Speech by

Annastacia Palaszczuk

MEMBER FOR INALA

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INDUSTRIAL RELATIONS (FAIR WORK ACT HARMONISATION) AND OTHER LEGISLATION AMENDMENT BILL

Ms PALASZCZUK (Inala—ALP) (Leader of the Opposition) (3.43 pm): I want to make a few comments before I start the opposition's response to this bill. Firstly, I want to say to members of this House that the Premier went to the election talking about the cost of living. He said that the cost-of-living bill was one of the most important bills that needed to be debated in this House. What have we seen today? Late last night in this House the debate on the cost-of-living bill was started, but today we have gone straight from committee hearings in the morning, to question time, to debating this industrial relations bill.

The second point that I want to raise is that the usual process undertaken with the new committee system is that, essentially, the report from the committee, when tabled, would lie on the table for seven days. It is set out clearly in the standing orders. I draw members' attention to standing order 136 titled 'Portfolio committee reports', which states—

When a Government Bill has been set down on the notice paper pursuant to (4), at least seven days shall elapse until the commencement of the second reading debate, unless the Bill is declared urgent.

We know that yesterday this government declared this bill urgent. So it is saying to the people of Queensland that this bill before the House is more urgent than the cost-of-living bill. This is where I say to the government that it has its priorities wrong. It went to the election talking about the cost of living. We started debating the cost-of-living bill last night. But the second piece of legislation that we are debating in this House is an IR bill. The first one was about the committee system, which was essentially giving members more money.

The third point that I would like to make before going into the substantial parts of my speech relates to the committee. I thank all of the witnesses who appeared at the committee and the members of the committee. It was great to see people from outside coming in and participating in the hearing. I think that shows, in essence, that the committee system that we have set up here in the Queensland parliament is effective, is working well and that together we can bring about real changes. But the challenge for this Attorney-General in his capacity as the minister for industrial relations is whether he will accept all the recommendations tabled by this committee.

Mr Bleijie: I said no to some, so obviously no. Were you not listening? I said yes to some. I said no to some.

Mr DEPUTY SPEAKER (Dr Robinson): Order! The minister will cease interjecting.

Ms PALASZCZUK: Mr Deputy Speaker, thank you. I did not interrupt the minister when he was on his feet and I would expect that he would show me the same courtesy when I am delivering my speech. The question is: when the all-party committee is making recommendations, is the government of the day going to accept the recommendations? Yes, we have heard the minister for industrial relations say quite clearly in this House that he is not going to accept some of those recommendations. I say to the minister

that the opposition will be moving an amendment that is aligned with one of these recommendations. The test will be whether the government members of the committee that made that recommendation will vote with the opposition. I expect that they will not.

The opposition will be opposing the bill. The LNP has wasted no time in returning to its favourite ideological pursuit of attacking the rights of workers. It has broken yet another election commitment and is attacking the powers of the independent umpire, the Queensland Industrial Relations Commission. We all know that when the conservatives want to attack the rights of working people, their first step is to weaken the independent umpire. The LNP has introduced this legislation with virtually no public input and very little public debate. Just two months after being elected the Newman government has stopped listening to Queenslanders and has trashed basic standards of accountability and scrutiny. Proper scrutiny and debate of these significant changes is even more crucial when we are dealing with changes that are at complete odds with the promise that the LNP made prior to the election.

Premier Newman has broken another election promise with his plans for interfering in the role of Queensland's industrial umpire. In November last year Mr Newman said—

The LNP has no plans to change the role of the Queensland Industrial Relations Commission.

Now we find that the government will interfere in the QIRC's roles and powers. In fact, we see that one of the very first bills introduced into the House contains the LNP proposal to undermine the independent umpire—and this is a worrying trend. The Premier and his ministers have already stopped listening to Queenslanders and seem to have an aversion to independent advice. Such significant changes to the fundamental elements of the Queensland industrial relations system would usually involve months of negotiation and discussions before a bill is even introduced.

