

RESEARCH REPORT 29: DO UNIONS REALLY HAVE FREE AND UNFETTERED 'REIGN'? PUTTING THE PALASZCZUK GOVERNMENT'S PUBLIC SERVICE WORKFORCE POLICIES IN CONTEXT

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According to the *Courier Mail*, the Palaszczuk government has giving 'free and unfettered reign' to unions. In its continued campaign to highlight links between the Australian Labor Party and the union movement, the *Courier Mail's* latest salvos in mid-May 2015 suggest that public service managers are being forced to recruit for unions. A closer examination reveals that there is little evidence to support the dramatic headlines and Opposition statements. The Palaszczuk government was honouring its election commitments to restore the workplace policies and conditions that the Newman government had rescinded and, rather than report on the whole platform of policies, the *Courier Mail* focused on restoration of the union encouragement provisions.

In this article, I look at union encouragement clauses, where they came from, and in what context they are now gaining media attention. This continues a discussion started in *The Mandarin* (which you may be able to access at <http://www.themandarin.com.au/35352-researchers-rubbish-inp-claims-qld-public-service-union-policy/>).

Preference clauses – the predecessor to union encouragement clauses

For much of the last century, the Australian industrial relations system has accepted and supported the role of unions as legitimate stakeholders. Prior to the 1990s, union preference clauses were common in the awards and agreements of many industries. These clauses ranged from those that required employees to be union members (such as the closed shop) to those that allowed employees to be union members (Peetz, 1998; Zappala, 1991). The acceptance of these clauses began to falter from the 1980s as the political and industrial landscapes changed.

In Queensland, the acceptance of unions was shattered in 1985 during the bitter electricity (SEQEB) dispute, as the Bjelke-Petersen conservative government retaliated with anti-union policies, starting with removal of preference clauses in the electricity workers' awards (Guille, 1985; Weeks, 1995). From there, Queensland saw a waxing and waning of union preference clauses along partisan lines, reappearing under the Goss Labor government in 1990 (QIRC, 1990) and removed again by the Borbidge Liberal National Party (LNP) government in 1997 (QIRC, 1997).

The advent of union encouragement clauses

From 1999, the traditional preference provisions morphed into union encouragement provisions that also waxed and waned along partisan lines.

- **The Beattie/Bligh Labor governments 1998-2012**

New industrial relations laws (QIRC, 1999) introduced by the Beattie Labor government did not reintroduce the traditional preference clauses and instead provided that agreements could include union encouragement provisions. Note that these applied to all workplaces, not just the public sector.

The government included the union encouragement provisions into agreements, starting with the agreement for core public servants in 2000 (QIRC, 2000). The clear provision recognised the right of individuals to join or not join a union, required the employer to provide union information to newly appointed employees, allowed for union representatives to discuss membership with new employees, and allowed for payment of union subscriptions through payroll deductions.

The lead agency for public sector industrial relations issued supporting guidelines that effectively signalled the culture shift under the change of government:

These guidelines, endorsed by the Central Peak Consultative Committee, are provided to enable supervisors and managers to give effect to this commitment with a clear understanding of what is expected of them as employees of government and free of doubt as to the correctness of their actions ... Whatever the personal views of individual managers or supervisors, they must not discourage employees from union membership or neglect to facilitate union membership in the ways provided for in the agreement (QDETIR, 2000).

Similar clauses were included in the 2003 and 2006 agreements (QIRC, 2003, 2006) and an enhanced clause emphasising the role of managers was included in the 2009 agreement (QIRC, 2009).

- **Newman LNP government 2012-2015**

As had become the pattern, the Newman LNP government made extensive changes to industrial relations. Premier Newman soon reneged on his pre-election commitments to work with unions and to maintain public service conditions (Newman, 2012a, 2012b). In 2013, the government removed the union encouragement provisions from the legislation, against the broader backdrop of failed pay negotiations, abolition of employment security protections and extensive redundancy of public servants (QPSC, 2012a, 2012b).

