Speech by

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COAL MINING SAFETY AND HEALTH BILL
MINING AND QUARRYING SAFETY AND HEALTH BILL

Mr ROWELL (Hinchinbrook—NPA) (5.10 p.m.): The Opposition is pleased to see the introduction into this House of legislation designed to provide a more relevant and proactive legislative framework for health and safety matters for both coalmining in particular and the whole mining and quarrying industry in general. Work on this legislation commenced in 1991, and so it is appropriate that perhaps before the new millennium begins we might see legislation in place that is more relevant to Queensland at the end of this century rather than legislation that was modelled on the mining practices and experience of Britain at the end of the 19th century.

Much of what is in these Bills is uncontroversial and has the support of all parties. The Opposition supports the establishment of the tripartite Coal Mining Safety and Health Advisory Council and the Mining and Quarrying Safety and Health Advisory Council to advise the Minister. The Opposition supports the emphasis on duty of care obligations on all parties involved with the mining and quarrying industries. That is particularly important, because that is what these Bills are all about. The Opposition supports on-site management of risks involved with mining. The Opposition supports, and would strongly encourage as part of an effective duty of care approach, comprehensive involvement by employees in safety matters on site. The Opposition supports a strong, independent and professional inspectorate which is adequately staffed and funded with a major monitoring and enforcement role. The Opposition supports the development of site-specific safety management systems. The Opposition supports modern, relevant, dynamic and practical occupational health and safety legislation for our mining sector. We do not wish to see this critical industry and the safety of the many people who are part of it in any way compromised by political or sectional trade-offs that have more to do with power plays than any real concern for the safety of workers at the coalface.

I would have liked to rise today and give the Opposition's wholehearted support for these Bills. Certainly, there is not one person in Parliament or in the mining industry who does not want to see every opportunity given to eradicating fatalities and major accidents in this very critical industry. Unfortunately, the Minister has seen fit, in the short time since the last election, to fiddle with draft legislation completed by his predecessor, the former member for Tablelands, which had the support of all parties, and engage in a back-to-the-future exercise by agreeing to all the key demands of the union movement.

The legislation now before the House has many positive elements to it, and as the Minister quite rightly said, the majority of its provisions are sensible and appropriate. It is, then, all the more disheartening to see that a legislative exercise which had gone so far and united so many, has been undone at the final furlong. And the area where these Bills have been undone goes right to the heart of their effectiveness. That is particularly unfortunate.

These Bills seek to improve safety by moving away from a prescriptive approach where all people go on autopilot and rely on the letter of the law, irrespective of how effective that is in given circumstances, and instead introduce a comprehensive safety culture at all levels of the industry. This is the practical manifestation of the so-called duty of care approach, where all people at all levels of the industry are expected to promote safety and have a duty of care to their fellow workers, no matter how high or humble, to see it carried through. Yet despite promoting a duty of care approach, these Bills

undermine that very initiative by retaining statutory positions in key areas and introducing penal provisions, draconian police powers for inspectors and severely and unfairly restricting the rights and defences of persons under investigation or charge.

In sum total, the changes the Minister has made to the Bills crafted by Tom Gilmore, the previous Minister, are to undermine their effectiveness and possibly create safety risks. It is absolutely amazing and not a little disturbing that the Queensland Mining Council, which represents the vast majority of mining companies in this State, has been forced to submit to this Government and this Premier that it believes that this legislation actually constitutes a threat to the health and safety of its members' work force in the mines which they manage and for which they are responsible.

Any Government which was less reliant on sectional interests—and in this case it is the union movement—would not have seen fit to proceed with legislation which has so divided the industry and which one part of that industry believes is itself a safety risk. Any responsible Government would have sorted out the matter and acted in the interests of the broader community, not just its union mates. But this Government has once again shown that, when it comes to the public good or the good of the unions affiliated with the Labor Party, it will again and again put the unions' interests first. And it is all the more worrying in this case as the very people who are on the front line and who will either benefit or be harmed by incompetent, ham-fisted legislation are the very union members and workers whom this Government and its union mates claim to represent.

There is no doubt that workers in the mining and quarrying industries are engaged in an occupation that is intrinsically dangerous. Yet it is important to realise that, over the past few years, there have been significant improvements, and we now have an industry which has a safety record and performance which is far better than anyone would have imagined only a decade ago. Nevertheless, when one considers that since 1900 to the end of last year there were 361 fatalities in Queensland coalmines alone, one realises that much more needs to be done.

