Speech By

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Record of Proceedings, 12 October 2017

WORK HEALTH AND SAFETY AND OTHER LEGISLATION AMENDMENT BILL

Mr MINNIKIN (Chatsworth—LNP) (12.55 pm): I too as a member of the Finance and Administration Committee rise to speak on this bill this afternoon. There are a few things I would like to say from the outset. We have seen in the last 48 hours a great deal of emotion and examples being given in relation to the activity of certain members of the union. I will make it very clear up-front—and it has been mentioned by other speakers on this side of the chamber—that the LNP believes very much in the absolute dignity of work and the right for all workers to go to work each day, to get paid a decent wage and, most importantly, to come home safely to their families at the end of every shift or every day. I absolutely respect—and I have said this in a previous speech—those old Labor values that embrace unionism from the past and, in that spirit, potentially in the future as well, but I will come to certain examples that truly are indefensible shortly in my contribution this afternoon.

I would like to share an anecdote to give an example to the House that, when it comes to understanding the impact and trauma of workplace fatalities, there is no mortgage on just one side of the chamber. I can distinctly recall many, many years ago working with an outstanding lady when one of her two sons was tragically killed in an industrial accident. I have never in all of my life since seen the definition of tragedy etched so permanently on someone's face. She was inconsolable, as I would be in that same situation. She was absolutely rocked to the core, and that lady pretty much ceased to live herself that day.

When it comes to understanding and seeing firsthand the trauma of workplace health and safety injuries—and, most importantly, fatalities—I completely understand that. I really do, but there is more that I would like to contribute this afternoon. Since 2003, the number of workplace fatalities has reduced, as well as the rate of injury and death. That was outlined in the contribution by the shadow minister last night. We all know that workplace health and safety is and always will be a shared responsibility between the employer, the employee, unions and safety advocates. That dynamic will never, ever change.

Whilst the system is not perfect, I can say that very, very mercifully things have changed dramatically and improved in relation to workplace safety more so now than ever in the past. This is a great thing, but I have to point out that no other state—and I stress 'state'—has the offence of industrial manslaughter. We should be working to achieve national consistency, particularly for the many employers that operate across the state boundaries. We should be improving workplace health and safety, where everyone works together to improve the education, the awareness and the safety of the culture throughout the workplace. This is of paramount importance. It always has been and always will be.

I come to the crux of my contribution. This bill does not seem to be so much about improving safety. I have to say, without any cynicism whatsoever, that it appears prima facie to be all about keeping the CFMEU happy and getting donations to support the imminent state election campaign. How do we know this? We too have examples in the real world. I have a very good mate who runs a medium sized construction company. I do not need to preface this comment by saying 'a little birdie told me'

because he told me directly. In the last two or three weeks there has been the usual bringing the tin around, as they say, onto the worksite. It is a specific one-off donation for the war chest for the forthcoming election, whenever that may be, between now and May next year.

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Mr MINNIKIN (Chatsworth—LNP) (3.13 pm), continuing: Before the lunch adjournment I was saying that no other state has the offence of industrial manslaughter. That brings me to ask: why? It has been pretty interesting to read a couple of extracts from today's newspapers, including an article in the *Australian* with the headline 'ALP retreats on manslaughter law for miners'. It states—

Last night, as Industrial Relations Minister Grace Grace began the debate on the legislation—without the amendment that applied to the mining sector—a government spokeswoman—

whomever that might be—

confirmed the resources sector coverage was 'not happening'.

'It's going to consultation.'

Finally, that word 'consultation' appears in relation to this bill. I come back to the premise of why. As the shadow minister for multicultural affairs, I enjoy the interaction that I have in that sphere with the member for Brisbane Central. In relation to why there might be this absolute, blind necessity to get this industrial manslaughter legislation through so urgently as this parliament is drawing to a close over the coming months—or, who knows, weeks—I will quote from the editorial in today's *Courier-Mail*, which states—

Given the CFMEU—

Here we go again with the CFMEU—

has proved such a rich vein of funds, tipping $180,000 into Labor's coffers since 2015, Ms Palaszczuk is obviously reluctant to bite the hand that feeds her.

Little wonder the moral superiority of the Left is morphing into such low acts when their political arm continues to take their money and remain members.

