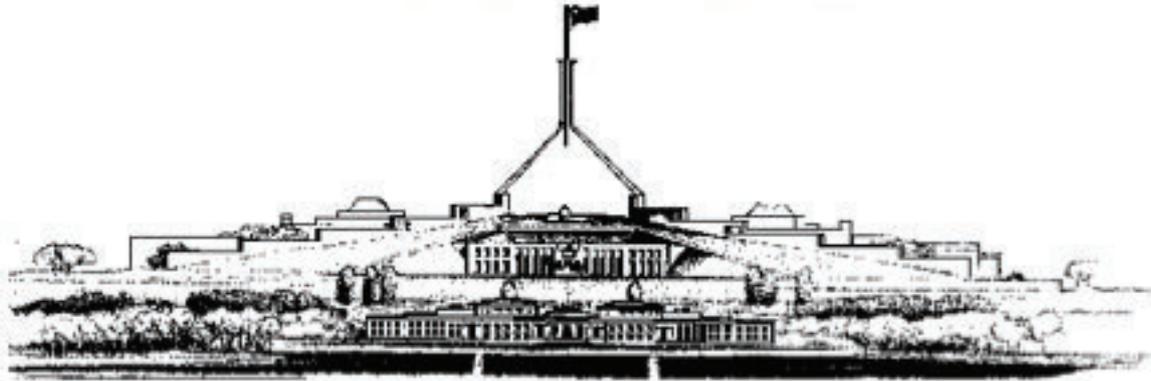




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

PROOF

BILLS

**Fair Work (Registered Organisations)
Amendment (Ensuring Integrity) Bill 2019**

Second Reading

SPEECH

Wednesday, 27 November 2019

BY AUTHORITY OF THE SENATE

SPEECH

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Speaker Kitching, Sen Kimberley	Question No.

Senator KITCHING (Victoria) (11:20): I rise to speak on the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019. No more Orwellian label has been applied to legislation. Really, it is like someone in the government read Orwell's monograph, *Politics and the English Language*, which was published mid last century but which has obviously become more and more relevant to public language in this day and age. It's like they've taken that monograph, inverted it and used it in a way that Orwell was actually warning against.

This proposed law is nothing more and nothing less than an attack by powerful vested interests in the government, those opposite, and by those in this government who buy outcomes, on the most vulnerable of Australian workers who reach out for help from their union. It's an attack on the lowest paid, and it's an attack on those organisations that fight for those people. It's an attack on those who feel shut out by politics and who feel that the Liberals will never care about them any more than the Greens will. This bill will not be paid for by powerful, articulate, well-connected union secretaries but by the membership. They are the people who will bear the costs of the unintended consequences that will ensue from this bill.

I could give you a catalogue of all the good that unions have done. Many other senators have passionately addressed that. It runs from everything, from the age-old desire of people to associate with those with whom one has a commonality of interest to action at the most forensic level. That includes recent wage theft cases. Does anyone think that people sat down and went through their payslips one by one over many years and then suddenly that all came together in one concerted effort? It was unions who did that. It was unions who actually compiled those documents and ran those cases on wage theft—such a heinous crime, by the way, that Mr Porter, the Attorney-General of the Commonwealth, said that he will criminalise wage theft.

That is really a big shift ideologically and philosophically from a party that represents capital to move to a point where it actually acknowledges that capital gets it wrong and exploits people and has done so, for some companies, in a systematic way and deprived, in some instances, \$300 million from workers. So, in fact, the Liberal Party knows that unions do the hard yards and do the hard work to ensure that people who might not be able to put that case together themselves are represented and get a fair day's pay for a fair day's work—an age-old principle of registered organisations, but which is still, as we have seen this year, a necessity, because otherwise people would be exploited in our system.

I want to share with the Senate my own personal observations of the federal government agency that will be responsible for administering these laws. This is an agency that stands condemned as acting unlawfully by the Federal Court in the recent AWU police raids episode. This is an agency run by the CEO, Mr Bielecki. This agency is so transparent that, when you go to its remuneration tables, it doesn't actually disclose what he earns—but it's somewhere in the vicinity of \$435,000. Chris Enright is also employed at the Registered Organisations Commission. Again, his wages are not disclosed—a lack of transparency—but, from my reading of the annual report, he's probably paid about \$370,000.