Tragically, in fact, the first major mining disaster in Queensland occurred in Charters Towers around 85 years ago, when seven workers were killed in a gold mine. From the beginning of the century until 1970, an average of 3,000 people were employed in the coalmining industry. After 1970, the industry quickly developed, and there were accelerated job opportunities. Employment in the coal industry peaked in 1992, when 11,450 people were employed. It has since dropped to 8,661. This decrease is matched by job losses in every other State, with Australian employment levels in the mining industry declining from a peak of 33,000 in 1987 to 24,000 in 1997.

The Australian Productivity Commission, in its report on the Australian black coal industry, pointed out that black coal is Australia's largest export industry. In 1997, it accounted for 10% of Australia's merchandise exports and more than 1% of its GDP. In dollar terms, this amounted to $8.8 billion.

In the context of Queensland exports, coal contributed $5.5 billion in the 1997-98 financial year, or 12% of the total, while other ore and metals amounted to $2.5 billion. Our mining industry helped the Australian economy in that one year alone by $8 billion and constituted 37% of all our exports. In dollar terms, this is our State's most important industry.

From figures supplied to me, royalties paid by Queensland's mining industry to the Treasury amounted to $479m in 1997, with coal contributing $394m, minerals $58m and petroleum $27m. Of the total Australian production, Queensland produces 48% of all coalmined, 53% of copper, 44% of lead, 62% of silver, 22% of bauxite and 8% of titanium minerals. I mention these figures simply to highlight that maximising safety in this industry is absolutely essential for our State's and our nation's economy, and to also emphasise the critical role that the mining industry and all those who work in it perform for each and every one of us. This is a very important point. It is an extremely important source of revenue.

But let us keep things in proportion. As dangerous as mining is, so are a great many other industries. In the three years to June 1998, there were 13 fatalities in the Queensland mining industry, comprising four in the coal industry and nine in the metalliferous mining industry. During that same period, 36 workers were killed in the building and construction industry, 25 in the manufacturing industry, 22 in the transport industry and 19 in the farming and pastoral sector. From an interstate viewpoint, Queensland's 13 fatalities in its mining industry compared with 17 in New South Wales. These figures are very instructive and their implications need to be fully understood and appreciated by the Minister, especially when it is understood that New South Wales miners are supposedly protected by the very penal provisions which the Minister is seeking to introduce into Queensland.

On 16 March, the Minister was interviewed by Michael Spooner of the Rockhampton radio station 4RK and he made the following observation: "Legislation will not guarantee that the workplace becomes safer." No-one would disagree, but bad legislation can ensure that an environment is created which results in a less than satisfactory approach to workplace health and safety. Unfortunately, this is

such legislation. Despite antiquated legislation, the Minister would know that the safety performance in the mining industry as a whole has shown steady and sustained improvement in recent years.

The key indicator is the lost time injury frequency rates and, according to figures produced by the Department of Mines and Energy, in all sectors of the mining industry there have been improvements almost without exception year by year. Firstly, so far as open-cut coalmining is concerned, the lost time frequency rate has dropped from 24.9 in 1993-94 to 7.8 in 1997-98. The rate dropped each year, with the most significant improvement over the last three years. Underground coalmines also showed steady improvement with a drop in the rate from 73 in 1993-94 to 39.4 in 1997-98. In surface metalliferous mining the rate improved in this period from 18.6 to 11.8. The area which shows least improvement is underground metalliferous mining, which improved from 21.8 to 19.3. Having said that, though, safety in underground metalliferous mining is still twice as good as in underground coalmining. Finally, safety in the quarrying sector was also improving, with a decrease in the lost time frequency rate from 23.7 to 13.7. The overall mining operation figure showed a drop from 27.7 to 15.5.

Our mining sector's performance of 15.5 compares with 32.5 in manufacturing, 15.87 in transport and storage and 14.06 in construction and utility supply. Most importantly, the all-industry average of 15.25 is only slightly below the mining industry's figure of 15.5, which in turn was a dramatic improvement over the 20.2 which it scored in 1996-97.

Let us get things in perspective and not deal in rhetoric and claims that this or that industry has written legislation in the blood of this or that work force. This is the sort of rhetoric that the member for Fitzroy—who is present in the Chamber—has used in the past in this House. It is the sort of rhetoric that his union mates use to shore up their own positions in an attempt to justify their existence.