Genuine consultation would have been the appropriate action if the government were serious about trying to improve the industrial relations arena. Instead we heard, during the short committee hearing, that the government did not consult union representatives about the proposed changes. We heard, in fact, that the government was more concerned about consulting the Chamber of Commerce and Industry Queensland, a group representing private sector employers, when this is a bill that affects the public workers under the Queensland legislation. The government tried to limit public input and scrutiny, giving just a few days for submissions to be made. Many submissions noted the obvious inadequacy of public consultations. They were invited to make submissions with a closing date nearly two days later. Despite that challenge, they have provided insightful responses that we thank them for.

It is telling to see the government's response to the reasoned, well-articulated concerns raised by the committee. Rather than consider the points raised and adapt the government's flawed legislation, the government is trying to bulldoze this legislation through without even the proper consideration of the committee report provided by their own MPs. I take the House to section 2.5 of the committee report, headed 'Committee Comments'. It states—

The committee wishes to express the view that, whilst it understands the governments reasons for the prompt passage of this legislation, it considers that realistic consultation times should be adhered to particularly when legislation affects numerous stakeholders.

The government will not even listen to the reasoned position of its own backbench committee members. When it comes to this bill, in the lead-up to the election the LNP hid its true intentions to undermine the independent umpire, try to sneak through this legislation without proper analysis and ensure there was a lack of consultation with inadequate time and attention provided to the bill. It also tried to override requirements for the committee report to lay on the table and instead tried to rush through this legislation. There is one overriding reason for the LNP's approach: it knows that the Queensland public does not support its approach to industrial relations. The government knows that the more people hear and see of these changes the more they will be concerned.

The bill is nothing short of an attack on the independence of the Queensland Industrial Relations Committee, an attack on the ability of workers to be represented by a union and an attack on the rights and conditions of working Queenslanders. When the conservatives want to attack the rights of working people they first take aim at the independent umpire, in this case the QIRC. The LNP is trying to undermine the commission, limiting its power to conciliate disputed matters and narrowing the issues it is allowed to consider. Under the LNP proposal, 'public interest' is redefined to be the fiscal policy of the government. It reduces the role of the independent umpire, it tries to deny workers the right to be represented in negotiations and it gives the minister the power to unilaterally end protected action.

Mr Elmes: Under what circumstances?

Ms PALASZCZUK: It is your bill. Have a look at it. We see a government determined to hurt workers in the public sector. The LNP is not satisfied with sacking workers; it now wants to take away the worker's ability to protest against it. Make no mistake: this is poor public policy and it is driven by ideological extremism. At the core of it, this is an attack on the wages and conditions of our teachers,

nurses, firefighters, wardies, teacher aides, cleaners, council workers and ambos and their families. The government has in part tried to justify its extreme industrial relations agenda by describing it as harmonising with the federal Fair Work Act, but this legislation cherry-picks the parts of the Fair Work Act that strengthen the government's hand while leaving out the parts that will protect the interests of working people and their families. The Fair Work Act is designed to cover predominantly private sector agreements, while the QIRC deals with only public sector workers and local government. So we have the situation where the government is both the employer and the one setting its own rules in its favour.

The LNP is legislating to impose its extreme ideological position on the independent umpire. The government can send the Under Treasurer to the QIRC to present the fiscal strategy of the government.

Mr Elmes interjected.

Ms PALASZCZUK: That information is not allowed to be challenged or questioned by the parties to the dispute. Does the member think that is fair and reasonable? I do not think that would pass the fair-and-reasonable test.

Mr Elmes interjected.

Ms PALASZCZUK: The member can put his name on the speaking list. The commission can only consider that information and not the context of the specific matter before it. The government can refuse, delay or undermine negotiations and the minister can unilaterally intervene in protected action without the role of the independent umpire. These various elements of the bill are all aimed at weakening the position of workers and reducing the power of the QIRC to act as an independent umpire.

