Speech by

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MEMBER FOR CLAYFIELD

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COALMINING SAFETY AND HEALTH BILL
MINING AND QUARRYING SAFETY AND HEALTH BILL

Mr SANTORO (Clayfield—LP) (5.35 p.m.): Before commencing to deliver the substantive part of my contribution, I will acknowledge the remarks across the Chamber by the honourable member for Bulimba during the previous speech. He suggested that we on this side of the House indulge in union bashing. The only union bashing that we on this side of the House indulge in is against irresponsible union leaders and irresponsible unions. Our statements in this place have been consistent with the observation of this principle, and my contribution this evening will be no different from any of my other contributions; that is, I will simply highlight cases of irresponsible unionism and irresponsible actions by irresponsible union leaders.

These Bills are yet another example that the Beattie Labor Government is well and truly controlled by the union movement in general and in particular by the AWU and the CFMEU—although these days I think it is more the CFMEU than the AWU. These Bills should have provided this Parliament with an opportunity to come together in a bipartisan way and debate measures to improve occupational health and safety for our mining industry. I know that some members opposite, in particular the honourable member for Bulimba, aspire to a bipartisan approach. However, when it comes to looking after their union mates, they cannot help themselves and they give it all away.

There is no doubt that the existing legislation governing occupational health and safety in coalmining as well as general mining and quarrying is antiquated and desperately in need of reform. As long ago as 1991, the Minister started a review of both pieces of legislation. However, in no small part the fact that we are able to debate any legislation is because Tom Gilmore, the former member for Tablelands, had legislation ready when the last State election was called.

The current Minister's record on mine safety was totally discredited by the inquiry into the 1994 Moura underground disaster. The Mining Warden found that, under the Minister's stewardship, the Department of Minerals and Energy was understaffed, underresourced and often ineffective. That document is a damning indictment on the inactivity and negligence of the Labor Party, and these Bills show that the Labor Party and the Minister have learnt absolutely nothing since then. Both of these Bills contain provisions that will actually impede the creation of a culture of safety in our mines and quarries.

It is no use for the Minister to come into this Chamber and claim that he is introducing legislation designed to entrench a duty-of-care approach to our mines when he superimposes on that legislation a range of antiquated statutory positions demanded by segments of the union movement. These so-called statutory positions are in fact seen by the CFMEU and the AWU as an industrial power base and senior management positions for their members. It is outrageous and disgraceful that in workplace health and safety legislation we actually see a closed shop for a particular union created—and by that I mean the CFMEU—in our coalmines.

I agree totally with the honourable member for Charters Towers, who made a very substantive contribution earlier on in this debate that both of these Bills contain many provisions that all sensible people would support. I particularly applaud the provisions designed to promote site specific safety management systems as well as on-site management of risks. Anyone involved in health and safety will testify that it is critical that a culture of safety is created throughout a work

force, and the emphasis in both Bills on employee involvement in safety at sites is very desirable.

Likewise, I appreciate and support the move to create a holistic approach to mine safety by including within the ambit of the Bills all the various persons who have an influence on mine safety. Both of these Bills include within their ambit not just the particular workers and managers on site, but also people who supply goods or services to a mine or even the eventual manufacturer of material supplied to a mine. It is a matter of plain commonsense that, if we are to get safety in the workplace, we have to look at the whole picture and all of the various participants who contribute either to safety in the workplace or risks.

I rise today not just because I am deeply interested in and concerned about mine safety, but also because I was previously the Minister responsible for workplace health and safety generally. There has long been a debate as to whether there should be separate occupational health and safety legislation for the mining industry or whether there should be generic legislation for all industries. As a matter of principle, I think that there should be generic legislation but with enough flexibility to take into account the specific needs of various industries.

There is no doubt that in the past the mining industry was a very high risk industry, with quite a number of tragic accidents sometimes involving many fatalities. These accidents are seared into the consciousness of miners, as well as the general population. In particular there have been tragic accidents involving multiple fatalities in underground coalmines in Queensland in 1972, 1975, 1986 and 1994. The terrible tragedy of Box Flat on 31 July 1972, when 17 miners were killed, has left an indelible impression on Ipswich, just as the Kianga mine disaster in 1975, when 13 miners were killed, and the two Moura disasters in 1986 and 1994 left similar impressions on their localities. Yet we have seen in recent years an amazing improvement in mine safety.

I have read the latest report of the Department of Mines and Energy on lost time and fatal injuries, and this shows that the mining industry and all involved in it have obviously learnt many of the hard lessons of the past and that mining is now a much safer occupation than it was. In fact, the lost time injury frequency rate of the mining industry in the 1997-98 period was 15.5, which was only slightly worse than the overall figure for all industries of 15.25. The fact that the mining industry in the space of one year was able to improve its performance from 20.2 to 15.5 is very encouraging. Some other industries are, in fact, much more dangerous than mining. In particular, the lost time injury frequency rate for manufacturing of 32.5 highlights that point.

