Speech by

Mr T. MALONE

MEMBER FOR MIRANI

Hansard 25 May 1999

COALMINING SAFETY AND HEALTH BILL

MINING AND QUARRYING SAFETY AND HEALTH BILL

Mr MALONE (Mirani—NPA) (5.15 p.m.): Workplace health and safety is a matter of utmost concern to all industries, but it is especially so in the mining and quarrying sectors. This is due in part to the tremendous importance of these industries to our State's economy, the fact that there are quite distinct mining communities throughout central and northern Queensland, and also because of the terrible mining accidents that have occurred and which all Queenslanders would remember vividly.

Work on these Bills has been going on for eight years. Just before the last State election, the then Minister for Mines and Energy, Tom Gilmore, had concluded discussions with all interested parties in the production of draft legislation. That legislation forms the basis of these cognate Bills. However, if the Beattie Government had adopted the legislation produced by Tom Gilmore and his department, today we would be debating a far better legislative package. Instead, the member for Mount Isa has seen fit to include in both pieces of legislation provisions designed to meet the demands of the union movement in general and the CFMEU and the AWU in particular.

In all legislation involving industrial matters there are varying degrees of compromise between the demands of various pressure groups. This legislation is no exception, and I do not criticise it on that basis. However, the horse-trading that this Government has engaged in to meet the demands of the union movement has significantly compromised the effectiveness of these Bills. The compromises agreed to by the member for Mount Isa represent a retrograde step that will hamstring these industries and place impediments in the road to a safer workplace. These Bills represent an attempt to cement into the workplace not safer workplace practices but the central role of the union movement. All in all, these Bills contain provisions that should never appear in workplace safety legislation and which devalue the whole legislative package.

Before I comment on these disappointing provisions, I would like to comment briefly on the current state of workplace safety in our mines and quarries. According to the latest statistics that I have been able to obtain, over the past five years there have been significant improvements in workplace safety in the coalmining industry as well as the metalliferous and quarrying industries. Most significantly, the greatest improvements have occurred over the past three years. During the 1997-98 financial year, out of a total work force of 9,000 people, there have been 369 lost time injuries in coalmines, which was a big improvement over the 571 in the previous year. From a wider time scale perspective, the numbers in lost time injury in open-cut coalmines dropped from 408 in 1993-94 to 133 in 1997-98—a remarkable result.

The decrease in the figures for underground coalmines has been far less spectacular, with a drop from 278 to 236 in the same period. However, it is important to point out that between 1994 and 1997, the figures were actually in excess of 278 for each year. From a total work force of around 11,000, there were 351 lost time injuries reported in all metalliferous operations and quarries in the 1997-98 period. There were improvements in all sectors in this industry in the same period, with the exception of the underground metalliferous mines. Looked at over a five-year period, one can see that there have not been any significant improvements in the metalliferous area, either above or below ground. The only beneficial exception was in the quarrying industry, which had a very good drop from 50 to 26. It appears that these figures are on sustained development.

From those figures it is very clear that by far the biggest risk exists in industries with underground operations. The lost time injury frequency rate for surface coalmines is only about eight, but for underground coalmines it is 39. Likewise, the time lost frequency rate for surface metalliferous operations is 13, yet for underground metalliferous mines it is 19. Many of the injuries in open-cut mines have resulted from vehicle roll overs and collisions, whereas in underground mines there are numerous risks ranging from electrical cable flashes and the ignition of methane gas to terrible machine accidents.

I mention the last item because I recall with horror the story of Brant North, who had both legs amputated after being entangled in mining machinery some 400 metres underground at Oakey Creek earlier this year. In a two-hour operation, while he was still entangled in the machinery, a Flying Doctor team removed this very brave man's legs using only local anaesthetic. All who read about the way in which that young man conducted himself both during that unbelievably terrible time and since must be touched to their very core. Of course, in recent days another serious accident has occurred in central Queensland in which a 28 year old man lost both legs in a similar incident. That was another terrible accident. Therefore, there is no doubt that improving workplace health and safety in our mines is a critical issue and one on which there can be no partisan disagreement.

