



Speech by

**GARY FENLON**

**MEMBER FOR GREENSLOPES**

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Hansard 30 April 2003

**WORKPLACE HEALTH AND SAFETY AND ANOTHER ACT AMENDMENT BILL**

**Mr FENLON** (Greenslopes—ALP) (12.31 p.m.): I rise to speak in support of the Workplace Health and Safety and Another Act Amendment Bill. I want to address one particular area of the amendments to this legislation to be moved in the committee stage by the minister. Indeed, this is a very good piece of legislation. It is important legislation because it will improve the rights and conditions of workers throughout Queensland in a diverse range of industries that currently warrant that further protection. In particular, I want to refer to the changes to the definition of a worker which will be instilled within the workers compensation legislation.

The new definition will provide a new test for a worker in terms of three principal criteria—that is, that the person is paid to achieve a specified result or outcome, that the person has to supply the plant and equipment or tools of trade needed to perform the work, and that the person is or would be liable for the cost of rectifying any deficit in the work performed. This is a very good move because it provides a far more succinct definition of worker and that means that those people who practise in the industry on both sides—that is, employers and employees—will be able to refer to that definition. There were previously a range of definitions of 'worker' embedded in the various elements of our legislation. There has always been confusion and grey areas in terms of the definitions.

I want to refer to one area of my experience in industrial relations where the demarcation between workers and contractors in particular was quite obscure at different times and people worked in different relationships industrially from day to day and week to week throughout their working life—that is, they jumped around in different working relationships. I refer to the entertainment industry and at the time I was involved with the Musicians Union of Australia. People here know of my great interest in music and I cannot help but plug the reference in today's *Courier-Mail* to the great event coming up, the Boardroom Blitz, an event to raise funds for the Cerebral Palsy League of Australia.

**Ms Keech:** It should be a sell-out.

**Mr FENLON:** It will indeed be a sell-out event. I also call on corporate Queensland to get behind this event because it is a very good cause. I congratulate my fellow members for getting behind it.

Musicians in particular are a case in point because they worked in a range of relationships, as I said, throughout their week. From gig to gig they would be in different relationships. Sometimes they would be part of a partnership doing a particular piece of work. Sometimes they would be an employee of the person who put the band together. Sometimes they would bring extensive capital equipment to a gig in terms of many thousands or tens of thousands of dollars worth of PA equipment, et cetera, and sometimes they would turn up simply with a musical instrument. At other times they would be clearly an employer where they were the person who put the event together and they would carry the responsibilities that go with that.

My mind goes back to a very sad death of a musician in 1979. I attended the funeral, which was a very sad and emotional affair, at the Greek Orthodox Church in West End. I will not refer to the name of that person out of respect for his family, but that was an incident where that young man was travelling back in a car from a musical engagement at the Gold Coast. He was killed in an accident. If one pieces together what occurred on that occasion, he was probably a partner or an employee of the person who put the band together on that occasion, as I understand it. There was no coverage whatsoever. The relationships were obscure. There was no further action taken. I am sure that at the end of the day his family received no recompense for his very sad death and no workers compensation

benefit whatsoever from that very sad death. It certainly goes to show that that industry, along with many others, needs to be in a position where everybody is covered—that is, if they are an employee everybody is covered—and this definition will assist that.

There is also a note of warning that should be sounded with the advent of this definition being implemented in law in Queensland in that many of us employ people at our homes or maybe through our work as members of parliament. We will have to all be far more careful in future and cognisant of this definition as to whether in fact at times we do unwittingly become employers and as such would be required to put in place a workers compensation policy for those occasions. Even with the simplest engagement of a person to work in our own domestic property or elsewhere, we need to ensure that the understandings are very clear, that we are conscious of this definition and that we ensure that if we are an employer we take the appropriate steps to put in place the necessary industrial protection and conditions for employees, particularly in terms of a workers compensation policy. I congratulate the minister and his staff for the great effort in bringing this important legislation before the House.