Speech by

HARRY BLACK

MEMBER FOR WHITSUNDAY

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WORKCOVER QUEENSLAND AMENDMENT BILL

Mr BLACK (Whitsunday—ONP) (5.29 p.m.): There are many aspects of this Bill which improve upon current legislation and which were necessary to correct some of the inadequacies of the coalition's WorkCover Queensland Act. The reduction in employment premiums, helping to reduce the cost of employment, is one such example. Many businesses were greatly affected by the large rise in premiums which occurred as a result of the previous Government's WorkCover Act.

Some aspects of this Bill initially concerned me. The first of these was retrospectivity. It is not really necessary to make retrospective the sections relating to the removal of the self-rating system and the changes to self-insurer standards. I have some concerns about how employers will be affected by this retrospectivity.

The Minister's response to this issue in the Scrutiny of Legislation Committee's Alert Digest No. 4 of this year seems an adequate explanation but, again, I have some concerns. On the one hand, it seems unfair that legislation be backdated to the date on which it was announced to the public that amendments were to be made, as surely not all people affected would have received this notification. On the other hand, the Minister's claim that a rush of applications for self-insurance would be made to circumvent the deadline is also a valid argument. The issue, then, is neither here nor there.

Another area of interest is the increase in the number of employees required before an employer can be issued with or have renewed a self-insurer's licence. Clauses 17(1) and 18(1) increase the number of employees required from 500 to 2,000. The reasoning behind this change is not set out in the accompanying Explanatory Notes. One would assume, however, that this would in effect increase the number of employers who are covered by the WorkCover scheme, thereby incorporating more employers in the pool. If this results in a reduction in premiums, then the amendment is to be supported.

The Minister notes in his second-reading speech that the current legislation "lends itself to unscrupulous employers forcing workers into PPS tax arrangements so they do not have to pay workers compensation premiums" and that "employers can also be exposed to common law damages for negligence". These failures of the current legislation certainly need to be addressed; they created large problems when first introduced. The Minister assures us that these issues are addressed through the amendment to the definition of "worker", which will apply to all injuries occurring on or after 1 July 2000.

Another issue is the Scrutiny of Legislation Committee's concern in relation to clause 45, which states in part—

> "Costs of the hearing are in the magistrate's discretion, except to the extent provided under a regulation."

The committee believes the provision for a regulation to be a Henry VIII clause and recommends that this part of clause 45 should be deleted. We, too, had concerns over this clause and agree with the committee's recommendation to delete the regulation making power of proposed subsection 506(3).

We support the coalition's dissent in relation to the changes to section 34. The change from one's employment being "the major significant factor causing" the injury to one's employment being a "significant contributing factor to" the injury is not appropriate. The Minister's argument for the change is weak. WorkCover is intended to cover injuries relating to one's employment. Workers compensation payments should result only when employment is the major significant factor causing the injury.

This issue leads me to a few general comments about the ineffectiveness of WorkCover, irrespective of the amendments being proposed today. One has only to have experience in any industry to see the shortcomings of the legislation in reality. A real example which comes to mind is that of an employee arriving for work with his arm in a sling. Before entering the workplace he removed the sling and within 15 minutes of starting work he claimed that he had slipped over and hurt his arm.

Mr Fouras: Why are you guys anti-workers?

Mr BLACK: Let me finish. This was known, seen and reported, yet this person still received compensation. The point here is that it does not matter what is supposed to be the case according to regulation. What can be proven is a different matter.

It is also a well-known fact in the workplace that the system is wide open to abuse by unscrupulous employees. Employers are regulated carefully by workplace health and safety to ensure that they have safe work environments. There is no system in place which accounts for employees who fail to abide by safety standards or procedures. If an employee is provided with the necessary safety equipment and by his own choice does not use it and is injured, the employer should not be held accountable.

By the same token, unscrupulous employers who put profit above the safety of their workers should be held accountable. A person leaving work in the morning should arrive home from work that evening in the same condition.

I believe that this Bill goes part of the way but falls short of providing fairness and protection to both employers and employees. This Bill does not provide a workplace environment conducive to increased employment opportunities.
