




Speech By  
**Peter Russo**

**MEMBER FOR SUNNYBANK**

---

Record of Proceedings, 11 October 2017

### **WORK HEALTH AND SAFETY AND OTHER LEGISLATION AMENDMENT BILL**

 **Mr RUSSO** (Sunnybank—ALP) (5.12 pm): There was strong agreement in the committee that workers should be able to go to work and return safely to their families. This sentiment was also shared by submitters and witnesses who assisted the committee during its inquiry. I speak today to support the passing of the Work Health and Safety and Other Legislation Amendment Bill 2017. The bill was introduced following recommendations from the independent best practice review of Workplace Health and Safety Queensland undertaken by Tim Lyons. Mr Lyons' review made 58 recommendations to strengthen work health and safety in Queensland and keep Queensland workers safe.

It is therefore with regret that I note the committee was unable to reach consensus on this important bill. The government members of the committee support the introduction of a new offence of industrial manslaughter in Queensland and the bill's strengthening of work health and safety in Queensland through, for example, the introduction of a separate work health and safety prosecutor.

The department clearly spelt out the issues with respect to large corporations avoiding responsibility for workplace death by hiding behind complex corporate structures. We consider this legislation will stop that and will see those responsible for high-level decisions around unsafe work practices being held accountable.

The department advised that recent tragedies highlighted the need to ensure that the current work health and safety framework is robust, operates as an effective deterrent to noncompliance and is responsive to emerging issues. I believe that the penalties in the bill will act as a strong deterrent for businesses and senior officers to ensure their workplace practices are safe.

Representatives of unions also strongly support the provisions in the bill as they provide practical and workable solutions which recognise and address the serious issues around negligence in the workplace causing death. They consider that the introduction of industrial manslaughter will encourage businesses with poor practices to improve.

The importance of work health and safety was brought into sharp focus for members of the committee when it heard from families who had lost loved ones in workplace incidents. These families fully support the introduction of the measures contained in this bill, particularly the industrial manslaughter provisions. One of the witnesses noted that the business community may consider the creation of the industrial manslaughter offence as punitive. However, it will be punitive only if employers fall below the standards we as a community expect of them.

There is a range of reasons provided by stakeholders as to why the bill should not pass. We have carefully considered each and strongly reject the notion that the health and safety of workers—of spouses and partners, parents, children, brothers and sisters—should play second fiddle to economic considerations. These measures are well overdue, and I urge the House to pass this important legislation to support Queensland workers and their families.

Keeping Queensland workplaces safe from injury or death is of paramount importance for the people of Queensland, and I commend the minister for presenting this bill to the House. The Work Health and Safety Act 2011 establishes a clear duty on the person conducting the business or

undertaking to provide a safe workplace. The amendments contained in this bill move to strengthen this position and will ensure that organisations have in the front of their minds the safety of their workers in carrying out their business efficiently.

While the committee received a number of submissions, some of which were supportive and some of which were less supportive, and although the committee cannot agree that the bill be passed, it is important that government members outline the importance of this reform and why parliament should allow its passage. The best practice review of Workplace Health and Safety Queensland identified the need for the creation of an offence of industrial manslaughter. The elements of the offence as defined in the bill will ensure that the complex contractual relationships that exist through employment practices will not exclude the principal contractor from liability for the death of workers on their work site if they are found to be negligent.

The amendments will make significant inroads into the attitudes of senior executives of corporations to ensure they make safety a priority on their work sites. If this bill is passed, Queensland will be the first jurisdiction in Australia to have industrial manslaughter as an offence in their occupational safety legislation. The decision to locate this offence in the WHS Act, instead of in the Criminal Code, was one that was made with due consideration. In this respect, the reviewer found that the WHS Act is a more appropriate location for the offence because the act includes provisions allowing for a person's conduct to be imputed to a corporate entity, thereby reducing the barriers to attributing criminal liability to a corporation in instances involving the most serious health and safety breaches.

The other reforms presented in this bill will provide clarity to both workers and employers in their day-to-day operations. The ability to take workplace health and safety disputes to the Queensland Industrial Relations Commission will ensure that disputes are not drawn out, allow the QIRC to make a decision on the matter and expedite the disputation process. The provision to allow 24 hours after an inspector is called before the dispute can be taken to the commission will allow both companies and workers a cooling-off period to resolve the dispute and, if this cannot be done, have the dispute heard by the QIRC.

In relation to enforceable undertakings, I believe that the public perceptions around incidents that involve a fatality have shifted quite significantly. The public expect that if an incident involves a fatality there ought to be a prosecution or punishment. An enforceable undertaking does not reflect the seriousness of the incident. I believe that this is a timely reform and reflects the sentiment that exists in the community around incidents involving a fatality.

Finally, I turn to the reform restoring the codes of practice as a required minimum standard. Although some employer organisations submitted concerns around this, we find that making codes of practice the minimum standard provides a benchmark to ensure there is no confusion on work sites for workers or employers. That being said, if an employer exceeds their obligations under a code of practice, this could be used as evidence that they have complied with their duty to provide a safe workplace where an incident has occurred. Although there were alternative positions taken in the submissions, I also believe that the codes of practice will provide clarity for workers, employers and the regulator when issuing notices on a work site.

One death on a work site is a death too many. The recent tragedies which led to the review by Workplace Health and Safety Queensland, and the consequent reforms presented by the Palaszczuk government, will ensure that Queensland workplaces are safer. The Palaszczuk government has presented these reforms to be debated by this House, and I firmly believe that the standards set by this bill will ensure that workers can be confident of having safer workplaces.

The non-government members rejected the legislation in their statement of reservation. The reference to the bill being union-building legislation is very disappointing and is a complete rejection of the sad stories and tragic loss we heard about during the committee's hearings. The loss of lives could have been prevented under a more focused, safe work culture. If non-government members were serious in their concern about workers losing their lives, they would have come up with an alternative solution to this complex problem.

Sometimes in taking submissions on a bill, we will hear from a submitter with their own barrow to push who is against the reforms. However, even the most negative submitter will offer improvements to the bill. The non-government members did nothing of the sort. Changing work safety culture is necessary for the safety of our workers. Changing culture is often difficult, but changing legislation often lays the groundwork for a cultural change.

There are many high-risk work places and industries in our vast state of Queensland. CFMEU Construction and CFMEU Mining are not the only unions whose members are involved in high-risk industries and put their lives at risk when going to work to earn a living for themselves and their families. There was evidence before the committee that unionised sites are safer than non-unionised sites, and

still the unions have lost members despite their best efforts under the current legislative regime to ensure their members have a safe place to work. More is needed, and therefore there is a need for this legislation.

If non-government members truly believe, as they assert, that workplace health and safety is a shared responsibility between everyone, and if they believe in the dignity of work and the right for all workers to go to work each day and come home to their families, they will support the passing of this bill, or at the very least come up with a viable alternative. Yet they do neither. This government has seen and heard the tragedies that have occurred in Queensland and we are taking action. In closing, I would like to acknowledge Mr Garrels and Mr Fuller for their commitment. I commend the bill to the House.