The proposed changes to the principal object of the act, section 3, are designed to restrict the ability of the QIRC to consider all relevant facts of the specific matter before it and the wide range of interests involved in delivering outcomes that promote economic growth and fairness. As was pointed out in written submissions to the Finance and Administration Committee, the existing legislation has ample room for the commission to consider the economic outlook and conditions when deliberating on a matter. The current act already provides the commission with the power to consider economic prosperity and social justice, ensuring economic advancement, providing for an effective and efficient economy, promoting the effective and efficient operation of enterprises and industries, and meeting the needs of emerging labour markets and work patterns.

This is by no means a restrictive or narrow approach. In fact, one of the strengths of the Queensland and Australian systems of industrial relations is the ability of the commission to fulfil its judicial responsibilities to consider a wide range of factors that impact on the livelihoods, conditions and prosperity of employees and employers. The committee was provided evidence that at commission hearings employers routinely raise issues of the prevailing economic conditions and the commission regularly gives those concerns due consideration. The proposed changes undermine the priority of the commission to consider a balanced approach, with the changes imposing a far greater weight to the policy strategy of the government of the day. Forcing the commission to consider the fiscal strategy of the government is something new entirely. It imposes upon the commission the political and ideological will of the government, effectively imposing the government's preferred wage situation.

Mr Elmes: That is not true.

Ms PALASZCZUK: The member for Noosa can get up and speak. He has every opportunity to stand in this House and give his views.

Mr Elmes: Straight after you.

Ms PALASZCZUK: Very good. Gary Bullock from United Voice, in a submission to the committee, said—

It is inconceivable in any other forum that one party's preferred outcome should be given special consideration.

This is quite simply the LNP government legislating for its own interests against the interests of Queensland's teachers, nurses, cleaners, firefighters and ambos. The LNP approach is even more concerning with the insertion of the requirement of the commission to consider not only the position of the state government but also the financial position of the public sector entity. It was confirmed by the department's submission to the committee hearing that this inserted clause deliberately requires the commission to consider not only the overall financial position of the government and the state economy but also the financial position of the specific public sector entity.

The cause of concern is that it is the government that determines the financial position of a specific public sector entity at any given time. For example, these changes would enable the government to unfairly and maliciously set its own rules for determining the outcome. Despite a government having healthy finances overall, it could direct funding away from a particular public entity and then go to the commission crying poor, insisting that the poor financial position of that particular entity demands poor outcomes for the wages and conditions of the employees. If this is not possible with these changes, the minister should confirm to the House: is it the intention of the changes to enable government decisions on

funding of particular entities to undermine negotiations? If not, will the minister rule out relying on that clause in future commission hearings, and tell us what other purposes there are in specifically including that requirement in the legislative language?

The employer may ask employees to approve an agreement being negotiated with employee organisations. Proposed section 147A equates to the LNP government legislating to refuse to recognise union representatives. It is stunning that in 2012 we would have to stand in this place and debate the fundamental right of workers in Queensland to be represented by their union representatives in negotiations. The bill undermines these basic principles, where the requirements would otherwise apply. Employers already have the ability to instigate negotiations with employees. If they do, however, under section 144 the government is required to inform employees that they are entitled to be represented by their union and to provide the union reasonable opportunity to do so. Those basic principles are undermined by the LNP proposal.

As was pointed out by the insightful submission from the United Firefighters Union which stated that the LNP rationale 'misses the point; even where an agreement is between the employer and employees, the employees should still have the right to be represented by the employee organisation to which they belong.' In fact, the requirement to inform employees of their right to be represented by their union is expressly related to circumstances where an employer seeks to negotiate directly with employees, under section 144(2)(c) and section 144(2)(3).

The LNP proposal seeks to make it easier for governments to instigate negotiations directly with employees and removes the very protection that should apply to those circumstances to inform employees of their fundamental right to representation. This provision can also lead to the confusing situation where negotiations can be commenced between the employer and unions.

Union representatives would engage their membership, work through a log of claims and engage in negotiations with the government. If those negotiations bring up points of dispute, the government can refuse to bargain in good faith and, instead, undermine the negotiations by instigating a vote directly with employees. This poses a very real risk that, at best, workers will be confused as to which proposal they are voting for and, at worst, believe they are voting for their preferred agreement when, in fact, they are voting on the inferior proposal put forward by the employer.