The Minister and the member for Fitzroy should be the last people to criticise others about safety in our mining sector. The Minister, while he was in this portfolio, presided over one of the most shameful periods of our State's mining history. To anyone who is listening to this debate or who reads Hansard, I direct them to the ministerial statement given by the former member for Tablelands on 2 April 1996. The then Minister tabled in this House the coroner's report into the 1994 disaster at the Moura No. 2 underground mine. I recommend that interested persons read the findings of the coroner. Amongst other things, he found—

> "It is a matter of regret that the department has allowed positions in the Inspectorate which affect health and safety issues to go unfilled for a number of years.
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> It is a matter of regret that staffing levels in the Rockhampton Inspectorate appear to have affected their capacity to carry out their duties in the manner that they as statutory officers see fit.
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> It is a matter of regret that due to the actions of others and low morale, valuable, qualified and experienced members of the staff left to find alternative employment.
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> This infers that the department was prepared to accept a level of death and injury in the industry so long as budget targets were met."

Those are not my words; they are the words of Frank Windridge, the mining warden. They sharply illustrate the Goss Labor Government's pathetic approach to mine safety. The same Minister is again in charge of this portfolio. This is the Minister who started looking at legislation in 1991 and, by the time he and his Government were thrown out in 1996, still had not produced anything other than hot air and excuses. So I say to the Minister and the member for Fitzroy, who are quick to attack the coalition and defend their union mates, that in the area of mining workplace health and safety the Labor Party has a shameful record and that this Bill is just the latest instalment of that record.

I compare the inactivity of the member for Mount Isa when he was Minister for Minerals and Energy in the Goss Government with the record of Tom Gilmore when he was the Minister who, on 9 October 1997, was able to announce to the House that 20 of the 25 recommendations of the mining warden's inquiry into the Moura No. 2 mine disaster had been fully implemented, that four had identified outcomes that were being developed by the coalmining industry and that there was one minor legislative change needed. In other words, the coalition acted promptly and correctly in addressing the issue of occupational health and safety in our mines. The fact that Tom Gilmore, as Minister, was able to have a Bill that had achieved cross-industry support drafted ready for introduction into this House is a testament to the former Government's actions. The only reason we are debating legislation today is that Tom Gilmore, as Minister, gave to the current Minister ready-to-go legislation. It is symptomatic of this Minister's performance that he has taken over six months to wreck it and produce Bills that in many areas actually go backwards.

Mine safety is too important to be bargained over. It is too important to be compromised by Governments because this or that sectional interest wants to hang on to their little power bases. Let me be clear: I do not share all of the views of the Productivity Commission with its economic rationalist

approach to the world and the coal industry. I do not believe that, in terms of the lives and the health of fellow Queensland workers, we can afford to cut corners and possibly place people at risk. I also want to be very clear and say that the Opposition supports our minerals industry and its employees 100% and will do everything it can do to advance the industry. The Opposition does not take the side of the unions or the management on this Bill; it takes the side of mine safety. That is the extremely important issue with this Bill. Like all Bills that sometimes pit one side against the other, there will always be elements of self-interest that come into the equation. These Bills are no exception. However, the case put by the Mining Council and other interested parties against some elements of this legislation is more than persuasive; it is totally compelling, it is logical, it is sensible and it is right.

To date, I have seen absolutely nothing said, written or hinted at by the Government that in any way addresses the core concerns of the council or the many other Queenslanders who have written or spoken to me about these Bills. These concerns, firstly, are that the principle underlining the reform of both the Coal Mining Act 1925 and the Mines Regulation Act 1964 is to entrench in the legislation the so-called duty of care approach to mine safety. This places responsibility for occupational health and safety on all persons. I think that is an important issue. It is not just the responsibility of management, the workers or the people who come in and do contract work; it is the responsibility of all people in the mines. These Bills place the responsibility on all of those people. Everybody in the workplace has a safety duty, not just those at the top of the management structure or those who have been appointed to so-called statutory positions. I want to reiterate that, because I think that is the key to reducing fatalities and accidents to Queenslanders and the down time that occurs in mines.

From the figures that I have referred to already, it is obvious that in recent years the mining industry and all involved in it have taken great strides towards creating a much safer work environment and a work culture that is more alert to safety issues. Tragically, from time to time accidents occur, but the overall trend is towards a much safer workplace for those involved either above or below the ground.

