



Speech by

GEOFF WILSON

MEMBER FOR FERNY GROVE

Hansard 29 April 2003

WORKPLACE HEALTH AND SAFETY AND ANOTHER ACT AMENDMENT BILL

Mr WILSON (Ferry Grove—ALP) (6.30 p.m.): It is my great pleasure to stand tonight in support of the Workplace Health and Safety and Another Act Amendment Bill. I congratulate the minister and his ministerial and departmental staff on the production of this legislation and more particularly for all of the work that has been done in advance of this legislation that has enabled this legislation to be brought before the House. I refer to the work over many months with the workplace consultative committees and the other consultative processes that have been undertaken by the government to produce this legislation. I congratulate the employer organisations that have participated in that process and the Queensland Council of Unions and unions generally, particularly the union which I am proud to say that I once worked for and continue to remain associated with, and that is the Construction, Forestry, Mining and Energy Union.

Mr Pearce: A great union.

Mr WILSON: A great union as my colleague the member for Fitzroy well and truly knows after having come from the mining industry and the mining division of the CFMEU.

Despite appearances to the contrary, most people do not have a real choice about their employment status when they go to work. That employment status is largely determined either directly by the particular employer that they work for or, more often than not, indirectly by the labour market in the particular industry or the geographical area of Queensland in which they happen to work. There are obviously people who intentionally choose to be independent contractors and intentionally choose to work casually or part time, and that very much suits their particular circumstances. But overall if one looks at all people employed in different industries across the state the facts are that their employment status is principally determined by the person they work for rather than themselves. That situation puts a lot of pressure on two issues: firstly, the safety of the workplace into which they go to work; and, secondly, the entitlements to compensation and rehabilitation that working people have if indeed they are injured or regrettably suffer death in the workplace. We also need to take into account that most working people do in fact need to work to support themselves and support their families. They cannot draw upon their ownership of land and the income they might get from land, they cannot draw upon the income they might get from investments in shares and they are not the beneficiaries of large estates that have been handed down to them. Most people have nothing but their labour to sell, and that puts them in a relatively disadvantaged position in the labour market.

If few things are more important than a person being entitled to return home at night without the risk of serious injury or death having intervened and if few things are more important than the compensation and rehabilitation of injured workers, then one can see the fundamental importance of this legislation. In relation to the Workplace Health and Safety Act amendments, speaking generally, those amendments are designed to enlarge the number of people who have an obligation in the workplace to make the workplace safe. In relation to the WorkCover changes, overall those changes are directed towards enlarging the pool of working people who, if injury or death befalls them, are entitled to a statutory insurance benefit called workers compensation and in the event that they are only injured then the subsequent rehabilitation opportunities that come to them. That is why this legislation is so important.

I want to underline in another way the importance of this legislation. In the very first page of the minister's second reading speech—and I commend his speech to every member—he directs our

attention to the human and economic cost of failed safety in the workplace. The estimated cost to the Queensland economy each year from workplace death and injury—wait for it—is \$3.5 billion. Can members conceive of that figure? The annual budget for the state of Queensland is \$20 billion. So \$3.5 billion is probably just a fraction under the education budget allocation. The budget for the Department of Main Roads and Transport is about \$5 billion. So measured against that standard, members can see the enormous economic cost of failed safety in the workplace. It is \$3.5 billion not just every now and again but every year.

Further, the minister draws our attention to the figures from the ILO that indicate that Australia has a comparatively poor international record. I might say that this is very tame language from the minister, because he goes on to say that overall Australia's fatal injury rate is three times as high as that of Great Britain, one of the most industrialised countries in the world, and Sweden and Japan. Even in terms of the laissez-faire economy of the United States, our fatal injury rate is double that of the United States. I really do not think that the Australian community or governments generally have any idea of the enormity of that situation not only in economic costs but human costs. After the Easter break and the Anzac Day long weekend we were all rightly concerned about the number of deaths on the roads in Queensland. It is very good that we are becoming more rightly concerned about that, but what a fraction that is of the cost of workplace injury and death.

