Speech By

# Curtis Pitt

## MEMBER FOR MULGRAVE

## INDUSTRIAL RELATIONS (TRANSPARENCY AND ACCOUNTABILITY OF INDUSTRIAL ORGANISATIONS) AND OTHER ACTS AMENDMENT BILL

**Mr PITT** (Mulgrave—ALP) (7.55 pm): I rise to make a contribution to this draconian tory bill. So ashamed of this bill is the LNP that it is hiding this deeply flawed, divisive and, in parts, downright discriminatory legislation on State of Origin night. But this should come as no surprise given the Premier's previous disinterest in terms of securing the maximum number of State of Origin games for Queensland. I heard the Premier speaking earlier when he said that he likes unions. It just seems that he does not like those who lead them, their organisers, their delegates and even their members when they have a different point of view than his. He criticised union heads like Beth Mohle and John Battams from the Queensland Council of Unions. Newsflash, Premier: if you do not like John Battams then you do not like unions, because you do not get more 'union' than John Battams.

Earlier this evening we had the government pass a motion to guillotine debate on this important bill despite the Attorney-General making the commitment on ABC Radio that he would not rush the legislation through. What an utter disgrace! The LNP simply refuses to accept that unions and employer organisations are democratic organisations. They are already highly regulated, professional organisations that have a legitimate voice to be heard in the Queensland political landscape. The ideological determination of the LNP is imposing unreasonable barriers to industrial organisations exercising their right to free speech and decision making. It would be preposterous if, before we as members of parliament decided how to vote on any issue in the parliament, we were required to conduct a ballot of all constituents and receive a majority vote specifically on each issue before we could vote to change any laws in this state. Similarly, it would be absurd of corporations to require a ballot of all shareholders before deciding to spend an amount of $10,000 on a public education campaign. In the same way, it is preposterous to suggest that trade unions or employer organisations be required to conduct such a ballot. Any members not happy with the way that that money is being spent can let the officials know at the next election.

As was put to LNP members in the public hearing on this bill, if they believe that people should have a vote on every major decision, will they be running a ballot in their own electorates before voting on this legislation? Of course not! Do MPs believe that the government should take a referendum to the Queensland people before the government spends millions of dollars advertising the Queensland Plan? Will they take a poll of their own constituents before passing the budget that smacks households with new taxes and charges? Do they believe that the LNP leadership should not be allowed to spend the LNP organisation's own money on political advertising unless a majority of LNP rank-and-file members vote on each and every decision that spends $10,000? Of course not! But that is the blinkered and ideologically driven nature that has become the hallmark of this Newman LNP government.

The General Secretary of the Queensland Independent Education Union, Terry Burke, provided clear evidence to the Legal Affairs and Community Safety Committee hearing that there are cynical examples where descriptions from the government in describing the action taken in this legislation could be construed to be misleading. Let me quote Mr Burke from the hearing when he said—

We also think it is disproportionate in terms of the criminal penalty that is being contemplated under this bill regarding the duty of an officer. The department when they spoke to you said that they had taken account of the corporations law with regard to that. Certainly, they have regard to the introduction of a criminal penalty of the dimension of in excess of $300,000 and up to five years of imprisonment, but frankly they were, in my view, mischievous in suggesting that they had borrowed from the corporations law. If one goes to the relevant section of the Corporations Act, section 184, the good faith text, it reads that the officer commits an offence if they—

(a) are reckless; or

(b) are intentionally dishonest;

and fail to exercise their powers and discharge their duties:

(c) in good faith in the best interests of the corporation; or

(d) for a proper purpose.

