Speech by

Hon. T. McGRADY

MEMBER FOR MOUNT ISA

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

Hon. T. McGRADY (Mount Isa—ALP) (Minister for Mines and Energy and Minister Assisting the Deputy Premier on Regional Development) (3.37 p.m.), in reply: I understand the Opposition will be moving a number of amendments. I give warning now that the Government is not prepared to accept any of the amendments that the Opposition will be presenting. I place on record my thanks to all of those members who have contributed to this very important debate. This legislation came into this Parliament after many years of dedicated work by a tripartite committee, consisting of members of the Queensland Mining Council, the trade union movement and, of course, the Department of Mines and Energy. To all of those people who have assisted in any way in formulating this legislation, I would like to place on record my personal thanks to them. In particular, I place on record my thanks to my policy adviser, Tim Conroy, and department officers Peter Dent, Peter Minahan, Roger Billingham and Dave Mackie.

It is a sad day when Opposition members try to use the issue of health and safety in the mining industry to score some petty political points. Some of the Opposition members claimed that, at the change of Government, there was an agreement by the tripartite committee as to how the legislation should, in fact, operate. At the outset, I want to make it perfectly clear that, as an incoming Government, about 95% of all the issues had been agreed to but there were about 5% which had not. I worked long and hard to try to reach a compromise. It was impossible to do so. Therefore, I took to Cabinet legislation that I believed was the best for the mining industry. So this nonsense that has been spoken about in this Chamber regarding the Labor Government coming in and changing what had already been agreed to is simply that: nonsense.

This legislation is about the men and women who work in the Queensland mining industry. The whole object of this Bill is to try to create a safer environment in which those people can work. To hear members opposite refer to the industry and imply that the industry comprises simply mine owners, the chairmen or the chief executive officers or, indeed, the shareholders of the companies, is quite objectionable, because the men and women who work in this industry, together with their industry representatives, are just as much a part of this massive industry as those officials whom I have just mentioned.

I feel passionate about health and safety in the mining industry for two reasons. Firstly, I recall receiving a call at about 2 o'clock in the morning informing me of the disaster at Moura No. 2, where 11 of our fellow Queenslanders were killed. Secondly, I have had friends and, indeed, a next door neighbour, who have been killed or severely injured in the industry. Therefore, I am personally, as is the Government, committed to improving health and safety in the Queensland mining industry.

I am the first to admit that some of the provisions in this legislation are tough. However, they are provisions that I believe will go a long way towards creating an environment in which the men and women who work in this industry can have a safer workplace.

In recent times much has been said about fly in, fly out operations. I am aware that this practice is happening at the present time, and it is escalating. Fly in, fly out operations, particularly among contractors, is a major concern. People are working fourteen 12-hour day shifts that are immediately followed by 14 night shifts, and they do not have any break in between. That should be a worry to all of us in this Chamber. A growing body of evidence indicates that fatigue is a major cause of workplace

accidents. Therefore, the practice of an extended number of day shifts being followed without a break by an extended number of night shifts is a cause of grave concern to me. I am pleased to say that under this legislation contractors also have duty of care obligations. The whole issue of work practices leading to dangerous levels of fatigue is something to which I will be paying particular attention.

Another issue that is of growing concern to me is the abuse of drugs and alcohol within the industry. In a number of accidents it is suspected that drugs or alcohol were contributing factors. It is my opinion that this menace is also related to the extended shifts that people are expected to work. I believe that many people are tempted to indulge in drugs and alcohol in order to cope with the unnatural lifestyle that is imposed on them by the extended shifts that I have previously outlined. When this occurs, the worker's ability to work safely, which is already reduced by fatigue, is often further reduced in hazardous situations. Some companies, with union cooperation, have developed drug and alcohol policies and are implementing strategies to cope with this threat. I commend them for their initiative and recommend a similar approach to other mining companies.

I now wish to answer the individual points raised by various members. I will start with the member for Hinchinbrook, the shadow Minister for Mines and Energy. The shadow Minister claimed that the industry has made great strides in recent years towards creating a much safer working environment and that this progress is put at risk by agreeing to all the key demands of the union movement. I mean to establish the true position of safety in the Queensland mining industry. Unfortunately, and I say this with regret and concern, it is not the rosy picture that the Opposition has painted.

