Speech by

Mr S. ROBERTSON

MEMBER FOR SUNNYBANK

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INDUSTRIAL RELATIONS BILL

Mr ROBERTSON (Sunnybank—ALP) (5.35 p.m.): We have heard 20 minutes of platitudes and not one reference to the Bill before the House. We have not heard one reference to any particular clause of the Industrial Relations Bill. The member for Gregory stood up for 20 minutes and talked about his concerns for small business, but not once did he take the opportunity to highlight one clause in the Bill which will impact on business in this State. There are two reasons for that—

Mr Seeney: We are not debating the clauses. Don't you know how the system works?

Mr ROBERTSON: Is the member going to continue with that rudeness? The member for Gregory did not refer to one clause that would impact on business in this State. There are two reasons for that. Either he has not read the Bill or the speech that he was given by the Opposition spokesperson for industrial relations was so bad and so inaccurate that he could not bring himself to refer to it.

Time after time, people on the other side of the House have misrepresented clauses in this Bill. As I said, that is basically as a result of the fact that they are reading speeches prepared by the member for Clayfield. I would expect newcomers such as the member for Callide—

Mr SEENEY: I rise to a point of order. I find the suggestion that somebody else wrote my speech offensive and I ask that it be withdrawn.

Mr ROBERTSON: I withdraw.

Mr Bredhauer: It is worse if he wrote it himself.

Mr ROBERTSON: Absolutely. I wouldn't have admitted to it. The member for Clayfield has provided speeches for members opposite and on each occasion they misrepresent clauses in the Bill. Earlier today we heard the presentation of the member for Toowoomba North. He spoke about the changes to the sick leave provisions and said that if a worker is on sick leave he cannot be dismissed for a period of six months. The Bill does not say that at all. The Bill refers to workers on WorkCover. However, that did not stop the member for Toowoomba North from misrepresenting the provisions of the Bill.

Similarly, we have had speaker after speaker misrepresenting provisions in the Bill relating to legal representation in the Industrial Commission. The line that they have been peddling—and the line that organisations such as the QCCI have been peddling—is that the provisions of the Act are opening up the floodgates to lawyers going into the Industrial Commission, thus adding to the costs to both workers and employers. Any fair reading of the clause would suggest otherwise.

From time immemorial, lawyers have had the ability to appear in the Industrial Relations Commission, and its predecessors, where both parties agreed. This Bill merely extends that provision. Where there are significant questions, such as legal questions, to be answered, lawyers will be able to appear before the commission. There is no unfettered right in this Bill to the effect that—

Mr Seeney interjected.

Mr ROBERTSON: The member would not have a clue. Time after time in this place, members opposite tell us that we would not have a clue what it is like on the land. They tell us that we are all city

folk and that we would not have a clue. Let me tell you this: given that you have had absolutely no experience in industrial relations—

Mr DEPUTY SPEAKER (Mr Reeves): Order!

Mr ROBERTSON: Yes, I will speak through you, Mr Deputy Speaker. Given that the member for Callide has not had one day's experience in the Industrial Relations Commission, one would think that he would shut up for a moment and let those people who have actually spent years—

Mr SEENEY: I rise to a point of order. The member is deliberately misleading the House. I find his comments offensive and I ask that they be withdrawn. I most definitely have had a great deal of experience in the real world.

Mr DEPUTY SPEAKER (Mr Reeves): Order! Could the member tell me what words he found offensive?

Mr SEENEY: I find offensive the assertion the member made that I have no experience in this field. I ask that it be withdrawn.

Mr ROBERTSON: Although I did not actually say that, I will withdraw it. The member has absolutely no experience in relation to matters before the Industrial Relations Commission, so one would think that he would sit there and listen to members from both sides of the House who have such experience. He would not have a clue when he goes on with the claptrap that he has been going on with about legal representation before the commission. He has been misled by the member for Clayfield, as have so many other members opposite.

The Industrial Relations Bill 1999 is founded clearly on the principle of strong jobs growth, enhanced economic performance and a fair and equitable system for workers and employers. However, it is hardly surprising that yet again the stock standard mantra of the Government bowing to its union mates has been trotted out by those opposite.