Both of these Bills are aimed in part at giving added impetus to this workplace safety momentum by moving away from a prescriptive approach, which is based on detailed laws, singular accountability and a prescriptive legislative framework to back it up. Under the old approach to mine safety, the registered mine manager was the ultimate statutory official and, in the event of an accident, that person would be held responsible and accountable. This situation was exacerbated by the creation of so-called statutory positions in whose hands health and safety responsibilities reposed. A culture of delegation to those in those positions was created. It was and remains a culture that is not compatible with multiple accountability and a spreading of the duty of care mentality throughout the work force.

Surface, or open-cut mining, was a more recent mining development and yet when the legislation governing open-cut mining was first drafted, the precedent of underground regulation was adopted despite the much lower risk entailed with open-cut mining. So currently we have legislation that is not appropriate across-the-board or within particular mining sectors. These Bills advance safety quite some way and are based fundamentally on the draft legislation that Tom Gilmore, as Minister, had completed just before the 1998 election. Yet, as I said, they have been devalued by the Minister's caving in to union pressure.

The first area of the Bills that is important is the insertion of the penalty provisions. Both Bills set out various safety and health obligations that are owed by a large category of persons. For the information of the House, I will point out that those obligations are owed by the holder of a mining lease; a coalmine operator; a site senior executive; a contractor; a designer, manufacturer, importer or supplier of plant for use at a mine; an erector or installer of plant at a coalmine; a manufacturer, importer or supplier of substances for use at a mine; or a person who supplies a service at a mine. As can be seen, the list is exhaustive.

Both Bills then impose a duty on those people to discharge the health and safety obligations placed on them and then set out in ascending order the range of penalties that can be imposed in the event that the duty has been breached. The Opposition has no difficulty at all with the penal provisions as a matter of principle. In fact, penalties of imprisonment have been a part of general workplace health and safety legislation since 1985. So there is nothing new about them. Yet the Minister knows full well that, under the Coroners Act administered by his colleague the Attorney-General, whenever there is a fatal accident at the workplace there must be a coronial inquest. He also knows that, if there has been criminal negligence, charges can be laid under the Criminal Code. The Minister would have been fully briefed by his officers that since 1985 not one person has been imprisoned as a result of penalties in the Workplace Health and Safety Act. The general practice in the event of criminal negligence is for the people responsible to be dealt with under the general criminal law of this State, and no-one would disagree that anyone who has put the lives or safety of others at risk deserves to be treated accordingly.

The question then arises as to why there is a need to put additional penal provisions in these Bills when for seven years when they were being developed this was never seen as a sensible move. The main problem with penal sanctions and the whole array of police powers and the curtailment of civil liberties that go with them is the effect that they will have on the aim of the legislation in developing a duty of care culture. Both Bills contain specific parts that outline in quite considerable detail safety and health obligations with specific provisions for each level of management and for all persons, either on site or off site, whose actions may have a bearing on mine safety.

These Bills are more proactive than current workplace safety laws and are predicated on a full and open exchange of information on incidents so that the causes of such incidents can be isolated and prevented from arising again. The Bills contain lengthy and detailed provisions requiring the free exchange of information to the inspectorate on incidents, including the cause or causes of incidents and preventive action, so that similar incidents will not recur.

The Bills also contain very wide police powers for the inspectorate. These powers include the compulsion on persons interviewed by inspectors to answer questions. Both Bills provide that it is not a reasonable excuse to refuse to answer a question because the answer may incriminate a person.

Persons with obligations under the Bills can be compelled to produce documents, which are defined to include computer records, and the inspectorate can either copy the material or seize it. However, the Bills also provide that it is not a reasonable excuse to refuse to hand over that material on the basis that the documents may incriminate the person holding them. Further, the Bills provide no protection against these documents being used in criminal or civil proceedings.

As if that were not enough, the Bills also give power to enter non-dwelling places without obtaining a warrant or the permission of the owner or occupier. This power to enter without a warrant is not limited to on-site work premises, but extends to workplaces that are off site. The explanation for this is the alleged increasing use of contractors.

Finally—and I will return to this matter before I conclude—the Bills specifically preclude persons charged under the penal provisions from relying on the defences contained in sections 23 and 24 of the Criminal Code. These are the core defence provisions of our criminal law and deal with defences of accident and events occurring independently of the exercise of one's will and, in the case of section 24, mistakes of fact.