If you go to the legislation which is in front of you, curiously, the word 'intentionally' has dropped out of that comparator with the Corporations Act and also, importantly, the word 'and' has dropped out of the legislation that you are looking at, such that a person could be in breach of this legislation with a penalty in excess of $300,000 and up to five years of imprisonment for a single instance of not being honest. The tests in the Corporations Act—

He was then interrupted. The chair of the committee then tried to cut him off by saying—

We are talking maximums, though, are we not? I do not wish to be cutting into your speech, but when people start talking about the maximum amount we all know that, in reality, it is the maximum—

Then Mr Burke said—

Whether it is $100 or one day in prison, the fact is that the suggestion that this was borrowed from the Corporations Act is, frankly, wrong. The text, if you go to section 184, will be quite a discovery to you if you have not looked at it already in terms of what is, in fact, imposed under 527 in the bill that is in front of you. It is extraordinary the difference that is actually there.

In essence, our comments are that we think that this is highly disproportionate in terms of an essential character of our Western democratic society that the laws that we establish in that tradition are laws of proportionality, which deal with a pattern of behaviour that we think is the appropriate way that a society ought to operate, mindful in a proportionate sense to the extent that that needs to be enforced and, importantly also, the extent to which it infringes on personal liberties.

Those points, articulated well by the secretary of QIEU, did not receive a response in the department's additional briefing provided to the committee. Even if the LNP try to pass off those concerns as minor technicalities, it goes to the broader point that this government is determined to dress up every hurtful legislative change in misleading language and spin.

When it was suggested by an LNP committee member that there is nothing wrong with the requirements being imposed for balloting, the response from John Battams of the QCU was as follows.

... the democratic nature of unions means that the people who made those decisions are ultimately responsible to the members at the ballot box the same as you are. That is the way it should operate. To put constraints into that equation will make it impossible for the decision-making processes of the union to effectively represent the interests of the members. What I said before is what seems cleverly to be something so simple—'Let's ask the members'—the way it is constructed in this act is designed, we believe, to hamstring unions into not being able to act decisively in a timely fashion to protect the interests of their members.

Finally, I note with interest that, despite 78 pages of amendments being presented tonight, there is one particular amendment that is not included. Of course, I am referring to the recommendation from not one but two parliamentary committees not to change the definition of 'worker' in relation to Queensland's workers compensation scheme. When introducing this legislation to include a change to the definition of 'worker', the 'Kmart lawyer' attempted to skirt the work of the Finance and Administration Committee and, at the same time, impacts upon workers' rights to make claims under the state's workers compensation scheme. The Attorney-General introduced the legislation after asking the bipartisan parliamentary Finance and Administration Committee to review the definition of 'worker'. Clearly, the Attorney-General was concerned that he might not achieve the result he was after with the committee. He did not want to know what that answer might be. That concern proved to be well founded.

I am the deputy chair of the committee and, although I am not speaking in that capacity tonight, I take great exception to the Attorney-General showing contempt for the committee system and its independent role in undertaking a review into the iconic workers compensation scheme. What did the FAC's report say? It states—

The Committee agreed that the definition, as it currently stands, has been tested at law and fundamentally works. Any change to that definition will impact on both employers and workers. There may also be unintended imposts on the scheme as any new definitions are tested in the courts.

The committee recommended to not only retain the definition of 'worker' but also, in fact, strengthen the definition. Despite the fact that there were 240 submissions to the committee and 13 public hearings on this issue and then a second parliamentary committee that agreed with the findings of the FAC, the Attorney-General clearly thinks that he knows better. The Attorney-General and the

government are attempting to make it more difficult for genuine claimants to pursue their rights and achieve a fair outcome under the scheme. Tradies and subcontractors are among those who might lose access to the scheme. They are the people who will be defined as independent contractors and not be included in the definition of 'worker' and they are the ones who stand to lose. I will have an opportunity to talk about the FAC's report on the workers compensation scheme in more detail when we debate the committee report at a later sitting. But I want to once again thank my fellow committee members for their truly bipartisan approach and their fair-mindedness in considering this important issue. In particular, I wish to thank the committee chair, the member for Coomera.

Any narrowing of the definition of 'worker' when there are still some workers who ought to be included under the current definition is just plain wrong. I vehemently oppose all elements of this bill and will vote it down at every opportunity.