The other point of significance is the much higher danger posed to underground miners than that posed to above ground or open-cut miners. The lost time frequency rate for underground miners in 1997-98 was 39.4, compared to the above ground figure of 7.8. Nevertheless, in just one year alone, the underground figure improved from 62.1 to 39.4, and that compares with a figure of 73 in 1993-94. Yet, despite the obvious differential in danger posed to underground miners compared with above ground miners, there is no reflection of that fact in this legislation.

The legislation governing coalmining health and safety is now well and truly showing its age. The improvements made to workplace health and safety by the industry have been achieved despite the legislation rather than because of it. Our coalmining legislation, in particular, reflects an era when all coalmining was performed underground and when the sum total of knowledge was based on British coalmining legislation. Much has changed since then, and I believe that in due course there will be a realisation that the best mechanism for promoting workplace health and safety in our mining industry is through generic workplace health and safety legislation.

Let there be no mistake about this, my view is that there are no acceptable workplace accidents or fatalities, and there should be a totally professional approach to safety separate from industry and union squabbles. We never can afford to compromise on the health and safety of workers, especially when powerful unions are involved which use workplace safety legislation as bargaining chips to shore up their position in the workplace. It is also my view that the capacity of sectional interests to foist their will onto occupational health and safety legislation is made all the more easy when there is industry specific legislation. Unfortunately, these Bills stand as a sad testament to this fact.

The coalition when in Government determined that the Workplace Health and Safety Act, which applies to all other industries, would be an appropriate legislative standard for the mining industry also. Whilst the coalition accepted the views of the industry that separate mining safety legislation should be maintained, it was to be similar in all key respects to the general workplace health and safety laws. The principle of separate but parallel legislation superficially has been adopted by the Minister and the Beattie Labor Government. These Bills are similar in some respects to the Workplace Health and Safety Act, yet they are defective in key areas.

The cornerstone of the Workplace Health and Safety Act was summed up by Lord Robens in 1972 as follows—

> "The primary responsibility for doing something about the present levels of occupational accidents and disease lies with those who create the risks and those who work with them."

Primary responsibility, in other words, lies with management and workers and not with union officials who make a living out of attempting to intervene and use safety positions as power bases.

In both of these Bills we see the quite unacceptable situation of having at least three layers of people who are charged in a specific sense with policing workplace safety. Using the coal Bill as an example, we have not just the inspectorate made up of public service officers but also site safety and health representatives as well as industry safety and health representatives. There should be no opposition to promoting through legislation workers in an industry being able to take a direct role in promoting safety.

However, in the Coal Mining Safety and Health Bill we see superimposed on top of directly elected workers representatives, industry officers appointed by the CFMEU. In a move which I think is almost unprecedented in Australia, this Government actually specifies the CFMEU as the union which can nominate union officials to undertake a safety role. This Bill actually promotes a closed shop in the coalmining industry, and stands as stark testament to the trade-offs that the member for Mount Isa must have been a party to.

The member for Charters Towers has already outlined the enormous powers that these union officials will have, and he has quite rightly pointed out that, under these Bills, union officials will be given wide police powers as well as the power to close down a mine. The potentially outrageous thing is that union officials with no union members at all in a mine can actually come into a mine and demand documents from management and close part or all of it down—shades of the industrial relations legislation that was introduced today by the Minister for Employment, Training and Industrial Relations and obviously very consistent with the overall philosophical and policy approach of the Beattie Labor Government. These officials are even granted immunity from civil actions in most cases, and this Government will impose on the taxpayers of this State the obligation to pay damages to mine owners in the event that these people do the wrong thing.

So if a union official who holds one of these statutory positions actually stops production at a mine and the mining company suffers hundreds of thousands or possibly millions of dollars of losses, it will be the taxpayers of Queensland who will have to pick up the bill. On top of that, the Bills actually create a penalty for disadvantaging one of these union officials in exercising the powers specified in the Bills. The term "disadvantage" is not defined in the Bills, but I am sure that it could be interpreted widely. A person who disadvantages a union official is subject to being prosecuted and fined up to 500 penalty units.

There is also a very insidious side to the matter, and that lies in the penal provisions inserted in both Bills. Under the legislation, these union officials, whether they be industry safety and health representatives or district workers representatives, are given a specific statutory right to recommend to the chief inspector that a prosecution be launched against various people. In short, these Bills place union officials in a powerful position and a position which could quite easily be abused. The sheer self-interest of the union movement and the absolute lack of principle of this Government when it comes to union matters is made abundantly clear when one sees the different approach that is taken as to whether these union safety officers are to be paid by the taxpayer or the union.