I draw the House's attention to some other figures that I think we ought to be more aware of week by week as members of the government and members of parliament. The Parliamentary Library has been good enough to produce some figures for the 2000-01 financial year for all industries in Queensland and I think they are worth reciting into the *Hansard* record. There were 70 fatalities and 35,072 compensated workplace injuries. Some 10.7 per cent of these injuries were classified as severe—that is, 3,770. This is per year. These are the figures from the 2000-01 financial year. There were 2.5 injuries per 100 employees. Some 822,570 work days were lost due to work injuries. Everyone gets upset about lost time through industrial disputes. In some circumstances that may be justifiably so, ignoring for the moment the particular circumstances involved in any individual dispute. But I ask how many employer organisations jump up and down each year over 800,000 working days lost through workplace injuries. I rarely hear it, if ever do I hear it.

Mr Pearce interjected.

Mr WILSON: I take that interjection from the member for Fitzroy. It is 58.3 working days absent per 100 employees. Labourers and related workers sustained 30.1 per cent of all injuries—total compensation of \$137,834,000 paid to 35,000 injured persons.

Time does not permit me to go through the figures for the building and construction industry in particular. The ones I have just read are from the all industry survey. But can I just draw the attention of honourable members to one figure out of the building industry figures. The average compensation payment per employee in the construction and utility supply industry was \$174—77.6 per cent above the all industry figure. That makes the point that generally, if we had time to go to the individual figures for the construction industry, the rate of fatality, death and injury in the construction industry is noticeably higher than the all industries area.

As I said earlier, the workplace health and safety amendments are directed towards enlarging the number of persons bearing an obligation to ensure safety in the workplace. In particular, it is directed towards suppliers of equipment, not just the manufacturers and designers. Secondly, it is directed towards building owners and people in control of buildings. Thirdly, it is directed towards building designers having obligations towards the workplace as well.

In relation to the WorkCover amendments, principally they are directed, as I say, to enlarging the pool of working people, irrespective of their employment status, who are entitled to insurance protection under the statutory scheme and, by corollary, impose an obligation on their employer to actually take out workers compensation. The way in which that is done is by expanding the definition of 'worker' to in effect set up a results test and provide that a person will not be considered to be a worker unless it can be shown that that person meets all elements of the results test. The three elements of that results test are that the person is paid to achieve specified results or an outcome; secondly, the person has to supply the plant and equipment or tools of trade needed to perform the work; thirdly, the person is or would be liable for the cost of rectifying any defect in the work performed.

I want to conclude my short contribution in support of this bill with this observation: that change to the definition of 'worker' under the WorkCover Act is one of the best amendments that this government, whether in the previous term or this term, has introduced. Why? Because it rolls back the Santo Santoro Liberal Party-National Party attack on workers introduced by the WorkCover Act 1996. In that act, without any shame whatsoever, the then coalition government decided that it would artificially contract the pool of working people who could get the benefit of a statutory workers compensation system by restricting the definition of 'worker' back to the classical legal definition that there must be a contract of employment, notwithstanding the fact that over the last 10 to 15 years prior to that point the whole nature of employment, particularly in the building and construction industry, had changed

radically because of the introduction of many more independent contractors, many more dependent contractors, part-time work, casual work and a whole range of other employment situations. But in reality the real position for most working people, irrespective of their employment status, was that their work was no different to a worker coming under the classical definition of a 'worker'. I commend the minister and I commend the Beattie government for rolling back the Santo amendments. I will conclude on this point: we have to be wary of a coalition government in Queensland. It has said nothing since 1996 that indicates it has abandoned this narrow Right Wing ideological agenda directed to attacking workers and reducing their entitlements under the WorkCover system. That is what it will do if it is in government in Queensland.