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THE SENATE

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**Fair Work (Registered
Organisations) Amendment Bill 2012**

Second Reading

SPEECH

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BY AUTHORITY OF THE SENATE

SPEECH

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Questioner
Speaker McKenzie, Sen Bridget

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Senator McKENZIE (Victoria) (17:59): I rise to speak to the Fair Work (Registered Organisations) Amendment Bill 2012 and I follow the very strong argument put by the senators who have been really pursuing this issue since its inception. Senators Abetz, Ronaldson and Fierravanti-Wells have been very strong in their prosecution of the issues relating to Fair Work Australia and the issues we have been speaking about tonight. It would be great if there were some more ALP members to stand up in support of the amendment before us.

The bill seeks to increase the accountability, financial and otherwise, of registered organisations and their office holders. It also looks to strengthen the investigative powers of Fair Work Australia. The bill will, according to the literature, require that the rules of all registered organisations deal with disclosure of remuneration, pecuniary and financial interests; increase civil penalties under the Fair Work (Registered Organisations) Act 2009; enhance Fair Work Australia's investigative powers; and, require the provision of education and training on governance and accounting obligations to officials of registered organisations.

I am a member of the Senate Education, Employment and Workplace Relations Legislation Committee and I participated in an extremely brief inquiry into this bill. The committee convened last Friday—Senator Abetz did the heavy lifting on this and I am thankful to him—when we examined this piece of legislation. The general commentary from those participating in the inquiry was that they needed more time to examine the bill, given that today is Tuesday and we are about to vote on it.

The coalition is firmly of the belief this legislation does not go far enough. Predictably the government has ceded to the union movement and walked away from a real opportunity—created, most of us would say, from events where everybody knew full well what was going on—to require the same level of transparency and the same level of accountability from registered organisations, as is expected from companies and their directors. The ALP was moved to act by announcements made by the coalition on this issue. It has been known for a very long time by those who have worked in the union movement, or have friends who have worked in the union movement, that

there have been unions that are good at governance and use members' money appropriately while advocating strongly in workplaces and communities around our country for their members' benefit, and then there are unions and executives who have not done the right thing. It has not just been the example currently before us; it has been going on over a long period and in a wide variety of places.

I would suggest the ALP has been moved not by an altruistic motive to clean up unions, with a newfound desire to spread accountability and transparency, with which they have obviously become so enamoured, but rather the fact that the coalition have put forward their particular policy on registered organisations and something had to be done to get this issue off the front pages.

The saga involving the Health Services Union, of which there has been endless media coverage, has clearly and unmistakably demonstrated a need to ensure that registered organisations use members' money for appropriate purposes. When we look at the Health Services Union, we are talking about the lowest paid workers in our community who have joined their union in good faith, as I said, to advocate for them within their workplace and within the wider community. To have their contributions to that union misused in such a way is an indictment. The HSU, while perhaps leading the race to the bottom, are not alone in their display of entrenched yet unacceptable behaviour.

The coalition have several concerns with this bill. Proposed subsections 148A and 148B of the bill require all registered organisations to have rules dealing with disclosure of remuneration, relevant non-cash benefits and personal interests of officials. Proposed section 148C provides for rules that require registered organisations to disclose those payments to its members. The coalition, as I previously mentioned, firmly believe that the requirements of officials of registered organisations should be in line with directors and companies under the Corporations Act. The culture that has been able to fester in a number of registered organisations is a direct consequence of the lack of transparency necessary under existing laws and should have acted as an impetus for momentous change, not token adjustment around the edges for the sake of the media grab, for the sake of making everyone feel a little

better about themselves, but to fundamentally tackle making real and effective change in this area.

The penalties provided for in this bill, while in line with other civil penalties in the Fair Work Act, fall well short of those required under the Corporations Act. This is a great shame and again shows this government's reluctance to take a stand and to show leadership. Our whole nation is screaming for leadership to be shown by this government on a plethora of issues. Whether it is the Murray-Darling Basin Plan, the carbon tax, agricultural education and training, on a range of issues Australians are screaming for leadership and this government refuses to step up to the plate.

