Speech by

Mr JIM PEARCE

MEMBER FOR FITZROY

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WORKCOVER QUEENSLAND AMENDMENT BILL

Mr PEARCE (Fitzroy—ALP) (12.53 p.m.): The amendments before the House have come about because of Labor's recognition of the unfairness of the coalition's WorkCover Queensland Act 1996. There was a need to make changes to the current Act so as to deliver a workers compensation system that is fair and one that achieves the right balance between looking after injured workers and the need for affordable premiums. The amendments before the Parliament are delivering on Labor's clearly stated policy on the definition of "injury", the definition of "worker" and the maintenance of a viable public workers compensation system.

As a member close to the workers in my electorate, I see a number of people who have suffered or who are suffering from a work-related injury or disease. I see workers who have benefited from a workers compensation system that was set up to compensate them for their loss of time at work, pain and suffering and long-term disability. I see workers who have been disadvantaged by a system that is not sympathetic to their injuries. To be fair, I also see people who believe that they have been treated poorly by the system.

I welcome the change to the definition of "injury". The current definition, which requires that employment must be "the major significant contributing factor", goes too far. It means that some workers just do not have a chance of getting the compensation that they should be entitled to access. I feel that "a significant contributing factor" is much fairer. Clause 8 makes specific provision for work-related aggravation of a pre-existing injury or disease, irrespective of whether the injury or disease is work or non-work related.

Under Labor's amendments, the injured worker will get a fair go and at least get consideration for compensation for the extent of the aggravation. While I am speaking about this definition of "a significant factor causing injury", on behalf of the injured workers I wish to raise the matter of a culture in WorkCover which is turning injured workers into welfare dependents. This problem has been around for some time and I want to make it very clear that it is the responsibility of WorkCover to take notice of what I am saying and to fix it. I refer to the use of specialists by WorkCover to assess the condition of workers. The WorkCover Queensland Act 1996 provides that a worker suffering a work injury causing a permanent impairment may be medically assessed to determine an entitlement to a lump sum compensation. The degree of permanent impairment is determined by doctors appointed by WorkCover. A worker disagreeing with the degree of permanent impairment may have the matter referred to the medical tribunal for determination. I agree that some matters should go to the tribunal for determination. However, I am of the opinion that many workers are being thrown on to the unemployment scrap heap by at least one specialist hired by WorkCover for assessment.

Unfortunately, this specialist regards injured workers as malingerers and, without a proper professional understanding of the workplace environment, he makes decisions that result in unfair outcomes for injured workers. This hired specialist has the comfort of having no personal professional relationship with the injured worker and he is not exposed to the consequences of his decisions. In reality, he is the bloodsucker on the gravy train at the expense of the system and of the injured workers of Queensland. My experience as a member in trying to help injured workers who feel let down by the system identifies one Dr Blue, who appears to be the hatchet man for WorkCover. Dr Tony Blue is an orthopaedic surgeon appointed by WorkCover to assess an injury or degree of permanent impairment. From the accounts of my constituents and union officials across the central Queensland region who

have assisted injured workers, Dr Blue has a reputation of being little more than, as I have said before, a hatchet man for WorkCover. His medical examinations are brief and superficial. I have been told of appointments lasting only a few minutes. I refer to a statement that I asked an injured worker to provide to me about his experiences with Dr Blue as a result of an injury. The injured worker states—

"Upon visiting his clinic"—

that is Dr Blue's clinic—

"he caused unnecessary pain and suffering by pulling me down backwards all the way to the floor and as he left the examination room he verbally abused me saying, 'You can fool all of the other doctors, but you can't fool me.' "

This doctor—this specialist—boasts quite openly that some doctors are doves, others are hawks, and that he is a hawk prepared to savage injured workers' claims.

In arriving at his opinion, he is sometimes influenced by unsubstantiated allegations by certain employers. I would like to refer to a case that has been drawn to the attention of my office. I am not going to refer to constituents by name, but it is an issue that needs to be brought to the attention of the House.

Sitting suspended from 1 p.m. to 2.30 p.m.

Mr PEARCE: Before the luncheon adjournment, I was talking about Dr Blue and how he is sometimes influenced by unsubstantiated allegations that are made by certain employers. I refer to the case of a constituent of mine where unsubstantiated lifestyle allegations were mentioned by Dr Blue in an opinion that influenced WorkCover in the rejection of the claim. Those lifestyle allegations about horse riding were investigated by an Emerald field officer in December last year. That field officer was happy with the information that was provided to him. He said, "After speaking with this man I feel that he was honest with me in his explanation." Despite having been cleared of the allegations, that information appeared to have been part of the file that was presented to Dr Blue for an opinion. In his opinion, Dr Blue wrote, "I would however believe that riding horses would be more likely than sitting in a vehicle to create this problem for him and that his continuing coccygectomy has no direct relationship to his work." Of course, my constituent was aggrieved by that outcome. He has appealed WorkCover's decision to reject his claim and has been requested to front the medical tribunal later this month.