Before the break I mentioned that one of my very good friends is a contractor who has a medium sized construction firm. He has said that, in addition to the normal shenanigans on site that he endures with the CFMEU, there was a special whip-round with a cup for a top-up of the coffers for the election, whenever that might be. It was interesting to note that some of the workers mentioned the fact that they were particularly concerned about some of their Labor members. One was the member for Brisbane Central. In July this year, the media reported that the CFMEU was doing letterbox drops in the electorate of the Minister for Employment as well—I might add—as the electorates of other cabinet ministers about, from the CFMEU's perspective, Labor's appalling record. The flyer said, 'Health and safety neglected under Grace Grace's watch.' In the interests of administrative efficiency I will not table a copy of it, but the DL drop contained a picture of the minister and was titled, 'It's a disaster'. It also contained the typical little tick boxes of different things. The first box to be ticked on the campaign flyer was that industrial manslaughter laws were not implemented yet.

I will go back to the genesis of this bill. In July this year, the *Best practice review of Workplace Health and Safety Queensland—final report* was published. That report made 58 recommendations. That review was undertaken in response—and all sides of the chamber are on song with this issue—to the tragic circumstances surrounding a couple of fatalities that received a lot of media publicity. In no order at all there was the tragedy that occurred at Dreamworld in October last year and also the incident at the redevelopment of Eagle Farm Racecourse where, tragically, people lost their lives.

The reviewer stated that these incidents 'raised concerns about the effectiveness of current offences and penalties under the Work Health and Safety Act 2011'. That act is based on the model Work Health and Safety Act—the model act as it is referred to—which was also adopted about six years ago by the ACT, New South Wales, the Northern Territory, South Australia, and Tasmania. Under the terms of reference for the review, the reviewer was asked to consider Workplace Health and Safety Queensland's 'effectiveness in light of contemporary regulatory practice'. That included all the functions of WHSQ including, as one would expect, inspections, investigations, prosecutions and enforcement undertakings. The reviewer also considered specific issues, such as whether an 'offence of gross negligence causing death ... should be introduced' and whether current penalty levels under the Work Health and Safety Act were a sufficient deterrent to noncompliance.

The review and subsequent recommendations specifically recommended the appropriateness of WHSQ's compliance and enforcement policy and the effectiveness of the compliance regime. Very tellingly and interestingly, the reviewer, Mr Tim Lyons, was appointed by the honourable Grace

Grace MP, the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs to undertake the best practice review and to consider and report on any potential measures, both operational and legislative, that could be taken to address the matters raised in the terms of reference. The reviewer was supported by a tripartite reference group which provided commentary and advice on the matters to be considered as part of the review.

Some members may know the history of this particular gentlemen, Mr Lyons. He was a former senior ACTU official. In 2015 he quit as the assistant secretary after failing to replace then general secretary Dave Oliver. The government received a report from Mr Lyons which made 58 recommendations, the majority of which relate to operational improvements for WHSQ or the Work Health and Safety Board. The discussion paper was released at 2.10 pm on Thursday, 13 April 2017. I would not normally get fixated in a debate in relation to very specific dates and very specific times, but it comes back to the essence of openness, transparency and accountability. As it was dropped at 2.10 pm on Thursday, 13 April, due to the four day Easter break, the CCIQ and other interested stakeholders were provided with only two full business days to review a 104-page document, review sources, consult with members et cetera and provide meaningful commentary at a face-to-face consultation with the reviewer, Mr Tim Lyons. That is two days to review a 104-page report. It is interesting that with the amendments that have been circulated in the last 24 hours we finally see the word 'consultation' with the amendments that have been moved that I spoke about recently in relation to the applicability with miners.

Tellingly, one of the submissions to the Queensland parliamentary Finance and Administration Committee on the Work Health and Safety and Other Legislation Amendment Bill was from the National Electrical and Communications Association, NECA, which is the peak industry body representing the interests of electrical and communications contractors Australia-wide. The NECA has 5,000 contracting companies as members and they in turn employ around 100,000 people Australia-wide. It is a significant body. The NECA employs almost 350 people across its seven chapters between Queensland, New South Wales, ACT and the other eastern seaboard states. They employ, in turn, around about 2,000 apprentice electricians and provide training to another couple of thousand.