Under the coal Bill it is specifically provided in clause 111 that the CFMEU must pay for the industry safety and health representatives, yet under clause 107 of the mining and quarrying Bill, the funding of district workers representatives is to be left to the taxpayers. In his reply, perhaps the Minister may wish to tell us explicitly why the taxpayers should pick up the tab for district workers representatives but the CFMEU paid for industry and safety health representatives? Why indeed! It is just that the AWU put its foot down and demanded that the taxpayer, and not Bill Ludwig and his mates, pay for their own union officials, whereas the CFMEU did not. Perhaps it is no coincidence that the honourable member for Mount Isa, the Minister, is a key factional player within the AWU.

Both of these Bills are full of various statutory positions and the roles that they may or may not play. Really, at the end of the day, despite all of the Minister's claims that he is seeking to move away from prescriptive legislation to legislation which promotes a culture of safety throughout the work force, we see legislation that entrenches union power bases and undermines the very duty of care culture which these Bills were intended to instil.

The Minister knows that the thrust of his amendments to these Bills, in line with union demands, goes against all of the reforms recommended by the Productivity Commission in its report on the black coal industry. Instead of promoting cutting-edge legislation that will act as a spur to management and workplace safety reforms, the imposition of the various statutory positions will actually act as a brake on safety reforms.

Just as disturbing is the fact that the sum total of these provisions will make health and safety in the mining sector an industrial contest, with outside union officials being able to stop work allegedly in the name of safety in order to achieve some unrelated industrial purpose. In the context of the criminal law this is called blackmail.

Let us recall the sorts of people we are talking about. We are talking about the type of

law-breakers picketing at Gordonstone. We are talking about the type of people who racially and sexually verballed workers at the Sun Metals site in Townsville. The Minister knows that there are no equivalent positions in the Workplace Heath and Safety Act. The Minister also knows that the role of enforcing the law should lie with an independent and impartial inspectorate made up of competent full-time public servants who are subject to all the checks and balances that go with being a public servant.

I will make a few comments about the penal provisions in these Bills. This is an area where the industry and the unions are at loggerheads. To be fair, a case can be made out for some type of penal provisions in Bills such as this but, as the member for Charters Towers points out, why bother when the general criminal law already applies? The industry suggests that penal provisions will promote a culture of seeking legal immunity and not the free flow of information, and I think to an extent it is right. However, if it is possible to have a sensible debate on the merits of placing penal provisions in these Bills, such debate breaks down almost immediately when we look at the other provisions backing them up.

I have already pointed out that district workers' representatives and industry safety and health representatives are given the power to recommend prosecutions but, in addition, prosecutions can actually be launched not just by the chief inspector but also by persons nominated by the Attorney-General and the Minister. In other words, we could well see the situation of this or any other future Labor Minister allowing union representatives to start criminal proceedings. There is nothing like this in general workplace health and safety legislation and it casts a cloud over the whole concept of specific penal provisions in these Bills. How on earth can the mining industry not feel under threat when this possibility exists?

On top of that, as the member for Charters Towers points out, people who are charged are actually denied the opportunity of relying on the defences in sections 23 and 24 of the Criminal Code. People are actually being denied the opportunity to plead the defence of accident, mistake of fact or an event occurring independently of the exercise of their will.

All of this has to be looked at in the context of enormous police powers outlined in the Bills, including the requirement to answer questions irrespective of whether the answers may incriminate the person and the requirement to produce documents, and even very wide powers to enter premises without a search warrant—without their even having to go before a magistrate and outline a reasonable case. All in all, I fully understand why the mining industry is opposed to penal provisions in these Bills, because the way they have been drafted leaves the door wide open to potential abuse and injustice occurring.

I could outline to the House a number of other anomalies with these Bills, but I think the above examples suffice to highlight that we are now debating legislation that is fundamentally flawed, as the Opposition will highlight in great detail during the Committee stage of the debate.

In conclusion, I, like other Opposition members, would have liked to have risen in this debate and given our support to Bills that will assist the industry in its excellent endeavours of recent time to improve safety in our mines. Our mining sector is critical to our State and nation and the workers in this industry, especially those underground, often work in hazardous situations. All too frequently there are horrific reports of industrial accidents underground and reading of that brave young man, Brant North, whose legs were amputated after an accident at the Oaky Creek underground mine, brought home to me and, I am sure, to most others in this place just what a risk miners take on a day-to-day basis. That is why I am so disappointed with these Bills. They are meant to promote occupational health and safety but will actually impede it by penal provisions and across-the-board statutory positions.

Mr Bredhauer: You are trying to make political mileage out of workers' injuries.

Mr SANTORO: I take the interjection from the despicable Minister opposite. Those opposite believe that only they have the right to mention and express sympathy for injured workers.

An Opposition member: Another example of ministerial standards.

Mr SANTORO: Another example of sleazy and downright objectionable ministerial standards. To the extent that these Bills will actually slow down the commendable strides that all parties in the mining industry have made recently towards a comprehensive and sustained culture of safety, I think the Minister and the Beattie Labor Government, including and in particular that hypocrite the Minister for Transport, who decided to interject in a pious and sanctimonious way, deserve to be roundly condemned.