For the benefit of the Opposition, I take this opportunity to highlight some of the positive outcomes of the new system for Queensland businesses, particularly small businesses. The legislation is based on a review by an independent tripartite task force, with equal representation of union and employer groups. The task force produced 166 recommendations, of which 139 were supported unanimously by all members of the task force. That degree of support in a contested policy area such as industrial relations is hardly indicative of a biased review process. Furthermore, all interested parties had the opportunity to make oral and written submissions to the task force review and all of those views were considered by the Government in drafting the legislation.

The task force found that the existing Act was out of step with modern work practices and emerging labour markets. The task force found further that the Act was confusing, inflexible and unnecessarily adversarial. The new legislation incorporates a number of key task force recommendations that ensure an accessible, user-friendly system that promotes strong economic growth through the effective and efficient operation of businesses and enterprises.

The key benefits for business are, firstly, flexible agreements. The task force noted that the current arrangements under the Workplace Relations Act 1997 for agreement making were restrictive and difficult to obtain, particularly for agreements involving more than one employer or for major projects. The task force agreed that there should be greater choice in agreement making for the parties. What could be better than that for business? They get greater choice. Surely that would be supported by all members in this place. New business agreements can be made with unions for greenfield sites and for the ongoing operation of a new business before the employees are engaged. Single and multiple employer agreements can be made with unions or directly with employees.

Secondly, there is an emphasis on negotiation rather than industrial action—something one would think that the members opposite would support. A significant feature of the Bill is the introduction of a 21-day peace obligation period for agreement making. During that period, unions, employees and employers will be required to participate in genuine bargaining to achieve a certified agreement. Importantly, the parties will not be able to participate in protected industrial action until the expiry of the peace obligation period. Under the current legislation, the bargaining period formally begins one week after one of the parties gives notice of their intention to bargain for an agreement. The giving of notice signals the possibility of industrial action.

In considering these issues, the task force took the view that this system placed undue emphasis on the confrontational aspects of the negotiating process. The changes are aimed at placing greater emphasis on the process of negotiation, mediation and conciliation rather than on industrial action— again, something one would think that the members opposite would support.

Also, there are stronger powers for the commission to intervene in disputes. The task force further recommended that the powers and functions of the Industrial Relations Commission be enhanced to allow a faster, more responsive approach to industrial disputation and greater access to conciliation and arbitration. As a result, the Bill strengthens the role of the commission in mediating and

conciliating when negotiations over enterprise agreements have broken down. In resolving industrial disputes through conciliation and arbitration, the commission has the power to conciliate when negotiations break down, including helping the parties to negotiate in good faith, ordering parties to negotiate in good faith, and resorting to arbitration if the negotiation phase is unsuccessful or if requested by the parties.

The commission has enhanced powers to arbitrate where it is aware that a dispute has caused or is threatening to cause damage to a single enterprise, a local community or the economy. In arbitrating disputes or agreements, the commission can give directions about the industrial action or order that industrial action is not protected. It can also grant injunctions or make other orders that it considers appropriate to resolve the matter. One would think that those provisions would receive the support of the members opposite. Again, because they are merely reading off speeches prepared by the member for Clayfield, they have not read the Bill and they have not had the opportunity to understand what it is all about.

I refer now to the three-month probationary period. The Government has developed a package of reforms of the dismissal procedures that seek to introduce fairness and balance for both employers and employees regardless of the size of the business. The Bill introduces a mandatory three-month probationary period for all employees, during which time an employee cannot access a remedy for a harsh, unjust or unreasonable dismissal. This provision allows all employers time to assess whether an employee is suitable for the particular job, not just those businesses with 15 or fewer employees. To ensure flexibility, there is provision for an employer and an employee to agree in writing to a lesser period than three months or a longer probationary period— something that no member opposite has yet recognised in their contributions. They all say that there is a reduction in employer rights from six months to three months but at no stage have any of them been honest enough to say, "Yes, there is a provision in the Bill that allows for agreements to be made to extend that probationary period beyond three months." I should say that the only member who referred to that provision was the member for Hinchinbrook. However, somehow he turned that power for an agreement to be made between an employee and an employer into some extremely onerous task that was being imposed on an employer to sit down with a new employee to come to an agreement about the length of a probationary period. What a lot of absolutely arrant nonsense! It just shows how out of touch that particular member is in relation to employer/employee relations.