The NECA supports workplace health and safety measures and assists its members in fulfilling their obligations in this regard through what they call their NECASafe program. This program through NECA encourages businesses to proactively and responsibly monitor their workplace safety through an overarching duty of care framework that includes procedures, policies and audits. The NECA supports all aspects of the Work Health and Safety and Other Legislation Amendment Bill 2017 other—I repeat 'other'—than the introduction of the new offence of industrial manslaughter into the Work Health and Safety Act and the Electrical Safety Act. The Work Health and Safety and Other Legislation Amendment Bill will provide a significant and confusing shake-up to workplace health and safety laws in Queensland. There is already an existing manslaughter offence in the Queensland Criminal Code that means that directors can already be criminally prosecuted for serious and reckless breaches of employer duty of care and, as anyone on this side of the chamber would say, that is as it should be.

In its submission the NECA expressed concern about the changes as they simply double up on these existing provisions and take Queensland out of step with all other states. To add additional changes into the Work Health and Safety Act and the Electrical Safety Act only provides confusion and raises the concern of jurisdiction shopping with the very real likelihood that prosecutors will have multiple attempts under various legislative provisions.

Furthermore, Queensland business owners and managers are already personally liable for the health and safety of their workers under the Work Health and Safety Act. Since the existing legislation commenced on 1 January 2012—coming up to seven years ago—all executive officers of a business have been responsible and largely liable for the health and safety of every employee, contractor and subcontractor in their workplace. These new changes came only several years after the major rewrite in 2012 that was designed to promote consistency of arrangements across all states.

The new industrial manslaughter law will now take Queensland entirely out of step with approaches in other states with only the ACT having these provisions that have never been tested or used and only apply to 20 per cent of the ACT workforce. The new industrial manslaughter provisions create a significant new burden for those businesses that operate across interstate borders. It is important to note this new legislative proposal has also been introduced, tellingly, without the government conducting a regulatory impact statement—an RIS.

One further submission that I would like to touch on in my contribution is that of the Queensland Law Society. The society considers the introduction of a separate industrial manslaughter offence is simply not warranted. Offences addressing fatalities occurring at or in the course of work already exist in section 31 of the Work Health and Safety Act 2011 and, of course, in the Criminal Code. The provisions do not account for circumstances of accident, involuntariness, reasonable excuse or acts

independent of the will of the defendant employer and do not afford other defences which would otherwise be available in the Criminal Code for other homicide based offences. The Law Society told the committee that with a reduction in the standard of proof, the reduction of the fault element in negligence and a complete removal of any defence to these charges the society is concerned that these offences could be utilised by a prosecutorial agency to prosecute a person for a homicide offence not anticipated in the scope of this legislation and where there would otherwise have been insufficient evidence to prove the offence. Other contributors also spoke in a similar vein, as did the Bar Association of Queensland.

As one of the non-government members on the committee, I concur with the thoughts that were shared by the other non-government members of the committee. The non-government members of the Finance and Administration Committee completely reject the need for this union-building legislation which is faulty at law, as has been described previously by other submitters. It also needs to be clearly noted that it is adding a further cost to industry as advised by the Chamber of Commerce & Industry Queensland, the CCIQ.

As many previous speakers have said, workplace health and safety is a shared responsibility. The LNP members of the Finance and Administration Committee believe in the dignity of work. That has been said by just about every other speaker. As I said at the start of this contribution to the debate, it is the right of every worker to go to work, receive a fair day's pay for a fair day's effort and, most importantly, come home to their loved ones at the end of their shift. At the end of the day, the only benefit that will be obtained by the practical approval by the House of this particular legislation is to empower union representatives to threaten and coerce employers to adopt more union reps and union affiliated employees or face serious prosecution consequences through union instigated prosecutions.

I have only two minutes left on the clock and so much source material to back up exactly where they have been coming from in the last 72 hours. Within the last 24 hours in this chamber on this topic we have seen some contributions which have bordered on two things, puerile and facile. This bill takes a sledgehammer-to-crack-a-walnut approach. This bill is all about union payback masquerading as workplace health and safety. I urge members to reject this bill.