Therefore, the Bills exhibit a desire to get to the bottom of accidents and to arm the inspectorate with very wide powers so that critical information can be obtained quickly and effectively. However, in the opinion of the Mining Council, the introduction of specific criminal sanctions in this Bill will severely undermine the disclosure of the vital information needed to eliminate fatalities and permanent disabilities.

As I mentioned, based on the experience of general workplace health and safety legislation, it is unlikely that anyone will be sent to prison as a result of the penal provisions in these Bills. However, criminal sanctions may well impede safety rather than improve it. Instead of wanting to freely give information or exchange it, people will carefully weigh up the risks of possible prosecution. Instead of a culture aimed at freely exchanging information, a culture of running to high powered lawyers to get advice and seek immunity whenever possible may well develop.

The Minister knows that the Department of Mines and Energy inspectorate did not ask for or support penal provisions. Independent experts have written to the Minister and the Premier, pointing out that penal provisions are counterproductive. According to information given to the Opposition, even the CFMEU was not pushing for penal provisions. The only group pushing for those provisions was the AWU. We all know that the Minister owes his seat to the AWU faction. I said earlier that I support penal provisions, and I do. There is no suggestion from the Opposition that a person who is guilty of criminal negligence should not be punished, but there is already ample opportunity for that under the general criminal law.

Likewise, the Opposition does not oppose giving the inspectorate appropriate powers to ensure that the Bills are properly enforced. However, the aim of these Bills is not to get at the truth and facilitate a thorough investigation of incidents, because the threat of prosecution now hangs over people's heads. Quite a number of experts in this area have said to me that, when an incident occurs, the first thing in people's minds will be to protect themselves from possible prosecution rather than to freely assist inspectors in getting to the truth about an accident.

To be fair, despite all of these drawbacks, a proper case could be made out for penal provisions, provided that there were appropriate checks and balances. I must emphasise that to date no such case has been made out and the potential drawbacks of the insertion of penal provisions have been highlighted with pinpoint clarity by the mining industry. Nonetheless, the Opposition recognises that in appropriate cases in industry specific safety legislation penal provisions may be necessary to deal with particular situations. However, when weighing up the industry's outright opposition to penal

provisions in these Bills, it must be appreciated that there are other enforcement provisions and we must look at how that colours the whole prosecution process.

In fact, certain aspects of the prosecution process in these Bills are unusual and, no doubt, have caused concern to any person who has read them. First, I notice that in both Bills a prosecution can be commenced by the chief inspector or somebody authorised by the Minister or the Attorney-General. The Explanatory Notes give no indication as to whom the Minister, in particular, may authorise. I ask the Minister now exactly whom he intends to allow to institute prosecutions. If he has no specific classes of person in mind now, what transparent process will he put in place to ensure that union statutory position holders or union officials in general are not given the ability to start criminal actions against those whom they have a grudge against? It is a very unsatisfactory state of affairs that the institution of criminal prosecutions should not reside with either an independent, non-political inspectorate or the Attorney-General. Having the Minister involved in this process could well politicise the whole area, which would act against the spirit of the post-Fitzgerald reforms that the State has put in place.

My concerns are increased when I read that an industry safety and health representative or a district worker's representative can actually recommend to the chief inspector that there be a prosecution for an offence. Why on earth should there be any mention in legislation of who can recommend that charges be laid apart from those persons in the inspectorate? Why give union representatives in these statutory positions, or anybody apart from an inspector, this power? The laying of charges or the recommendation for the laying of charges should lie with a professional, non-partisan and independent inspectorate. Criminal charges should have nothing to do with either management or unions, but should involve an independent umpire.

These sorts of provisions highlight the fact that the compromises that the Minister has made to the Bill over the past six months have more to do with politics than occupational safety. It also highlights why the industry is so strongly opposed to penal provisions. How could anyone expect that the industry would have confidence that wide penal provisions backed up by intrusive police powers will be used responsibly when these Bills give every indication that the prosecution process could be initiated or tainted by the CFMEU or the AWU?

If the Government were really serious about tackling safety issues and believed sincerely that penal provisions were required to assist in this process, it would not have presented to this House Bills that contain unprecedented powers for the trade union movement to be involved in the laying of charges against not only mine owners but management in general, non-union workers, truck drivers, importers, suppliers and almost any contractor in between.