However, history would say that my constituent's appeal may be dismissed and he will then lose his job. We are talking about a fellow who may lose his job over this, despite receiving two opinions that state that he is in need of an operation and that that operation will fix his problem. This fear is held despite claims that the medical assessment tribunal is an independent body of review, because the tribunal usually upholds the assessment decisions of WorkCover. Most of us who support injured workers through the process consider that to seek a review of the medical assessment tribunal is a waste of time and money.

Dr Blue's opinions often clash with the opinions of other specialists. Often I have seen at least two opinions provided to an injured worker that are in agreement, while Dr Blue has formed a different opinion which, in most cases, is to the detriment of the injured worker and is usually accepted by WorkCover. In many cases, particularly with back injuries, Dr Blue places considerable emphasis on a person's congenital predisposition when assessing the degeneration of a pre-existing condition. This often makes it difficult for a worker to obtain statutory benefit for the aggravation of an old injury.

I am also told that Dr Blue gets little respect in the courtrooms. His medical opinion is rarely accepted by local judges. In fact, his opinion has been disregarded and adversely referred to in some judgments. I refer to a judgment of Demack, J. of 16 June 1995, in the case of Vesey v. The Commissioner of Fire Services and Another. Demack, J. stated—

"Consequently, I have no hesitation in rejecting the opinions that Dr Blue has expressed about the nature and extent of the orthopaedic injury. As I indicated, Dr Blue's first report relates to a time when Mr Vesey was trying very hard to rehabilitate himself, and contrary to the situation that his workmates observed and which he reported, Dr Blue found him fit to perform his normal duties. I reject that opinion. I also reject the opinion that he subsequently expressed in which he said, 'A well motivated person probably would have returned to work within 10 days using a sling for his right arm.' This seems to be an absurd assertion, as the fractured acromion had not at that time been identified.

It was not identified for almost five weeks and, as Dr Myers noted, produced considerable pain during that period before it was properly treated."

In the courtrooms, Dr Blue does not generate the respect that he should. This orthopaedic surgeon—a specialist—receives very little respect in the courtrooms. He is often in conflict with the opinions of other specialists and he treats injured workers like they are on a production line.

Too often the specialist's opinion influences what we consider to be poor decisions by WorkCover. This has resulted in a very high percentage of injured workers—and I do not have the proof

to back this up, but I have been told that the figure is as high as 80%—who have had their statutory benefits terminated or have received a zero disability assessment as a result of Dr Blue's reports. This is an unacceptable situation. It brings into question the credibility of WorkCover and the process that is supposed to provide a fair go.

Today, I call on WorkCover to look at terminating Dr Blue's retainer and employing a specialist who has credibility and the respect of the work force. We need a specialist who is prepared to make decisions based on the medical evidence and the sequence of events leading up to the incident that resulted in the injury. We need a specialist who puts ethics, compassion, understanding and reality ahead of his ego.

I welcome the establishment of the WorkCover Review Council. That council will monitor and evaluate the process associated with the review unit and the medical assessment tribunal and will report to the WorkCover board on them. The council itself will not have any powers other than to make recommendations. This panel will make the board aware of the problems with the processes, the attitudes of staff and the behaviour of specialists like Dr Blue. This is a positive move by the Minister and I congratulate him on establishing a watchdog that will help deliver accountability and a fair deal for injured workers.

While I have raised a number of points with regard to WorkCover, the tribunal and Dr Blue, who is retained by WorkCover itself, I make it very clear that it is the responsibility of the board to look at those issues. It is the responsibility of the board to ensure that injured workers get a fair go, that they are treated with respect and that there is an understanding of the consequences of their injuries. As a union delegate in the coal industry and as a worker in other labouring jobs where a lot of work is done by hand, I accept and understand that people do bludge on the system. We have to get rid of those people, because they are making it hard for everybody else. At the same time—and I see this over and over again—a lot of injured workers are fair dinkum, but they get a rough deal. That should not happen. We have a responsibility to make sure that they are looked after and that they are cared for. If they have to leave their jobs, we must ensure that they and their families are cared for. If we do not do that, we are forgetting about our real responsibilities of caring for those citizens of Queensland. I support the Bill.

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