- **The Palaszczuk Labor Government 2015**

The Palaszczuk government had made pre-election commitments to restore fairness to Queensland workplaces by undoing many of the Newman LNP government's changes. It set about honouring these commitments early in its term, and began within its own public service workforce. In her first week in government, Premier Palaszczuk wrote to all public servants to reassure them that they were valued and that she would restore the employment conditions removed by the LNP government. In early April, the government re-introduced employment security and preferred provider policies.

The government continued along this path, announcing its agenda to restore fairness to all Queensland workplaces on 23 April 2015 (Pitt, 2015b) and tabling the proposed new legislation in Parliament on 7 May 2015 (Pitt, 2015a). The bill restored conditions of employment in awards and agreements including job security, protections against outsourcing and contracting out of services, union encouragement and right of entry provisions, and limitation of organisational change. [Of course, in the current hung parliament, it could take some time to be passed into law.] A week later in mid-May, the Premier followed up the new industrial relations legislation for all workplaces with a public service-specific policy on union encouragement (QDPC, 2015). This policy reinstated the commitments that had been contained in agreements from 2000 to 2013, acknowledging the role of unions in workplace industrial relations, supporting the encouragement of union membership at the point of recruitment, and supporting union delegate activity during working hours subject to it not disrupting service delivery or work requirements. It included the same permissions from the earlier guidelines (QDETIR, 2000) ensuring that managers understood their role in enacting the governments commitments '*although ultimately it remains the responsibility of the unions themselves to conduct membership recruitment*' (QDPC, 2015).

Courier Mail reporting of the policy changes

The *Courier Mail* selectively reported these policy changes. It made little mention of the package of policies to redress the unpopular LNP actions through restoration of safeguards and conditions to workers in both the public and private sectors. It *Courier Mail* made no mention that the policies

were consistent with Australia's obligations under the ILO conventions on collective bargaining and freedom of association.

Instead, it focused on one policy (union encouragement) within one sector. On 18 May 2015, its headlines claimed '*Government bureaucrats told to recruit for unions*' (Houghton, 2015), even though the policy states that support does not mean recruitment. The story claimed that this was an 'extraordinary deal signed in secret' (Houghton, 2015), although the policy had been outlined before the election, and publicly announced as part of a package of reforms in April and as part of the legislative changes tabled in May 2015.

The stories also included questionable claims from Opposition Leader Lawrence Springborg and Shadow IR Minister Ian Walker, without evidence or examples. Walker claimed that the policy 'was confirmation that unions had usurped government power', without specifying how. Springborg claimed there were 'myriad examples of the previous policy impacting on productivity', although he did not provide any examples. Springborg could not be more wrong, with a vast literature confirming that high commitment models of employment - where employees have job security and opportunities for employee voice through unions, joint consultative committees, etc - are associated with higher productivity workplaces. As Easton (2015) poetically suggests: 'Springborg maintains [the narrative](#) that in the past, the directive cultivated a wasteful culture where the public's time and resources were effectively stolen by crooked union bosses and their delegates, and only he and his colleagues rescued the state from their clutches.'

Another unusual claim by Springborg was that union bosses had been given "a free and unfettered reign" that impugned the independence of the public sector. As Williamson (cited in Easton, 2015) notes, it is difficult to fathom any logical link between these two issues, with the independence of the public sector more affected by the politics of the day than the number of union members or union access to resources.

On the following day, 19 May, the newspaper made another stretch with its front-page headline "A cozy state of the union" (Killoran, 2015). The story links two quite unrelated activities - Queensland public servants acting collectively through their union membership in the workplace, and a former NSW Labor parliamentarian who sought party reform to reduce the role of unions in the machinery of the Australian Labor Party and was prepared to use this policy as part of his campaign.

Overall, the *Courier Mail* has done a poor job of reporting the news regarding the Palaszczuk government's workplace reform agenda. Journalists made little attempt to report the story in context, electing to focus on the union encouragement policy rather than the broader agenda reversing the very unpopular LNP changes. The stories contained unsubstantiated claims by the Opposition that are contradicted by research findings on workplace productivity. And journalists fail to mention that the policies apply across all workplaces covered by the QIRC, not just the public sector, or that the policies are consistent with, and arguably required by, Australia's obligations under the ILO conventions.

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