As recently as April this year, senior officers of the Department of Mines and Energy gave a presentation to the chief executive officers of the major mining companies. The message was grim. Basically, they said that the list of industry accidents was horrifying and that companies must gain control of their operations. The following list outlines the incidents that occurred over a two-year period up to April 1999: frictional ignitions, four incidents; serious heating, six incidents; and gas build-up, two incidents. There were problems with mobile equipment and runaway vehicles in coal and metalliferous mines. A number of haul trucks rolled over in open-cut mines. A flat-top car fell down a hoisting shaft. There was a serious incident involving a cage containing 11 men and a shaft sinker fell to his death. A miner lost both legs and a contractor lost half his foot. There were 20 underground mobile equipment fires. In the area of explosives there was an incident of premature detonation while charging face that caused serious injury. On occasions I have had to send letters of concern to mining companies.

I must also address the figures that the honourable member mentioned, which are fundamentally misleading. If we normalise the figures, that is, to take the number of deaths per thousand persons employed over a 10-year period, we see that the fatality numbers for all industries quoted vary from 0.7 to one death per thousand employees over 10 years, except in the underground coal industry. Coal figures are approximately 8.61 deaths per thousand employees over a 10-year period. In mining, a 10-year period has to be used to get statistical significance.

Let us look at the lost time incident frequency rate, which is a measure of how well minor accidents are managed. This measure is not suitable for assessing catastrophic risk and how well it is controlled or even how safely it is managed. An example is Moura No. 2 mine.

Mr Rowell interjected.

Mr McGRADY: The shadow Minister is a pathetic excuse for a parliamentarian. We are talking about the lives of the men and women who work in this industry. I do not need inane interjections from him or any of his colleagues. He is a disgrace to this Parliament. He has no right to claim to represent this industry.

We are talking about accidents that have occurred. I am not a defender of those people in this State who allow this situation to continue. We are talking about the men and women who work in this industry. Let me tell the House this: I will travel the length and breadth of this State and I will expose the shadow Minister for the apologist he is for those who do not do the right thing by working men and women. I will not answer any more of his interjections in this debate. He is a disgrace.

Mr Santoro: You probably can't answer it, that's why. That's a big cop-out.

Mr McGRADY: I will come to the member later. The other allegation made in the debate was that the Coroner's report into the Moura No. 2 disaster inferred that the Goss Government contributed to the disaster. That is what was said in this place. That inference saddens me, because it is simply unworthy point scoring. I remind the honourable members opposite that over the past 23 years there have been four mining disasters, three of which occurred under a different Government. What we are facing is a real and serious problem. This problem will only be solved if mining companies face up to the problems and we as politicians realise that there is a problem. Unfortunately, the complacent attitude reflected in many of the speeches on these Bills will not contribute to this solution. If this attitude reflects the real attitude of people in the mining industry, the problems will be real indeed.

The next point was that criminal charges, particularly imprisonment, should be left to the Coroners Court and, indeed, the Criminal Code 1898. The Coroners Court deals only with fatal accidents. We need to be able to hold people accountable to the full rigour of the law, including imprisonment if necessary, in cases where death does or does not occur.

I wish to address the issue of sections 23 and 24 of the Criminal Code. I am not a lawyer, but I know that these defences are an integral part of the Criminal Code 1898. I have heard them referred to as the ostrich defence—that is, "Please do not tell me, because if I do not know I am not liable." We did not introduce the exclusion of sections 23 and 24 to make life difficult but because they were incompatible with self-regulation, just as applying the Criminal Code to safety breaches under a self-regulatory regime is incompatible. Interestingly, the exclusion of parts of the defences contained in the Criminal Code from the workplace health and safety legislation commenced on 15 May 1989, under the then National Party Government.

Another point raised was that this legislation implies that inspectors' powers are too wide. The inspectors' powers are exactly the same as those developed under my predecessor. I am at a loss to suddenly find that they are now considered to be too wide. Those powers are necessary for the administration of a self-regulated regime. For example, let us look at the issue of documents. If we are to let companies develop their own rules, we must have powers to access those rules and to be able to ascertain that they are the ones they are working to. Without these powers—which were actively supported by all parties, including the Queensland Mining Council—the whole process would be a farce. Similarly, because of the self-regulatory nature of this legislation, documents seized relating to people's obligations under the legislation must be able to be used against them.

With respect to entering workplaces without warrants, this is no more than any workplace inspector can do under the Workplace Health and Safety Act. There is absolutely nothing new. The other point raised was that the structure of statutory positions somehow created a culture which prevented mining companies from managing mine safety. That contention is false. Mining companies have been free to train and impose just about any structure they have wished to impose. For example, in open-cut coalmines there is a registered manager and a mine superintendent. The mine superintendent runs the mine and the registered manager, with the statutory ticket, is the safety manager. Anyone who knows the mining industry and how it exercises its right to hire and fire would know that it is fanciful to suppose that they are rendered incapable of managing the mines because of statutory positions.