The legislation also streamlines the hearing of unfair dismissal claims by emphasising conciliation and ensuring that cases are dealt with expeditiously. The Industrial Registrar is to reject applications from excluded employees, such as probationers, and the commission must issue a certificate on the merits of the case and the likely consequences of proceeding further following attempts to conciliate. These provisions will save employers time and money. Do we hear one word from the members opposite about that? Of course not!

The Bill removes the current small business exemption from dismissal legislation. The Opposition has seized on that provision as an attack on small business. Why should a proportion of employees be deprived the right of protection against harsh, unreasonable and unjust treatment simply because they work in a small business? The size of the business does not impact on the merits of a particular case.

Where is the reliable evidence that unfair dismissal laws are the big bogy for small business that the Opposition suggests that they are? I refer to the Telstra Yellow Pages Small Business Survey, which shows that unfair dismissal laws barely rate as a significant issue for small businesses. The Yellow Pages Small Business Index for the last quarter revealed that 58% of small business operators believed that the major impediments to employing more staff were due to a lack of work followed by increasing employment costs. Another 46% of proprietors surveyed stated that other externalities, such as difficulty in finding skilled staff, lack of cash flow, profitability and economic climate were the barriers to taking on new employees. Of all the businesses surveyed, only 15% identified employment conditions, broadly speaking— which include unfair dismissal laws—as a barrier to employing more staff. In the absence of any empirical data from any member of the Opposition, including the member for Gregory who spoke about this issue, one would have to say that the evidence from the Yellow Pages Small Business Index would suggest that the unfair dismissal provisions are not the issue that the Opposition would like them to be.

Finally, in relation to the restoration of the role of awards, many small businesses rely on awards for setting wages and conditions for employment. In fact, the IR task force's issues paper noted that small business is content with the award system. Yet under the current system, awards are becoming irrelevant.

The important role of awards will be restored by providing for relevant and consistent wages and employment conditions in awards, rather than limiting them to a safety net of minimum conditions. Awards will now be reviewed regularly, at least every three years, to remain up-to-date. The Bill also

encourages workplace flexibility through the use of majority, facilitative and exemption clauses in awards.

The growth in casual and part-time work, contract work, seasonal and out work meant that it was also time to examine the assumptions on which we base the regulation of employment. The Bill clearly identifies a set of minimum entitlements for all employees with respect to annual leave, sick leave, public holidays, family leave, carer's leave, bereavement leave and long service leave for all employees. These conditions are clearly laid out in the Bill for the ease of employers and employees. These and other provisions within the Bill clearly demonstrate the Government's fair and balanced approach in relation to the rights of Queensland workers and employers.

The State Government does support the legitimate and important role that unions have to play, and makes no apologies for that. However, there is clearly no basis to the argument that the new legislation is anti-business. On the contrary, the new laws will minimise the potential for damaging, expensive and protracted disputation. They offer a broad choice of agreement types to allow employers, employees and unions to find arrangements that suit the circumstances of the industry, enterprise or workplace. They allow both employers and employees time to trial the employment relationship, regardless of the size of the business. In short, they promote the effective and efficient operation of enterprises and industries, and that means strong economic growth, high employment, job security and an enhanced ability to compete both nationally and internationally.

Some of the material produced by the QCCI demonstrates how shallow the campaign waged by members of the Opposition has been in relation to trying to drum up panic within the business community about this Bill. This QCCI industry briefing reports the results of a survey that it did in relation to the legislation. To give an indication of the level of business concern—in addition to the Yellow Pages Small Business Index that I quoted from earlier—the QCCI states—

> "The Chamber has been virtually a lone voice consistently arguing that the measures contained in the Government's legislation would be economically damaging."

One has to ask: why was the QCCI virtually a lone voice in relation to this particular legislation?

Mr Lucas: It's out of date.

Mr ROBERTSON: As the member for Lytton said, perhaps it is a little bit out of date and could not garner the support from other industry associations to carry on the campaign that it has waged over the last few months. That quote suggests that the QCCI is perhaps a bit of out of touch with its own constituency.