Speech by

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WORKPLACE HEALTH AND SAFETY AND OTHER ACTS AMENDMENT BILL

Mr LANGBROEK (Surfers Paradise—Lib) (9.56 pm): I rise to speak to the Workplace Health and Safety and Other Acts Amendment Bill 2006—a bill that has been rushed in by the state government in an emotionally hyped response backed up by very little external consultation. It is a response to the Commonwealth Workplace Relations Amendment (Work Choices) Act. The bill mainly seeks to amend the Workplace Health and Safety Act 1995, but it would also relocate provisions of the Industrial Relations Act 1989 relating to re-employment of injured workers into the Workplace Health and Safety Act.

The main provisions of the bill which I will address relate to union officials' rights of entry into workplaces for workplace health and safety matters which it must be recognised are not restricted by the Commonwealth's WorkChoices but just currently do not exist in this state's relevant legislation. The Scrutiny of Legislation Committee notes that clause 4 of the bill would insert provisions conferring upon authorised representatives of employee organisations a power to enter workplaces in relation to workplace health and safety issues.

Under the new provisions, an authorised representative of an employee organisation may enter a workplace or a relevant workplace area if the authorised representative reasonably suspects that a contravention of the act involving workplace health and safety is happening or had happened at the place and affects employees who are eligible to be members of the relevant organisation. Neither the consent of the employer nor the issue of a warrant is necessary for this purpose.

The fact that consent or a warrant is not needed is quite concerning and lies at the heart of my concerns. Why this point is so concerning becomes blatantly apparent once one realises the range of powers this bill confers upon authorised representatives after they have entered without a warrant and without consent. The extensive range of post-entry powers include some that can only be described as of a coercive nature. I refer to proposed section 90I(2), which states—

After entering the place, the authorised representative may

(a) inspect any plant, substance or other thing at the place relevant to the suspected contravention mentioned ...

of occupational safety or—

(b) observe work carried on at the place; or

(c) speak to a person, with the person's consent, who is an eligible member of the employee organisation; or

(d) speak to the occupier of the place about anything relevant to the suspected contravention ...

involving occupational health and safety happening at the place or—

(e) require the production for inspection of documents, including employment records, relevant to the suspected contravention ... or

(f) copy a document at the place relevant to the suspected contravention ... or

(g) require the occupier to give the authorised representative reasonable help to exercise the authorised representative's powers ...

When we consider the Legislative Standards Act, whether the legislation has sufficient regard to the rights and liberties of individuals depends on whether, for example, the legislation confers power to enter premises and search for or seize documents or other property only with a warrant issued by a judge or other judicial officer. For those opposite, that is section 4(3)(e) of the Legislative Standards Act 1992. This bill dispenses with any requirement to obtain a warrant and, in the circumstances of such wide post-entry powers, that is not appropriate. If a union representative has a justified reasonable suspicion, the granting of a warrant with respect to that suspicion should not be a problem to obtain.

As the minister's speech and the explanatory notes both state, representatives of employee organisations currently have a right of entry under industrial relations legislation in respect of matters which may include workplace health and safety issues. It is, therefore, the case that the provisions of this bill do not constitute a major extension of current entry powers. This begs the question: are the main provisions of this bill wasting our time? I think so, and the Beattie government is once again using this opportunity to introduce a toothless tiger of a bill which will be ineffectual legislation. But at least he can point to it and say, 'Look what we did.'

The minister is pre-empting the government's future blaming of the federal government on this issue. That is all it is doing with this—trying to build an election case about industrial relations just as the Premier tried to build a by-election case about IR in the by-elections in Chatsworth and Redcliffe. We all know the result of those by-elections.

I hope the unions have realised that, despite whatever representations the government has made heralding its apparent action on their behalf resulting in this bill, that is actually just more spin. Despite having coercive powers to enter and lay siege to suspected workplaces, authorised representatives can only make recommendations to an employer to rectify a workplace health and safety breach, but they do not have the power to order work to stop. Then again, this bill lacks any balance by not providing any offences or monetary penalties in the legislation if union representatives misuse their wide-ranging powers. A breach of the provisions could result in the representative's appointment as an authorised representative being withdrawn, but I doubt that this would act as a deterrent to an official who goes into a workplace under the guise of a workplace health and safety issue with the actual intent to unreasonably hinder, obstruct or interfere with the operations of the workplace. There are, however, offences and monetary penalties—up to $15,000—if an employer obstructs or refuses to answer questions or provides misleading information to an authorised union representative despite any suspicion on the employer's behalf as to the official intentions. Why should an employer not be suspicious? He or she has probably not given consent because that is not required and he or she certainly has not been given a warrant.

The idea of a reasonable suspicion has to be questioned in the absence of any need to obtain a warrant or consent. All an employee organisation rep has to do is to provide 24 hours notice of their entry. One must be suspect of the potential for exploiting quite coercive post-entry powers when no offences and penalties really exist to deter the misuse of these powers.

I agree with the comments of the opposition leader, the member for Toowoomba South and other opposition members about the amendments that the opposition leader has proved. I agree that they bring some balance to the bill. This bill is a misguided and unbalanced attempt to win back union voters who continue to be bemused by federal Labor members and equally unexciting union promotion by this state government.