Changes to insert provisions restricting protected action to when 'negotiations for the agreement have begun' severely favour the government. It effectively removes the need for the government to bargain in good faith. They can avoid and delay negotiations and employees would not be allowed to take protected action to bring the government to the table. Does it not say a lot about the level to which the government will stack the cards in its own favour. There is nothing more central to a fair and efficient industrial relations system than to have both parties sitting at the negotiating table, bargaining in good faith. However, rather than encouraging negotiation and bargaining, the LNP approach actually encourages the employer to avoid and disrupt negotiations.

To top it off, the government is proposing to give the minister the unilateral power to intervene in protected action. This is a huge conflict of interest as the minister is not an innocent third party, but a member of the government, the employer. The minister is given the power to unilaterally intervene without the need for approval from the QIRC. The LNP claims this power reflects provisions in the Fair Work Act, but those provisions have never been used federally, not even during the height of the Qantas dispute. They have not been tested and they impose great risks in the Queensland setting. The Fair Work Act applies predominantly to private sector workers where government intervention is envisaged as a third party in a dispute between an employer and workers. Under the new Queensland laws, for workers in the public sector the minister will have the power to intervene in matters for which the government is the employer. Disturbingly, there are significant penalties associated with not complying with the directive of the minister. As was raised at the committee, that raises serious concerns about the separation of powers, as the direction does not come from a court or commission, but rather from a minister.

It is useful to consider how this will actually affect negotiations in the public sector. Queensland teachers are currently negotiating for their wages and conditions. I would hope that all in this House can agree that our teachers are hard-working men and women to whom we entrust our most precious resource. I would hope that all members agree that they provide essential, critical front-line services. What would this bill mean for them? The government could delay and undermine negotiations. The Queensland Teachers Union would be prohibited from taking protected action to bring the government to the negotiating table to bargain in good faith. Instead, the government can send the Under Treasurer down to the commission to provide information that is not allowed to be challenged. This untested information about the fiscal strategy of the government effectively sets the wage outcome of the matter in dispute.

If disputes occur, the government can undermine the right of workers to be represented by their union and instigate negotiations directly with employees, outside of their existing negotiations with the Queensland Teachers Union. The Queensland Teachers Union could seek to instigate protected action, as is their right. They would have to go through the onerous process of having a ballot of some 40,000

members who are spread right across this vast state. If the protected action does proceed, with the support of the QTU membership the minister can unilaterally intervene to stop the protected action. That is despite the legality and legitimacy of the protected action and the minister can intervene without requiring the approval of the commission. This is not a good outcome for decent working people and it is not a good outcome for the fair and decent society we should strive to be.

In conclusion, this bill is a serious breach of faith with the Queensland people. The government has no mandate to undermine core elements of the Queensland industrial relations system. It is a system that has served us well, one that has enabled and promoted the dual goals of economic growth and fairness. Like conservative governments before them, this government avoided the issue of industrial relations entirely during the election, except, of course, to rule out the very changes they are now proposing. Like conservative governments before them, the LNP could not resist the temptation of jumping on their favourite ideological hobbyhorse, industrial relations. Who would have thought that would have come about so quickly?

However, like previous LNP governments, they have over-reached. As we have argued in this house already, the LNP has confused a large majority with a monopoly on wisdom. Despite the LNP's efforts to rush through this legislation without more scrutiny and public debate, they cannot hide it forever. One day, perhaps years down the track, their decision, ideological attack and policy decisions will come back to haunt them.

If this government is so proud of its attack on the very fabric of Queensland's industrial relations system, it would welcome public debate. I actually think it would gain more credibility if it was honest about the intentions of this act. However, instead of being upfront about its policy direction, the LNP uses the veiled language of 'modernisation' and 'harmonisation'. The truth is that the LNP is introducing these changes to make it tougher for workers to negotiate and easier for the government to set its own terms and to impose obstacles for the independent umpire to play its role. For this reason, as I have outlined in my speech to the House, the Labor opposition stands by the workers of this state and opposes this bill.