It's clear that these two people, who were intimately involved in the AWU raids, have been willing—and I say this deliberately—to corrupt themselves by pursuing nakedly politically motivated inquiries of the kind we saw in relation to the AWU, where they were desperate to dig up anything they could regarding the AWU, and particularly regarding the member for Maribyrnong. Why? Because he was the opposition leader. That was a politically motivated attack. This is not an independent and impartial agency, yet this is the agency that those opposite would have to ensure that this Orwellian-named law, the ensuring integrity bill, will be seen to be acting properly. These people, I am telling you, are incapable of doing that.

Some social workers use the term 'lived experience'—not my favourite term; I would say that all experience is lived—but some people do not realise the lived experience of those in registered organisations in dealing with the Registered Organisations Commission. They lose documents. They are incompetent as well as malevolent.

The Registered Organisations Commission is like Javert in *Les Misérables* pursuing Jean Valjean. They play favourites. Mr Enright, in particular, favours some unions over others and plays politics with them in some sort of bizarre power exercise. He leaks to his friends in the media routinely. Mr Enright is as corrupt—and I use that word again deliberately—a public official as I have ever encountered in all of my dealings with government. I'm not suggesting he takes bribes but I certainly suggest that he is drunk on power. He is an abuser of power. He is a thug in a suit.

The very real prospect of the most vulnerable Australians being left to the mercy of the free market without a union, without a helping hand, is the very consequence of this legislation. The combination of this bad law and this perfidiously bad federal agency—with its lavishly paid executives who play politics, who leak to the media and who have their own deep-seated agenda of maximising their own power in a totally unaccountable way—could have very clear and devastating consequences for the working people whose votes and whose taxes send us here and keep us here.

Unions are responsible for the standard of living that we enjoy today. It's been unions that have entrenched so many of the norms of fairness in Australian society. While we take many of these things for granted, behind each one of those standards of living that we enjoy was a struggle and a sacrifice by a union and by the workers they represent. The basic awards structure that sets out workers' entitlements was a design of the Australian Workers Union in 1908 to cover pastoral workers. It was the unions who first secured paid annual leave. This was achieved through a campaign by printing workers in 1936. This builds upon sick leave provisions included in awards beginning in the 1920s. Penalty rates came into effect in 1947 after the unions won an arbitration commission ruling. A more recent example of a union's victory is securing maternity leave. Everyone here and all of the public servants who are here in this building all enjoy that now. It was the Gillard government that saw through the introduction of the Paid Parental Leave scheme in 2011.

Central to the Hawke-Keating government's legacy is superannuation. Superannuation is in Labor's DNA, and, despite the constant attempts to wind back, to cut, to deny, to denigrate, to outright extinguish this entitlement, Labor has fought those opposite at every turn to ensure that working people can retire with the dignity they deserve after a lifetime of work.

The Australian Conciliation and Arbitration Commission finally decided in 1969, after decades of union advocacy, to introduce equal pay for women. However, this fight is not yet over and, sadly, the gender pay gap still exists today. Indeed, as many of us are aware, a third of all women still, in this day and age, retire into poverty. That is simply not acceptable. I would say to those opposite: if you want to make a difference then you tackle issues like that; you don't try to make it much more difficult for registered organisations, who represent working Australians, to do their job.

While workers compensation was seen as far back as 1902, it wasn't until 1985 that unions won the right for workers to maintain safety standards on the job. Many families around the country thank the unions every day because mum and dad come home from the dirty, dangerous and difficult jobs that others do not want. Meal breaks, rest breaks and redundancy pay are components that are now a given in any employment contract, and those rights come from unions and the work that they have done. It was unions who succeeded in banning the use of asbestos and other carcinogenic materials, and that has resulted in saving countless lives today. Sadly, this struggle was too late for those already affected by asbestosis and mesothelioma.

As a result of the coal workers' strike in 1949, New South Wales saw long service leave instituted this 1951, a move followed shortly thereafter by other states. The adherence to fairness is central to everything the unions do. This is articulated by the concept of fair pay for a fair day's work and a fair go all round. The fair go underpins the unions' fight to make sure employers could not unjustly or unreasonably dismiss someone, a concept known as unfair dismissal protection.

Those opposite champion individual bargaining. But many disenfranchised and marginalised groups—such as for those whom English is not their first language, those who didn't obtain a higher education or those at lower levels of larger companies and organisations—rely on unions to collectively bargain on their behalf so as not to be left further behind. There is strength in numbers. As we enter a period of inequality not seen since the Great Depression, this government wants to take away the one way in which workers are properly represented: an effective union.

Eight hours to sleep,

Eight bob a day,

A fair day's work,

For a fair day's pay.

That's what people still deserve. That is actually at the base of a statue opposite the Trades Hall in Victoria. We still deserve that, and people are still fighting for that because we do not still see that in our society, not for everyone.

