Speech by

Mr. R. CONNOR

MEMBER FOR NERANG

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WORKCOVER QUEENSLAND AMENDMENT BILL

Mr CONNOR (Nerang—LP) (3.53 p.m.): In speaking against the changes to WorkCover proposed by the Government, I reiterate that the Opposition is all in favour of Queensland workers having the best possible workers compensation scheme. There is no scheme anywhere that cannot be improved, that would not benefit from review and which cannot be made to work better, more fairly and more efficiently. However, the Government's proposals are not improvements to the present scheme, they are steps backwards. All of us can remember how the current Attorney-General, as the then responsible Minister, quietly gave a hospital pass to the now Health Minister—a $400m debt in the workers compensation scheme—who may have had a few words to say to him after that one.

The Government's proposals are not an objective review, they are an attempt, for Labor's own partisan reasons, to return workers compensation to the dangerous and fiscally irresponsible conditions which the coalition Government found to exist when it came back to power in February 1996 and which the coalition immediately set about fixing. The Government's proposed changes will not make the scheme work better. In fact, the reverse will happen.

One of the central issues of WorkCover legislation is the definition of "injury". It is with this aspect of the proposals before us that I wish to deal. But before I deal with the definition of "injury", I offer members another definition, the definition of "reform"—

> "To make a person, institution or procedure become better by removal or abandonment of imperfections, faults or errors."

That is the definition of the word "reform" according to the Oxford Dictionary. So in referring to the Government's proposals now under debate, I will not use the word "reform". This Government's proposals do not fall into the category of making the system better. These proposals, which the Minister has brought into the House as a favour to his mates, do not remove imperfections, faults or errors. They implant them into the existing and perfectly workable Act.

One of the big imperfections—one of the most obvious faults in this can't do legislation, the thing that might well prove to be the singularly fatal error in this failed Government's misadventure where public compensation policy is concerned—is the proposed redefinition of "injury". The public purse—no less than the private employer's purse, from which WorkCover's premium income is drawn—cannot afford the luxury of ambiguous definitions where compensation is concerned. If the definition of "injury" is ambiguous—if it is slack—and if as a result it is open to being rorted, it will have a significantly debilitating impact on the effectiveness of the whole workers compensation scheme.

In respect of the proposal before us, there can be no doubt about the quality of this definition of "injury". It is a dud and, worse still, it was clearly identified as such in the 1996 Kennedy inquiry findings. It is a return to the discredited version which applied in the previous Goss Labor Government's hotchpotch 1994 workers compensation legislation. Honourable members do not have to have a great memory to be able to recall what happened with respect to the Goss Act, which was what got workers compensation into this mess in the first place.

This definition of "injury" clause is so bad, so open ended and unfathomable in terms of its potential ultimate effect that it shapes up as being the millennium bug of this legislation. What this can't do Government and this failed Minister are downloading in this Bill is potentially disastrous. There can

be no doubt about that. We have the example of the 1994 Act and the Kennedy findings to back up the warning. This amendment will open the way to a restoration of rorting in the system. Honourable members should have no doubts about that. The infamous compo club will be reopened, thanks to Minister Braddy and his mentors in the trade union movement. Where is the Minister?

Honourable members should make no mistake, this definition of "injury" will also be a serious impost on the financial viability of WorkCover. Worse still, it could lead to some genuinely injured workers being virtually black-listed for jobs because of pre-existing injury conditions. This is an ill-conceived approach to providing a proper, honest and reliable interpretation of the rights of an injured worker to compensation and the rights of an employer to a fair and equitable WorkCover premium.

The proposed definition of "injury" is not the result of careful analysis and appropriate consultation. If it had been, it would never have appeared in this form before us. What we have is nothing more than a Labor payback for the trade unions in general and for union boss John Thompson in particular. They did not like the Kennedy inquiry findings on the definition of "injury". They vowed that if the Labor Party returned to office they would get the clause put back into its old format. Let the people of Queensland understand that this definition of "injury" clause represents a clear example of Labor's absolute inability to resist the trade union movement. What this Labor Government is doing is simply reverting to the original non-workable clause of the Goss Labor Government's workers compensation legislation.

We see before us the unedifying sight of the Minister tugging his forelock to the union movement in a way which is going to do a lot of damage to countless small, medium and large business operators in this State, and not only to business operators—the people who pay the premiums—but also to the vast majority of workers who are honest and who do not want to rort the scheme. This will signal a return to the growth of the compo culture in Queensland, which Kennedy said must be fought and eliminated. The Bill promoted by the member for Kedron will return the compensation scheme to the failure that it was under Labor, but which under the coalition was the most comprehensive and successful workers compensation system in Australia—the scheme that the Kennedy reforms and the coalition's laws were putting back on a sound basis.

