



Speech by

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MEMBER FOR LYTTON

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WORKCOVER QUEENSLAND AMENDMENT BILL

Mr LUCAS (Lytton—ALP) (4.34 p.m.): I rise to speak to the WorkCover Queensland Amendment Bill. The Government's proposed changes to the Queensland workers compensation system mean change for the better. More workers will have access to compensation which will make the system fairer and, more importantly, balanced for everyone. We have amended the definition of "worker" so that all people who work under a contract of service, regardless of their taxpaying status, will be eligible for compensation.

Currently, the compensation system requires that a worker be a pay-as-you-earn—PAYE—taxpayer. But why should other workers be excluded? Where is the fairness in that? Other significant groups of workers, such as those paying under the prescribed payments system—PPS—while working under a contract of service are excluded from compensation. They must seek their own personal injury insurance at their own cost. Where is the fairness in that?

The current legislation also lends itself to unscrupulous employers forcing workers into PPS tax arrangements so that they avoid their workers compensation obligations and premium payments. Anecdotal evidence in some industry sectors suggests that this is occurring. Again I ask: where is the fairness in that?

The changes this Government proposes to the definition of "worker" bring Queensland into line with other jurisdictions which have a definition based on a contract of service. The Northern Territory is the only other jurisdiction that includes PAYE provisions in its definition. All workers working under a contract of service should have equal rights and access to a system of compensation.

To assist in determining whether a contract of service exists, administrative guidelines will be developed. For further clarification, provision will be made to declare certain groups as workers or employers. The changes to the definition will also benefit employers. Currently, employers can be exposed to common law damages for negligence in regard to workers who have been excluded from statutory coverage. Some people in this House seem to forget that. An employer's business can be destroyed because the employer did not see the need to insure, and did not insure. Then a worker is injured and the employer is met with a massive damages claim. The business is destroyed. It is similar to compulsory third-party insurance where everyone has to insure. Part of the scheme of this legislation is to ensure that people meet their obligations in the interests of their workers, in their own interests as employers and in their families' interests.

While PPS taxpayers were not workers under the WorkCover Queensland Act 1996 they could still take common law action for a work-related injury. In this situation the employer is not indemnified by WorkCover— but the action still is against the employer— and may have been unaware of their exposure to potential common law actions for their PPS workers. So much for the coalition's interest in employers there! As a consequence, the employer may not have had adequate insurance cover.

The amended definition of "worker" proposed by this Government addresses these difficulties. Existing arrangements for self-employed people, including working directors, will remain the same, as will the provisions covering volunteers. The amendment to the definition of "worker" will apply to all injuries occurring on or after 1 July 2000. Similarly, employers' premiums will be assessed on the basis of the revised definition of "worker" after this time. The start date will coincide with the new levy-based premium collection process which will be introduced into the building and construction industry.

Honourable members will be aware that premium compliance has been a longstanding problem affecting the Queensland workers compensation system. Over the years, successive Governments have tinkered with the policing aspect of compliance such as fraud prevention and investigation. What is happening is that the people who are not paying their premiums are bludging on workers and they are bludging on their fellow employers. They are forcing up premiums for their fellow employers and jeopardising the scheme for employees. We have to crack down on them, and crack down on them hard.

Mr Johnson: What about those bludging on the scheme?

Mr LUCAS: We will crack down on avoidance and fraudulent claims as well. There is no problem with that whatsoever. If a worker makes a fraudulent claim he ought to be dealt with. The fact is that people who do not pay their premiums are bludging on the workers and they are bludging on their fellow employers. We have to get into that, and get into it hard.

The Kennedy report suggested that WorkCover Queensland was facing a \$28m shortfall in known unpaid premiums. Anecdotal evidence from the building and construction industry suggests that the level of compliance in premium collection could be as low as 30%—the member for Bulimba will probably say it is even lower—far worse than suggested by Kennedy. The compliance strategy for this industry will see premium compliance increased to approximately 96%. Again, such a system is fair and restores the balance of equity for all participants in the workers compensation system.

Overall, the package proposed by this Government will restore the balance that has been missing in recent years. It is part of a well-planned and structured process to reform Queensland's workers compensation system. From 1 July this year workers' access to compensation will improve. From 1 July 2000 more workers will have access to compensation, and the next phase commences in the year 2001. Such an approach is financially prudent and nothing short of what is expected from a responsible Government.

I also want to spend some time having a talk about the journey claim aspect of the legislation. I particularly commend the Minister for his initiative in restoring some balance to journey claims. What had happened under the Santoro coalition Government legislation was that journey claims had been restricted to the point where people who did not take the most direct route to or from work were not able to make journey claims.

