable bloc of votes.

Marshall Cooke said in his report—

"The recommendations I have made to improve the conduct of union ballots and the recommendation I made in Section 13.2.2 of my Second Report to restrict the number of full-time officials on a union's executive or committee of management to 30% of the total number would, if implemented, make a significant contribution towards implementing participatory democracy. It will still be necessary to ensure that rank and file members are able to assemble at an annual general meeting and make binding decisions on union policy. If the system of delegates' meetings is maintained a restriction should be placed on the number of full-time officials eligible to be elected as delegates to such meetings. Full-time officials should not exceed more than 30% of the total number of delegates. Reform of the voting system is also required to give the rank and file candidate a 'fair go'."

Lack of accountability of union officials and paying lip-service to the principle of democracy was not just confined to the AWU. In his sixth and final report, Commissioner Cooke, speaking on rank and file rights, said—

"A recurrent theme which ran through the evidence before the inquiry was the lack of regard shown by officials for rank and file opinion and the bureaucratic arrogance with which the rank and file were treated. I discussed this topic in Section 10.11 of my Second Report and in Section 2.7 of my Fifth Report. My recommendation aimed at providing a simple means to redress rank and file grievance on this score is included in Section 5.

The dominance of committees of management by full-time officials is also a concern if the legislative object of 'democratic control' of unions and encouragement of 'the participation by their members in the affairs' of their union is to be achieved. The lack of rank and file control and the problems this can cause is discussed in Section 10.9 of my Second Report."

Marshall Cooke made the following recommendation—

"The rules of every industrial organisation shall provide for an annual general meeting of members of the organisation at which resolutions binding on the Committee of Management can be carried. If such annual general meeting takes the form of a meeting of elected delegates then no greater than 30% of the total number of delegates shall be full-time paid officials of the organisation."

This recommendation was incorporated into the Industrial Organisation Act 1997.

Section 23 of the coalition's Industrial Organisation Act 1997 provides that an organisation's rules must state a number of things. We said that a full-time officer or a full-time employee of the organisation or branch of the organisation may not be elected to an office in the organisation or branch, other than an office stated by the rules to be a full-time elected position. We also said that an organisation's or a branch's management committee membership must not be made up of more than a total of 30% of the organisation's or branch's full-time elected officers or full-time employees. We said that there must be an annual general meeting of its members.

We also said that its annual general meeting must be held within five months of the end of each of its financial years, including a financial year under section 195(2). We said that its annual general meeting may pass a resolution that binds the management committee of the organisation or its branches. We said that if an annual general meeting takes the form of a meeting of elected delegates, no more than 30% of the delegates may be full-time elected officers or full-time employees of the organisation.

Today, these provisions are all gone. They are omitted from the unions' legislation which we are debating today. Democracy in unions has certainly been demolished. There is no requirement in the legislation before us today for a union to hold an annual general meeting. No longer will it be possible for the rank and file members to meet and pass a resolution that binds the management committee unless the rules of the union allow it. A union's management committee will be able to comprise any

number of full-time appointed officials. No longer will it be necessary for the members to elect the majority of the members of the committee of management.

This legislation before the House as it relates to organisations makes a mockery of the Government's own objects in the Bill. Is it any wonder that the Minister selectively quoted the objects of the Bill in his second-reading speech? That speech omitted object (h) and any reference to the fact that these key obligations for unions were being omitted. Object (h) in the Minister's own Bill states—

"The principal object of this Act is to provide a framework for industrial relations that supports economic prosperity and social justice."

It also says—

"... encouraging responsible representation of employees and employers by democratically run organisations and associations."

These are high-sounding words and objects which are not matched by the detail of the legislation. This is nothing but legislation by the unions and for the unions. The bad old days of union abuse, intimidation and thuggery will soon be upon us.

---