Another point made was that the Queensland Mining Council believes that introducing specific criminal sanctions— namely, imprisonment—will severely undermine disclosures of vital information needed to eliminate fatalities. Again, this concern masks another concern held by senior management, and that is the consequences they may have to face if safety breaches occur. This concern is particularly acute at present, with downsizing, outsourcing and cost cutting and the dislocation such activities leave in their wake. Bearing in mind the major obligations held by senior management, I would be surprised if workers and supervisors would not provide information, particularly when they are aware that answers provided under compulsion are privileged and that other information obtained as a consequence is also privileged.

Another point made in the debate was that the Bills allow the Minister to authorise prosecutions. The question was asked: whom does the Minister intend to authorise? The suggestion was made that enabling the Minister to authorise prosecutions will politicise the whole process. My answer is this: the provision so dramatised by the Opposition is quite normal. The alternative is that anyone can initiate a prosecution if it is not restricted in the Act in question. I refer the Parliament to the Acts Interpretation Act 1954 and the Justice Act 1886. Acts with similar provisions are the Workplace Health and Safety Act, the Radiation Safety Act, the Child Protection Act and the Land and Resources Tribunal Act. I understand that there are others, including the Explosives Acts 1999, recently passed by this House. Another honourable member asked whom I would authorise to initiate a prosecution. This is a hypothetical question, but the answer is: anyone who can convince me that they have been denied justice. The courts will decide. That is what courts are for.

Another point raised was: how can the industry have confidence that the wide penal powers and the intrusive police powers will be used responsibly? The industry actively participated in developing both inspectors' and representatives' powers. Workers' representatives nominated by the dominant union have been working in the coal industry for 60 years without any crises. We might ask: why the fuss now? The only plausible answer is that some Right Wing ideologues see this as an opportunity to further their agenda to deunionise this industry.

Another point raised was that underqualified union-appointed representatives could cost the State and companies millions and not pay one cent if they have acted honestly and without negligence. The answer to that is quite clear: industry safety and health representatives are not underqualified. They have a deputy's certificate of competency and considerable practical experience. In the considerable period of time industry safety and health representatives or their equivalents have

operated there has not been one case of arbitrarily shutting down a mine. Why would that change? An inspector can revoke a directive to shut down a mine if one is given. All it takes is a phone call. Inspectors are available 24 hours a day. These officers have proven themselves to be capable, practical mining men and women who have made a considerable contribution to the safety of the industry. Why should they not have protection in the Act if they act honestly and without negligence? The slim chance of the State being sued is insignificant when balanced against the extra protection that these officers provide our multimillion-dollar mining industry.

I turn now to the contribution made by the Leader of the Liberal Party, who demonstrated to me that he knew precious little about the mining industry. However, again, I will address each one of the points he made. Dr Watson stated that the legislation will not improve safety but will improve the CFMEU's ability to disrupt the coalmining industry. That statement is breathtaking in its ignorance. The proposed legislation was developed by a tripartite committee which included Queensland Mining Council representatives. The discussion paper was prepared under the former Minister, with the participation of the Queensland Mining Council. Although the CFMEU was not named, the formula included to determine who would be selected would have inevitably led to the CFMEU industry safety and health representatives. Why was this done? The answer is: because the industry has been living comfortably with this situation under the current legislation for the past 60 years and has used it to its own advantage. In fact, the protection against the misuse of powers by industry safety and health representatives is greater in the proposed legislation than it currently is in practice.

Dr Watson then went on to quote the black coal industry inquiry as, firstly, recommending that open-cut mines be regulated separately to underground mines, probably under occupational health and safety legislation, and he claimed that as a result there is no need for the statutory position of open-cut examiners in the open-cut coalmining industry. In answering, I refer to the speech that my colleague the member for Lytton, Mr Lucas, gave in this House on 24 March. Mr Lucas explained simply and clearly why having separate legislative regimes for open-cut mines and underground mines is impractical. I will speak more about the issue of open-cut examiners later.

Dr Watson then went on to say that the Opposition did not walk away from statutory positions in underground mines. He also said that not one single person in Queensland, other than the unions, believes that open-cut mine examiners are necessary and that, if statutory positions are so vital, why are they not in other industries? I am glad that the Opposition accepts statutory positions in underground mines. I take it from that that it disagrees with the black coal Industry Commission's recommendations on this matter.