There are many positives in these Bills that will help to improve safety in the mining sector. When introducing the Bills, the Minister outlined a number of those positive moves. I particularly support the requirement for joint employer and employee planning for health and safety through the development of site specific safety management systems and a greater emphasis on on-site management risks. There would also be widespread support for the establishment of tripartite health advisory councils to advise the Minister.

In the context of the metalliferous and quarrying industries, the safety council will give advice and make recommendations to the Minister about promoting and protecting the safety and health of persons working in mines. To achieve this the council will, amongst other things, establish, recognise and publish the competencies accepted by it as qualifying a person to perform stated tasks and the safety and health competencies required to perform the duties of persons under the Bill. I think that a body such as this will be able to give the Minister of the day sensible, relevant and practical advice. It is appropriate that the council will have two inspectors. I support the specific statutory requirement that the council must have a representative of the quarrying industry, as this should help to ensure that the very commendable workplace health and safety strides that have been made in that industry over the past few years are consolidated.

I believe that there is total support for the philosophy underlying the Bills, which is to move away from a prescriptive and legalistic approach to safety, and instead emphasise a duty of care that all participants in the industry have. It has long been a contention of many in the industry that, by approaching mine safety from the viewpoint of very detailed laws and a hierarchy of people who allegedly were responsible for safety, miners' safety was in fact placed at risk. The suggestion is that instead we should empower all people who have a stake in the industry to participate in mine safety, so that there is a culture from the top to the bottom that is aware of and responsive to workplace health and safety issues.

Like all good ideas, the devil is always in the detail and unfortunately these Bills are a good illustration of that. Despite the claims of the Minister and the Government that the Bills will entrench a duty of care culture, it is clear that in fact both Bills move in diametrically opposed directions. While on the one hand there is an attempt to cement in place a duty of care culture, paradoxically there are numerous attempts to entrench a prescriptive and reactive approach to safety by the retention of various statutory positions and requiring the involvement of union officials in the operation of the mines. Initially I will limit my comments to the metalliferous mines and quarries.

Under the Bill governing this industry, there are quite detailed provisions dealing with the establishment of site safety and health representatives and committees. The site safety and health representatives are elected by workers on site. Those representatives must obtain the necessary qualifications and have numerous functions including the inspection of mines, reviewing procedures and circumstances, liaising with management, resolving health and safety issues, investigating complaints and referring health and safety matters. The role of the representatives can be supplemented by the safety committee of the mine, if that body is requested either by a representative or by the chief inspector. The Bill also requires certain duties to be performed by the most senior officer employed by the operator of a mine who is called a site senior executive. All in all, those provisions ensure that from the most senior site management official down to the workers there are positions and structures designed to effect the continuous supervision of safety matters by the key stakeholders, who are the workers on site.

However, under the Bill, overlaying that sensible arrangement are district workers' representatives. Those persons are nominated by a union or unions with members in the mining industry, which can be translated into plain English as the AWU. Those union nominated officials are appointed for up to four years and are entitled to such remuneration and allowances as allowed by the

Minister. The retention of this obsolete union patronage position is a retrograde step. When one reads the Bill, the matter becomes even more disturbing. District workers' representatives will not be appointed under the Public Service Act nor will they be held accountable as a public servant would be, as those persons are not subject—at least from my reading of the Bill—to the same accountability mechanisms as public servants. I would like to know by what means those persons will be held accountable for their actions and on what legal basis.

At the moment, district workers' representatives are only remunerated for the actual time taken by the representative in making an inspection or entering a finding in a record box and taking such further steps as may be required under the law of the representative. In other words, those union appointed officers only get remunerated for the work that they actually perform. There is no nexus whatsoever in this Bill linking pay and work performed. Apparently, those people will be paid irrespective of any work being performed or, more importantly, not being performed.