The bill that the government seeks to introduce creates new powers, aimed at workers' representatives, that are not only at odds with the basic principle of freedom of association but also undermine obligations under the International Labour Organization's 1948 Freedom of Association and Protection of the Right to Organise Convention as well as the 1949 Right to Organise and Collective Bargaining Convention. These proposed laws are reminiscent of the draconian measures taken by some of the world's worst authoritarian regimes and are at odds with the basic tenets of freedom of association. They severely restrict a worker's ability to exercise their rights and, even at the most cursory of glances, clearly breach the multiple ILO conventions which state that workers have the right to assemble and collectively organise. These laws will create legal uncertainty and further foster an environment where this unaccountable government continues to vexatiously pursue unions for no other reason than to allay their sick, ingrained, philosophical fetish of holding their foot to the throat of the Australian worker.

Those opposite bandy around words like 'freedom', 'human rights' and 'democracy' yet look down their nose at Cuba while it oppresses its free trade unions. There are some members of the party opposite who march with Hong Kongers yearning to be free. Yet, when it comes to whether they will vote on the choice of workers to be fairly represented, they will vote with the side of the jackboot. This means that, by extension, those opposite associate themselves with the worst excesses of those types of regimes—the side that has tanks running down protesters, the side that has tyrants jailing unionists. So I don't really want to hear a lecture about freedom from those opposite while they're pursuing this type of ideological agenda. We know whose side they are on, and it's not the workers' side. The Prime Minister would claim some of these working Australians as 'the quiet Australians'—but I can assure you, Madam Deputy President, that that is not the case. He mistakes his base.

The Prime Minister this morning described Labor running a protection racket for unions. This is the man who, on the Monday after the election, the first working day after that election, having complained about the nastiness of the campaign, said: 'I'm going to lead discussion in a better way so that we can work together.' What does he do with this bill? He is actually creating divisions—going back to capital versus labour, trying to ensure that workers are not able to collectively bargain or to assemble, or to associate freely with those who have a commonality of interest. He is going to make that more difficult. In fact, because this bill will have unintended consequences—and people have raised the paperwork penalty regime, which is only the beginning, I think, of the unintended consequences that will ensue from this legislation—he is not only creating divisions but also making divisions much more likely.

I'm going to tell you some of the things that I have observed at the Registered Organisations Commission. They lost the paperwork—not once, but twice. They then denied they had and blamed the registered organisation in question—which they then couldn't do because one of their compliance officers sent an email apologising for losing the paperwork. This nearly ended up in the Federal Court, so you can imagine the cost of all of this. No wonder unions are worried about the paperwork penalties regime. At one of their meetings, a senior official described to me: 'This is the best gig I've ever had—easy-peasy,' he said. They are not the organisation one wants ensuring these laws are followed. They are incompetent. Just yesterday, the Federal Court quashed the Registered Organisations Commission's decision to conduct its illegal, partisan investigation into the Australian Workers Union. They will now have to hand back all of the documents seized during this bungled 2017 heist aimed at nothing more than the intimidation of working Australians. I could speak about a union member who wasn't able to negotiate something as simple as a roster by herself, partly because she had very complicated childcare arrangements in her personal life and, when the managers changed the roster, she thought she would lose custody of her children. I spoke about her in my first speech. I have never forgotten that phone call.

This is a government that is unable to ensure integrity in its own front bench or in its own back bench. We have the member for Chisholm, who's self-auditing her own donation and has yet to explain where the money came from. If those on the crossbench vote with this government, they will be tarred with the same brush that allows the

member for Hume, Mr Taylor, to not disclose why native grasslands were poisoned and to not explain meetings with the department that no-one else could have organised—and now he is being investigated by the police for a dodgy document. No wonder it's called Strike Force Garrad. I am aware of the President's ruling on organising functions in breweries, but if you go to the Urban Dictionary's definition of garrad, it is: 'the dumbest'—person; but it doesn't use the word person—'in all the land'. Maybe the New South Wales police deliberately chose that name for the strike force and its inquiry into Mr Taylor. The Prime Minister himself has phoned the New South Wales Police Commissioner, a phone call that a former prime minister, Mr Turnbull, says is a call he would not have made. This is yet another example of attempting to suborn law enforcement—and those opposite say they wish to ensure integrity. I would say that they are not capable of doing that, because they cannot do it in their own ranks. I would say to the crossbench: do not allow yourselves to be tarred with the same brush that those opposite are tarred with. This legislation goes to pointing out that they are not able to govern and they are not able to ensure integrity. This bill should not proceed.