Before leaving the penal provisions, I wish to know why both Bills have taken away the right of people to rely on sections 23 and 24 of the Criminal Code and instead give them a very watered down defence, one in respect of which the defendant must prove that the commission of the offence was due to causes over which the defendant had no control. The reason given in the Explanatory Notes does not make much sense. It is to the effect that there are some matters inherently within the knowledge of a person. So what! I fail to see how that statement of a self-evident truth has any bearing on whether a person should be prohibited from saying that an incident occurred either by accident or independently of the exercise of his or her will or as a result of a mistake of fact.

Just how far has this modified statutory defence taken away defences that almost everybody else subject to charges has? It is clear that the modified statutory test does not cover all of the same ground as the existing Criminal Code defences, and one would like to know just how far people's rights have been curtailed. Why should an alleged murderer be given a greater opportunity to rely on defences than is given to a person under these Bills? Why should a person in all other industries operating in this State be given the opportunity to rely on these defences when people in the mining industry are not?

Under both of these Bills, an industry health and safety representative and a district workers' representative are totally exempted from civil liability for any act done or omission made honestly and without negligence under the Act. In short, an underqualified union representative who shuts down a mine and costs a company millions of dollars can walk away without fear of having to pay a cent. Therefore, to an extent, our mining industry and its future are placed in the hands of union appointed people who are immune from accountability, provided that they are acting honestly and not negligently. However, Mr Speaker, you, the people of this State and I pick up the tab.

Under both Bills the mining company can sue the State of Queensland for the harm done by the union officials. Honourable members should read clause 254 of the mining and quarrying Bill or clause 276 of the coal Bill, because this is spelt out with absolute clarity. I fear that the trade-off effected by the Minister with the CFMEU and the AWU will be paid for in due course by the taxpayers of Queensland. The powers given to such people are extremely wide, and yet when we look at the Bill

governing coalmining we see that there are also site safety and health representatives in coalmines doing much the same job and who are elected by the mine workers.

The Minister has an awful lot of explaining to do if he wants to attract bipartisan support for what appears on its face to be a totally unwarranted and unfair move. It becomes clear, as I have mentioned with respect to the recommending of charges, that the so-called statutory positions will play an important role in both pieces of legislation.

I wish to focus on the role of industry health and safety representatives under the Coal Mining Safety and Health Bill and the district workers' representatives under the Mining and Quarrying Safety and Health Bill. Persons holding these positions have a wide range of functions, including the inspection of mines, reviewing procedures in place, detection of unsafe practices, participating in investigations into serious accidents, investigation of complaints and helping in initiatives to improve safety. These representatives can make inquiries, enter any part of a mine, examine any documents relevant to safety and health, copy safety and management system documents and require persons in control of a mine to give help in exercising these powers.

Mr ROWELL (Hinchinbrook—NPA) (11.41 a.m.), continuing: The thing that strikes one when one reads the coalmining Bill is just how blatantly it promotes the interests of the CFMEU. The Bill quite brazenly says that the union can appoint three of its members to be industry safety and health representatives. The term "union" is actually defined in Schedule 3 as the "Construction Forestry Mining and Energy Union—Mining and Energy Division Queensland District Branch". It is a disgrace that this Government has seen fit to give closed shop status to the CFMEU in coalmines by virtue of occupational health and safety legislation.

In order to justify this union's attempt to obtain exclusive control of coalminers, it has used legislation designed to save workers' lives and protect them from injury. It is a travesty of justice and an insult to the coalminers of this State. The Productivity Commission actually recommended in its black coal report that the role of employees in carrying out safety inspections should not be restricted by regulation to union members, yet this is exactly what this Bill does. The Bill already allows for site representatives elected by the workers on the ground and yet overlays the site representatives with the union appointed industry representatives.

It is not as if this Bill draws a distinction between open-cut mining and underground mining, where, from the figures I have quoted, there exists a much higher risk to workers from the very nature of the work. Instead, this Bill imposes a union police force both below and above the ground, irrespective of the actual level of workplace health and safety. The other matter that causes me concern is that these union appointed safety officers can enter onto any mine they see fit—even mines with no union members at all. The potential for abuse of power by these union officers is considerable when one considers the implications of this.

The Minister would know full well that there is no reference to statutory positions of the type in these Bills for any other industry in Queensland. If there was a need for a union work force to overlap with State appointed professional inspectors, why are there not union police in place in all other industries regulated by general workplace health and safety legislation? The reason is all too clear to those who know anything about this industry, that is, that these people hold industrial positions to shore up the CFMEU's position in the workplace and not for occupational health and safety reasons. If they were truly focused on occupational health and safety, why would they be limited to those persons nominated by a union which itself is given statutory exclusive coverage by virtue of this Act?