Earlier today, Senator Marshall stood in this place and whinged that the coalition 'criticise the government when they do things and when they don't do things'. To Senator Marshall I say: if you got it right, we would not be having to criticise. It is the job of oppositions to raise in the public sphere issues with the government of the day. I think we have been particularly successful on this account, because you have taken up parts of our own policy and implemented them. I think that is as a direct result of the pressure put on the government over this by coalition senators and members.

Going back to the bill, Fair Work Australia took more than 3½ years to complete its investigation into the HSU, whereas we had one day of hearings. The coalition have repeatedly expressed our deep concern about Fair Work Australia's ability to be responsible for registered organisations. We really believe that this should be the role of an independent body. The coalition do have a plan for better transparency and accountability, which we have announced and which, I suggest, has been the impetus for the government's movement in this space.

The bill does not expressly provide for Fair Work Australia to have the ability to cooperate with police, which is quite incredible, given what has gone on. I know Senator Fierravanti-Wells outlined in great detail the issues around information and co-operation with police investigations. This simply cannot stand in a modern professional organisation or scenario. The requirements and penalties are still not in line with the Corporations Act, as I mentioned earlier, and there is no reporting mechanism on why investigations are going beyond their anticipated times.

The coalition's plan will make sure that members of registered organisations, mainly small businesses and workers, can be assured that their money is being used to do the right thing, as I mentioned—advocacy and advice on membership. Our changes and our policy will ensure that registered organisations and their officers are as accountable and transparent as

companies and their directors, and play by the same rules. We have to get the thuggery out of union work. It is also clear that Fair Work Australia are not up to the job of making sure that registered organisations are doing the right thing. Either they are a model of incompetence or they are engaging in a deliberate go-slow to protect the government, and previous speakers have outlined the issues there. We actually want a stronger new regulator. Removing the investigative and compliance powers over registered organisations from Fair Work Australia and giving them instead to a new, genuinely independent body, to be called the Registered Organisations Commission, we believe will get better outcomes around transparency and accountability for workers and their unions.

So we have a number of issues with this bill, which I will go through. Fair Work Australia are still in control, and we see that as unacceptable. They have not indicated that they have any real capacity to deal with the issues at hand, such as making registered organisations and unions accountable. Further, under Bill Shorten's plan—

The ACTING DEPUTY PRESIDENT (Senator Moore): Senator McKenzie—

Senator McKENZIE: Sorry—Minister Shorten. Under Minister Shorten's plan, former union bosses are going to be regulating current union bosses. In a democracy, there is an issue with institutions investigating their own, because people can be unduly influenced by the relationships they have built. Having an independent cop on the beat protects everyone involved in the conversation.

The rules are still weak, and the penalties are still weak. While penalties are in line with other civil penalties in the Fair Work Act, they still fall considerably short of those required under the Corporations Act. Essentially, we would have one set of organisations in the industrial sphere operating under separate rules with fewer penalties for doing the wrong thing, and that is simply not acceptable. We still cannot provide a brief of evidence, and police cooperation still is not bedded down.

In the context of the inquiry into the bill being conducted for such a short amount of time, I would like to make the comment that the Senate Standing Committee for the Scrutiny of Bills wrote to the Minister for Employment and Workplace Relations, the Hon. Bill Shorten, seeking advice on certain aspects of the bill, such as privilege against self-incrimination et cetera. The employment committee report on this bill said:

The Minister's response is unlikely to be received before the tabling of this report.

So people against the bill have to hurry and get their submissions in, and the coalition have to hurry to prosecute the case, but we are still waiting on the minister's response to the very real concerns raised by this bill. How typical of this government! We are rushed through the bill, this copycat legislation, and our comments are guillotined. This is a bill designed by a former union boss to regulate union bosses that sees former union bosses as the cops on the beat. We want to see an independent body. We need to get serious about accountability in this area. I will conclude my remarks in order to cede to the many coalition senators who are seeking the call. Thank you.