I ask the Minister to outline in his response what remuneration arrangements are being proposed. In particular, at what salary level will these persons be paid and, if there are to be different levels, on what basis will those levels be determined? Will these workers be paid by the taxpayer for holiday and sick leave? In the event of long service leave, does the time they have been a district workers' representative count and will the taxpayers have to pay a pro rata amount? Will overtime be paid? Will general Public Service conditions apply, including a rostered day off, meal allowances and the like? When we read what the functions of district workers' representatives are supposed to be, we see that they duplicate to a very large extent the role of site safety and health representatives on the one hand and inspectors on the other.

Before continuing, I note that I find it interesting that this Minister trumpeted to all and sundry just over a month ago that the departmental inspectorate had been increased from 33 to 44 positions in anticipation of the legislation, and yet he sees fit to persist with a union nominated and dominated inspectorate in the form of district workers' representatives. As the Bill unfolds, it becomes clear that district workers' representatives will be given enormous powers.

Firstly, in Part 10, which deals with the Board of Examiners, there are a number of strange provisions. For those honourable members who are not aware of this, I point out that the Board of Examiners plays a key role in determining competencies for holders of certificates of competency, and assess or have assessed applicants for competency certificates. Currently, the types of certificates and licences that the board grants are as follows: first-class mine manager's certificate of competency, second-class mine manager's certificate of competency, limited mine manager's certificate of competency, open-cut examiner's certificate, mine electrician certificate, mine surveyor certificate and a winding licence.

This body plays a critical role, yet this Bill states specifically that at least six of the members must be currently engaged in the mining industry, and then deems inspectors and district workers' representatives as being engaged in the industry. In other words, it is clear that district workers' representatives, and possibly more than one, are to be appointed to the Board of Examiners. I specifically ask the Minister whether he intends to appoint district workers' representatives to the board and, if so, how many? However, Part 10 goes on to provide that an inspector who is a member of the board is not entitled to be paid any fees or allowances as a member, yet there is no such disqualification for a district workers' representative. We have the discriminatory situation of an inspector who is paid for by the taxpayer being precluded from double dipping; however, a union-appointed representative, who is paid for by the taxpayer, is not. Why should union representatives be allowed to double dip when public servants are prohibited from doing so? Clearly, there is no justification for this at all, and this is yet another example of this Government bending the rules to look after its union mates.

Of even more concern are the enormous police powers given to these union representatives. Under the Bill they are empowered to enter any part of a mine at any time to carry out their functions, which as I have mentioned are as wide as can be imagined. In addition, they are empowered to examine any documents relevant to safety and health held by persons with obligations under the Bill, and can copy safety and health management system documents, including standard work instructions and training records.

However, of acute concern is the power vested in these people to give a directive to any person to suspend operations in all or any part of a mine. I repeat that they can, even without giving any written notice and just by an on-the-spot oral direction, close down a whole mine or part of it. It is hard to believe that this Minister and this Government would actually introduce a Bill into this Parliament that gives to a union-appointed person the power with all the force of the law to go onto a mine site and shut down operations.

As disgraceful as that potentially is, even more disconcerting is the fact that if a person refuses to obey a directive and allegedly obstructs a district workers' representative, they have in fact breached the law and can be subject to being charged. There is even an Orwellian provision included in clause

245 of the Bill which makes it an offence for a person to "encourage or influence, or attempt to encourage or influence, by general direction, promise of advantage, threat of dismissal or otherwise, a worker to refuse to answer questions put to the worker by a district workers' representative". There is absolutely nothing in that clause about the reasonableness of the questions or the behaviour of the district workers' representative. Any person reading this Bill would find these provisions almost surreal and manifestly unfair.

Of course, when we read clause 254 we discover that a district workers' representative is exempted from civil liability for any act done or omission made honestly and without negligence under the Act. So if our overzealous district workers' representative incorrectly closes down a mine or part of it for a time and causes the loss of hundreds of thousands of dollars——

Time expired.