How would the Opposition know that no single person other than unionists thinks that open-cut examiners are not needed in Queensland coalmines? A number of unsubstantiated statements were made in this speech, and this is added to the list. It so happens that I have asked a considerable number of people—a slice across the coal industry—about the need for open-cut examiners. The overwhelming advice I obtained—and not just from unionists—was that under the present circumstances open-cut examiners should be retained, and under this legislation they will be. On safety matters, I err on the side of caution; therefore, I make it clear that they will be retained.

I turn now to his question that, if statutory positions are so vital, why did other industries not have them? I refer honourable members to section 93 of the Workplace Health and Safety Act, which requires every prescribed organisation with over 30 people employ a safety and health officer with certain competencies and duties to be defined by regulation.

Dr Watson also asked if I believed that the inclusion of penal provisions would mean imprisonment? The answer is: yes, I do. I believe it is immoral to have a penalty for contributing to a person losing their life subject to imprisonment in one legislative regime and a simple fine in another regime. If imprisonment is so pointless, why has New South Wales recently increased the maximum period of imprisonment from six months to two years for major safety breaches?

Dr Watson said that the Bill takes the industry backwards and that it should follow the black coal Industry Commission's recommendations in ensuring choice for managers and owners in managing mines. I think Dr Watson is a little confused. He also said that the Opposition supported statutory positions in underground mines. What does he support, or does he support both at once? As far as the statutory position of open-cut examiners is concerned, it is not a management position; it is a position equivalent to a workplace safety and health officer in industry and does not prevent owners from adopting any appropriate management structure. I have spoken about industry safety and health representatives and the CFMEU and, indeed, imprisonment and I do not intend to go over them again.

We come to the contribution made by the member for Charters Towers, the former shadow Minister. Much of what he said has been raised by the current shadow Minister and other speakers. In particular, he started off by saying that he agreed with the Queensland Mining Council that the Minister had caved in to union demands. I would just like to say that a union is only mentioned once in the legislation. I ask the question: how many times is the Queensland Mining Council mentioned?

The speech of the member for Charters Towers appears to be written by an advocate of sectional interests; there is no semblance of balance in it. As Minister for Mines and Energy, the person charged with administering this legislation, I believe that I have taken a balanced approach and I would ask the Parliament to contrast my approach with the approach of members opposite, as evidenced in their speeches.

The member for Charters Towers went on to refer to the safety records in the industry, but I feel I have already made comment on them. He then said that the Bill places a roadblock on the path to further improvements. As I have already alluded to, the improvement may be in the eyes of the beholder and nowhere else. Anybody may quote from the document, the Australian Black Coal Industry Commission Report—a report that the Opposition wants to keep at arm's length. However, it also wants to keep on quoting it. I will, too. It says—

> "In their previous report, the Commission found that companies may lack financial incentives to invest in safety in the absence of Government requirements to do so. The Commission estimated a cost of workplace injuries of different severity and the distribution of these costs between employers, injured workers and the community. The Commission found that employers bear a large share of the costs of minor workplace disabilities."

The research indicated that the employers had strong incentives to reduce the incidence of mining injuries, but lacked the large investment necessary to curb serious injuries. Whilst these findings were based on costs across all industries, it may explain why the coal industry has made more progress in curbing minor injuries than in reducing the incidence of fatal injuries. The research highlights why there is a need for Government regulations to ensure good safety outcomes. I believe that the questions posed by the member for Charters Towers have been answered.

He then went on to say that the Queensland Mining Council states that including penal provisions in the legislation will stop improvements and lead to a legal and confrontational mining industry. I reject that totally. He also claimed that the industry safety and health representatives and the district workers' representatives are superimposed over inspectors and site safety and health representatives and that the CFMEU is nominated as the organisation supporting them in the coal Bill and that the district workers' representatives are nominated by the Australian Workers Union. Union representatives are not superimposed over inspectors and site safety and health representatives. Inspectors can revoke any directive given by the industry safety and health representative.

The provisions for the CFMEU or its predecessors to remunerate their representatives have been in existence for 60 years. They have done an excellent job and do excellent work in the industry and have almost complete acceptance from that industry. So why this artificial crisis? The only explanation is that persons see an opportunity to further an industrial agenda.

Many other issues were raised, but time obviously does not permit me to answer them. All I would say is that for many years we have been working long and hard on this legislation. Ninety-five per cent of this legislation has universal support. It had universal support from the previous Minister and it certainly has the support of this Government. I would ask this Parliament tonight to support this and make Queensland the State that really cares about the health and safety of those courageous men and women of the Queensland mining industry.