




Speech By
Andrew Cripps

MEMBER FOR HINCHINBROOK

Record of Proceedings, 12 October 2017

WORK HEALTH AND SAFETY AND OTHER LEGISLATION AMENDMENT BILL

 **Mr CRIPPS** (Hinchinbrook—LNP) (3.58 pm): I rise to make a contribution to the Work Health and Safety and Other Legislation Amendment Bill. The explanatory notes accompanying this bill state—

In October 2016 the Government announced a best practice review of work health and safety laws ... as a result of fatalities at Dreamworld and Eagle Farm.

The explanatory notes claim—

These fatalities highlighted the need to ensure the current work health and safety (WHS) framework, and how it is administered, is robust, operates as an effective deterrent to non-compliance, and is responsive to emerging issues.

Under the terms of reference, the review specifically considered the appropriateness of Workplace Health and Safety Queensland's compliance and enforcement policy, the effectiveness of Workplace Health and Safety Queensland's compliance regime, enforcement activities and dispute resolution processes, Workplace Health and Safety Queensland's effectiveness in relation to providing compliance information and promoting work health and safety awareness and education, the appropriateness and effectiveness of the administration of public safety matters by Workplace Health and Safety Queensland, and any further measures that can be taken to discourage unsafe work practices including the introduction of a new offence of gross negligence causing death as well as increasing existing penalties for work related deaths and serious injuries.

On 3 July this year the final report of the review was provided to the government. The review proposed a number of legislative amendments to the Work Health and Safety Act 2011. Some mirroring amendments are also proposed for the Electrical Safety Act and the Safety in Recreational Water Activities Act. The shadow minister, the member for Kawana, has outlined why the LNP opposition will not be supporting this bill, and I support that position in relation to the proposed amendments to the Work Health and Safety Act. They are unnecessary and they are not supported by any industry groups that made submissions to the parliamentary committee in any industry sector or, interestingly, as the member for Kawana pointed out, by the Law Society or the Bar Association and, within those organisations, the legal professionals practising in that particular area of the law.

I note that none of the incidents that led to the establishment of the review occurred in the resources sector. I note also that the terms of reference of the review did not include any of the four resource sector safety and health acts. I note further that the final report following the review did not contain any recommendations relating to any of the four resource sector acts in Queensland. Yet in recent days it has emerged that the government dragged in resource industry representatives last week and informed them that the offence of industrial manslaughter would be extended to the Queensland resources sector via amendments to the four resource sector safety and health acts.

The LNP has received copies of correspondence that was sent directly from the Premier and the Minister for Mines clearly indicating that they had been told that the offence of industrial manslaughter would be imposed on their sector. That would occur without any of the proposed provisions being

subjected to consultation with those industry groups or the normal scrutiny of the parliamentary committee process. That would be unacceptable and it would be enough of a reason to reject those proposed amendments on face value.

The Minister for Employment and Industrial Relations has not referred to any of those foreshadowed amendments in her contribution to the second reading debate. She has not referred to the introduction of those amendments as they would relate to the resources sector and the four resource sector safety and health acts. It may very well be that the government has made the decision not to proceed with those proposed amendments to insert the offence of industrial manslaughter into Queensland's four resource sector health and safety acts at this particular time. If that is the case, that would be a good thing. It is only fair and reasonable that any proposed amendments to these laws which relate to the very serious issue of work health and safety frameworks on Queensland's resource sector sites are properly consulted on and scrutinised in the normal way.

If the Palaszczuk government is intending to do that at some time in the future after a proper consultation process, I suggest that they give that proposal a bit more consideration as to the justification for inserting the offence of industrial manslaughter in our resource sector acts, because at the moment I am not aware of any good reason why that should be the case. I was alarmed to read comments by the Minister for Mines in the *Australian* newspaper on Tuesday in relation to this matter when the Minister for Mines said—

Government wants the legislation to cover workers in mines, quarries, on oil and gas rigs and people working with explosives. Shouldn't a mine worker have the same protections as a worker in Coles?

If you did not have an understanding of the four resource sector safety and health acts in Queensland and the reasons why they stand separately from Queensland's general workplace health and safety framework, you could probably be excused for thinking that the statement of the Minister for Mines was a reasonable one and that all workers should be treated and protected equally while at work. Unfortunately, because the Minister for Mines does have an understanding of the four resource sector safety and health acts in Queensland and the reasons why they stand separately from Queensland's general workplace health and safety framework the minister's comments cannot be easily excused. They are, in fact, a little worrying—an irresponsible oversimplification of what the proposed changes may do if they are introduced.

The fact is that an employee at Coles working in a supermarket environment and subject to the Work Health and Safety Act does not in any way face the same working conditions and potential risks as someone employed at a site subject to the Coal Mining Safety and Health Act, the Mining and Quarrying Safety and Health Act, the Petroleum and Gas (Production and Safety) Act and the Explosives Act. It is exactly for that reason that the resources sector in Queensland is subject to separate and distinct resource safety and health legislation.

I have to reject the apparent reasoning put forward by the minister on Tuesday that we ought in our specialised resource sector safety and health laws to insert the same thing that has been proposed for Queensland's general work health and safety legislation, because it is based on an oversimplified argument that what is good for the goose is good for the gander. That is very wrong. I am surprised, quite frankly, to have read such a throwaway line from the Minister for Mines. He should know that the resources sector is very different from our normal workplace health and safety regime and for very good reason. The four resource sector safety and health acts in Queensland have a focus on individual responsibility to report health or safety risks in the workplace to create a culture and encourage an environment of continual improvement.

To instead move towards creating a culture which puts a priority on allocating culpability for the purposes of establishing an offence I think will impair the environment of continual improvement as it relates to Queensland's resources sector. You will certainly not attract anyone to act as a senior site executive for a resource project where, in addition to those overarching responsibilities that they currently have under Queensland's resources sector health and safety legislation, they will also be subject to the burden of potentially being charged with the offence of industrial manslaughter.

Furthermore, the structure of the resources sector safety and health legislation is such that the number of individuals who may be subject to or exposed to the offence of industrial manslaughter is very wide indeed. That is because those resource sector safety and health acts delegate to a large number of responsible persons powers of oversight with respect to safety and health in the workplace.

I do not want to go into any more detail about the specifics of those pieces of legislation or what the ramifications would be if those amendments were inserted, but I warn the Minister for Mines that he should think carefully before he allows the integrity of Queensland's four resource sector safety and health acts to be interfered with by the inclusion of the offence of industrial manslaughter because such an amendment I think would certainly be unjustified and inappropriate.