Principally, I am talking about the mum or dad who drops off their kids at school on the way to work. For example, my kids go to school at Wynnum Central and I live at Wynnum West. If I was a worker in industry, I would drive down to Wynnum Central to drop them off and then I would drive into the city to go to work. That is not the most direct route to work. In such a situation, if a worker is injured, he or she cannot make a journey claim. That is outrageous. It is anti-family and it is an anti sort of notion of fairness. What if someone has to grab a loaf of bread on the way home? It is an indication of the meanness of the previous Government that it made changes that largely affected those sorts of claims. The proposed changes do not mean that a worker will have access to workers compensation for any journey claim. We are not suggesting that. Existing provisions that exclude compensation for injuries incurred during a journey that involved a substantial delay, a substantial interruption or a substantial deviation will remain. In other words, it is not a free-for-all. There are still those requirements, but at least a worker can make a minor deviation. Really, if people are working and they have kids, dropping them off at school or child care is really very much an aspect of going to work. Why should that not be included in the coverage for journey claims?

The member for Callide is not present in the Chamber at the moment. However, I listened with shock and horror to his contribution. As he was speaking, I could have closed my eyes and thought that we were back in 1916 when the original workers compensation legislation was being debated. That is the sort of contribution that the member for Callide made—reminiscent of the attitude of the Tories from 1916. At that time, Mr Forsyth, who was a member of the Legislative Assembly, stated—

"Every single member of the Labour party was behind the Government who introduced that measure"—

that is the previous legislation—

"and thought that it was a very liberal Bill."

He goes on to state further—

"The Act was a great boon, and I do not think that anyone objects to the Act."

He states further—

"The Minister said that the industry was going to pay the costs of the insurance. How is the farmer, who sends butter to London, going to get the extra cost? Does the wheatgrower get an extra price? Will the cost go upon the industry in that case? In the beef industry, will a man be able to put up the cost on the industry?"

Of course, costs on employers are relevant and, of course, they are important. It would be irresponsible if the Government did not pay regard to the cost. However, the fact is that Queensland shares with Victoria the lowest workers compensation premiums in Australia. Indeed, we have far greater access to common law claims than they do. It is funny that we are hearing again the same old chants that people heard in 1916. One of the interesting aspects of the 1916 legislation was that the Workers Compensation Board took over from various private insurers who came under the old Act. Albert Hinchcliffe, who was a great Labor member in the Legislative Council, stated—

"I said just now that plaintive appeals have been made by the opponents of the Bill on behalf of the large number of clerks and others who, they say, will be displaced when the Bill becomes law."

He was referring to people working for private insurance companies. He states further—

"It is a most remarkable thing that, whenever any legislative machinery of this kind comes along, invariably a cry of a similar character is set up; but when some new mechanical invention is introduced which displaces unceremoniously large numbers of wage-earners and tradesmen who have spent the best part of their lives at their trade, we hear no clamour in defence of them."

Mr Hinchcliffe then goes on to refer to what happened to printers and states that there was no clamour or consideration from the other side for those sorts of people.

I was very interested to hear the various members of the Opposition making claims about the previous Workers Compensation Fund. It sounded a bit like a Dutch auction. It was \$200m, it was \$300m, it was \$1 billion, it was \$400m—we heard just about every figure under the sun. However, the fact is that the legislative initiatives introduced by the Goss Labor Government were the ones that got the fund back into the black. They were the ones that were fair and just and addressed the issues that needed to be addressed, not this "go hard, get the worker" mentality of the members opposite.

I refer also to the comments from the members opposite about what the actuaries said in relation to the Kennedy report. It is very, very interesting to note that the actuaries whom the Government is using as providing the basis for its legislation are exactly the same people as the Opposition used. So it is okay when the actuaries do a report that suits the members opposite, but if the same actuaries do a report that does not suit them, then the figures are crook. So let us be consistent.

This legislation is moderate, it is modest and it is looking at restoring some of the balance in favour of workers. There are other aspects of the legislation that personally I would like to see broadened further. I think that we still have further to go. Obviously, the Minister has to look at that in the light of the current legislation. However, I think that it is very important that we remember that, at the end of the day, the purpose of the legislation is to protect employers, as the insured, against claims and also to protect employees as injured workers. When those people are injured, they do not go home and put their injury in the cupboard like they take off a shirt. If they are injured at work, they carry that injury for the rest of their lives. So it is very, very important that we take very seriously our obligation to those workers and their families. This legislation is legislation that I am proud to support in this Chamber as legislation that goes towards restoring the balance.