By weakening the definition of "injury", Labor will make it much more difficult to control doubtful claims, thereby increasing costs to employers. The ability to sneak through fraudulent claims is made easier. Even with claims which are originally legitimate, the Government's approach will also enable some workers to stay on compo longer than necessary and increase their claim. This problem becomes difficult for regionally based and small to medium-sized employers where occupational rehabilitation opportunities are minimal and employers are unable to redeploy a worker to some other suitable occupation. In addition, the aggravation of an injury may well have ceased, but the pre-existing condition may prevent a workers' continued employment in an occupation in which they were engaged.

On the cost side, the Labor Party has already admitted that the cost of this particular change to the definition of "injury" is almost $13m a year. The Minister argues that this is a relatively small cost to the scheme. In my book, more than $1m a month is a sizeable amount of money. But bearing in mind the rather lavish tastes of some of his colleagues, perhaps the honourable member for Kedron has a different perspective on expenditure from that of most people.

However, even allowing for the Minister's dismissive attitude towards the $13m of added expenditure each year, he is underestimating the real potential impact of this amendment by many, many millions of dollars. He should remember—and if he will not of his own accord, then he must be reminded—that it is individual employers who will bear the real cost of his favour-the-rorters definition of "injury". It is the employers who will bear the uncontrolled costs of aggravations to largely pre-existing conditions. It is the employers who will have to pay higher premium rates as a result.

Let us have a look at how that can impact on a relatively small employer. For example, a typical small business, say, in the cleaning services sector—a contract cleaner—may declare wages of $120,000 a year and pay an industry premium of $3,170 a year. If this same employer was unfortunate enough to be debited with a claim of $4,000 for an injury relating to a very tenuous work relationship, under the experience premium rating procedures he would cop an additional $1,000 in premium and excess over three years. That is a 10% increase. That is in a relatively small business and it is a relatively small debit claim.

However, this becomes much worse and much more costly for the employer if more than one claim is involved or the cost of claims is much higher than $4,000. Imagine what the real cost is going to be to employers—small, medium and large—across-the-board. It is not just the cost of the claim because, just as there is a no-claim bonus on car insurance, making a claim forces the employer's premium ratings up so that the employer is paying a greater premium each year. What has happened is that the Government is looking only at the direct cost to the scheme, not the overall cost across-the-board to the community. There will also be the additional costs to the employer of having to pay greater premiums because his—for want of a better word—no-claim bonus has been reduced.

The new format for the workers compensation claims, based on the resurrected definition of "injury", is going to be a body blow for many employers. Arguably, in fact, right now is the worst possible time for a Government to be slacking off on workers compensation laws in a way which will impose heavy financial burdens on business. It is a recipe for disaster. It makes a mockery of the Minister's $13m a year prediction of added cost to the system. The real cost of this definition of "injury" is going to be huge, and it is going to have a direct impact on employers and, as a result, on employment—on the very workers whom the Labor Party claims to represent. The real tragedy of this amendment and, in fact, the entire approach of the Beattie Labor Government on WorkCover is that it is revisiting its own previous incompetence. This is the incompetence of the Goss Labor Government in failing to act decisively on workers compensation which resulted in Queenslanders, and Queensland employers in particular, paying very dearly.

Who can forget the then Premier, Mr Goss, jumping up in this House and blaming all the lawyers for taking advantage of this legislation? The member opposite remembers that. This is going to start it all over again. Members opposite should watch. In another year or two, assuming we have not gone to the polls, the Premier, Mr Beattie, will be up there whingeing about all the lawyers having a field day with the workers compensation legislation. Why? It will be this definition! That is what they will be taking advantage of, because that is what they did last time.

As I said before, the real tragedy of this amendment and, in fact, the entire approach of the Beattie Labor Government on WorkCover is that it is revisiting its own incompetence. Members should contrast the incompetence of the Goss and Beattie Labor Governments on workers compensation issues with the way in which the coalition handled the situation. The coalition opened the books of the former Workers Compensation Board to public scrutiny. The coalition set up the Kennedy inquiry under guidelines which required full and meaningful consultation, and no-one can suggest that Mr Kennedy was party political.

Mr Kennedy travelled the State talking to workers, to employers, to unions, to lawyers—to everyone who wanted to have a say about this issue. He held public hearings. He set up an advisory board of trade union officials, lawyers, employers, doctors and others to examine all the issues. He did not rely on the Government's figures. He got his own independent actuarial figures. He checked the books and then he released the data, unlike a lot of the things that were swept under the carpet when Mr Foley was the Minister. Mr Kennedy came up with a fair and practical set of sensible solutions to the problem. But now we see all that good work, all that administrative equity, all that business commonsense, go to waste.