Inspectors are public servants and are subject to stringent controls from the appointment stage on. They are subject to codes of conduct. They can be investigated by the CJC and are subject to ongoing supervision by the Auditor-General. They are part of a bureaucratic structure with many checks, balances and controls, and with a culture of strict accountability. Inspectors in this industry must have certain competencies and must go through a process of keeping their competency levels at a certain standard.

Mr Pearce: That's good, isn't it?

Mr ROWELL: Yes, it is good; it is absolutely important.

What do the union nominated industry representatives have in comparison? I would suggest quite a lot less, and I am not trying to belittle any union nominated person but simply am highlighting what is a self-evident truth. Most of what I have said applies to district workers' representatives under the general mining and quarrying Bill, although in this case it is the AWU, as a general rule, that this Government is trying to look after.

At the end of the day the unfortunate view that has been put forward to the Opposition by many in the industry is that, by forcing district workers' representatives and industry safety and health representatives on the mining sector, this Minister and this Government are expressing a negative view

on the competence and independence of the inspectorate to effectively administer the new legislation. One has only to read the Bills to see just how far the Government has gone to appease its union allies.

Under the coal Bill, industry safety and health representatives are paid for by the CFMEU, whereas their equivalents in the general mining and quarrying Bill—the district workers' representatives—are to be paid for by the taxpayers of Queensland. Why is this so? If these positions are so important, why provide that the union safety officers in coalmines are paid for by their union, but those in quarries and mines other than coalmines are paid for by you and me out there—the average person in the street? The answer is pretty obvious. The AWU demanded that its union appointed officers be paid for by the taxpayer, and this Minister and this Government, who are reliant on the AWU, quickly bowed to the demands of Bill Ludwig.

If these Bills cannot even be consistent about the issue of whether these union appointed safety officers are to be paid by the taxpayer or the union, depending on which mine and which union one is dealing with, then it is no wonder that the mine management opposes the maintenance of these legislatively imposed positions. As the Minister would also know, these are not the only statutory positions mandated by the legislation, and both Bills are full of inconsistencies and anomalies.

Although my time is limited, I draw the attention of the House to clause 59 of the coal Bill, which requires the site senior executive to appoint a person holding an open cut examiner's certificate of competency to have control of activities in one or more surface mines. The irony of this is that, although this position is mandated in surface coalmines, it is not mandated in surface metalliferous mines, despite the fact that the safety performance of surface coalmines is now one third better.

Where is the logic in this and what is the point of it? Again and again we see extra layers of persons foisted on an industry allegedly for workplace health and safety reasons, yet there is clearly no justification for them. Despite all of the rhetoric about fostering a duty of care culture, these Bills reinforce a strong culture that safety is the responsibility of a handful of people, and some of those people—the union appointed safety officers—have comparatively few occupational health and safety skills in the first place.

In conclusion, the Opposition supports the introduction of new legislation for the mining industry. We also recognise that there are differences of approach between the various unions and mine management. It is clear that mining, especially underground mining, is very hazardous, and strong legislation protecting the safety of workers is needed. We do not question that. We support the move towards a safety culture in mines—the development of that culture is probably the most important part of this Bill, because that is the way accidents and deaths can be reduced—away from an overly prescriptive approach, which often gives a false sense of security simply because people are following the rules and not assessing the risks.

The Opposition has very carefully considered the submissions made by many interested parties, and not just the mine operators. We believe that the penal provisions in combination with the wholesale retention of statutory positions significantly devalues the benefits brought about by the reforms that the remainder of the legislation introduces. I know that the Moura inquiry recommended in part the retention of some statutory positions, but the Minister also knows that the inquiry was focused on underground mining.

If these Bills had retained the statutory positions for underground mining, with a review after a reasonable period of time, and had brought surface mining of all types into conformity with general workplace health and safety legislation, then I think we would have had a far better legislative package. Instead we see the fingerprints of the AWU and the CFMEU all over it.

I am very sorry that the Minister has tampered with the Bill he was left by Tom Gilmore. It is not that Gilmore's Bill was perfect; it is just that this Bill is so inferior. During the Committee stage I will be making further comments but, to conclude, these are basically good Bills that have been spoiled by clauses aimed at shoring up the position of various unions in the workplace rather than focusing fairly and squarely on safety issues.