The coalition's reforms established a framework for consultation and reform which produced a very good result. In its haste to pay off its union mates and others in the compo club, Labor has all but ignored employers. This Minister has simply done the bidding of the unions and has placed before us a grab bag of proposals which will probably lead the WorkCover fund straight back to where it was under the Goss Government. I think that the House should be reminded of exactly what Kennedy said about the definition of "injury" in his assessment of the workers compensation scheme in his report. He said—

> "It is recommended that the definition of injury should be altered to exclude injuries where there has been only a minor work relationship. This is in view of the fact that in some cases where there has been a minimal work related injury, workers remain on compensation for extended periods and sometimes also take an action for common law damages. Tightening of the definition of injury will prevent these conditions from accessing both systems."

Kennedy also said—

> "There was a change to the definition introduced in the 1994 Act amendments, namely the inclusion of 'if the employment was a significant contributing factor'. There may have been a belief that this would have been adequate to exclude injuries which had a minor work relationship. However, experience since that time indicates that Industrial Magistrates and Courts are applying lenient interpretations, similar to that which applied before the legislative change. This has resulted in employers being held liable for conditions that may be only marginally related to an incident at work. Claims staff have great difficulty determining what 'a significant contributing factor' means."

They are not my words; they are Jim Kennedy's words. He continued—

> "I have decided to recommend strengthening of the current definition, namely the inclusion of 'where employment is the major significant factor causing injury'. This should clarify what is intended to be covered by the scheme."

In other parts of his report, Kennedy refers to the need to strengthen the definition of "injury" in this way to "to ensure more balanced decision making on claims".

It is very clear what we have here. On the one hand we have Kennedy's recommendations, which currently stand as law, and on the other we have this "play favourites" Government's recycled definition of "injury", which this failed Minister describes in his paper, quite wrongly titled Restoring the Balance, as a return to the definition of "injury" introduced in December 1994. That is all it is. That is what it is all about. The Minister goes on to claim that this definition is better than that introduced as a result of the Kennedy recommendations. His only rationale for this claim seems to be that there has been an increase in the rate of rejection of certain compo claims post-Kennedy.

Perhaps the most extraordinary assertion made by Mr Braddy in arguing his case for reverting to the former definition of "injury" is his concluding comment. He describes his proposal as "not only fair and equitable to workers and employers, but addresses the difficulties envisaged foreseen in the Kennedy Report". I do not know which Kennedy report he was reading. I have just read it and I can assure the House——

Mr Schwarten interjected.

Mr CONNOR: I gave a very lengthy quote and I can assure the House that what the Minister said and what Kennedy said are very different. I am sure that anyone familiar with the Kennedy report will be scratching their heads in disbelief at that one.

Bearing in mind that the then coalition Government inherited a workers compensation unfunded liability of huge proportions from Labor in 1996, the Minister's rationale for reverting to the Goss Labor formula seems at odds with reason. Let us face it: the Goss Labor Government left the fund in a critical condition. There can be no argument about that. We have to look back only a few years to see that that was the case. There were headlines in the newspaper all the time. It just went on and on.

It appears that, despite the comprehensive evidence gathered in 1996 in one of the most detailed independent inquiries into workers compensation ever held, Labor will undo all our good work and once again put the fund and its future beneficiaries in jeopardy. This Bill does not balance the rights, as the title of the Minister's original paper asserts; rather, it tips the scales back in favour of a massive unfunded liability. By defining "injury" in a way which has previously been proved as ambiguous, unworkable and subject to rorting, in the words of the former Minister, Wayne Goss, Labor is turning its back on reason and declaring open season on employers.

Another interesting point which arises from the Minister's report and which is also referred to in the Explanatory Notes is the issue of how claims officers and self-insurers will deal with claims under the proposed definition of "injury". I note that some changes have been mooted in the media. I do not know how accurate those reports are in relation to how the Minister is taking a step away from this, but I put that on the record nevertheless.

The pertinent point here is the finding of the Kennedy inquiry which stated that workers compensation claims officers have "great difficulty in determining what a 'significant contributing factor' means". The report, as I mentioned earlier, also refers to the fact that even the courts appeared to apply lenient interpretations of this definition. Prior to the 1996 WorkCover Act the claims officers, the industrial magistrates and the courts could not seem to come to grips with this. Despite this, the Minister has put in a few words to the effect that "we are going to come up with some guidelines"—we have not seen the guidelines—"that are going to fix it." If the courts and administration could not fix it, why should we now believe that the Minister has come up with some sort of special magic pudding that will fix it when Labor could not fix it before? Labor could not fix this problem in the past.

Where are the guidelines? We are supposed to vote on these changes in good faith, but we do not have the guidelines. I do not believe that Labor will do it again. I believe that the guidelines simply will not make sense. The guidelines will not do what the Minister says they will. If he was fair dinkum, he would put the guidelines out for public consultation.

Time expired.
