

## **WORK HEALTH AND SAFETY BILL 2019**

### *Statement*

**HON MATTHEW SWINBOURN (East Metropolitan)** [6.20 pm]: I wanted to make a statement because I did not get an opportunity to contribute to the second reading debate on the Work Health and Safety Bill 2019. I thought it was better to hold my tongue on the third reading so that the bill could finally pass. I will take this opportunity during a member's statement to make a few brief comments.

Like some other members, such as Hon Kyle McGinn and Hon Alison Xamon, in my first speech to this house I called for industrial manslaughter laws to be introduced. I am sure that other members of this chamber have also advocated for that. I am pleased that we will now have laws of that kind. I must personally admit that I would have liked clause 30B to have been retained in the legislation. I understand that when legislation comes through this chamber, the old rule 13–22 applies—that is, the Clerks' rule about how the numbers in this house generally break up. It is the case that the government does not have the numbers to just get what it wants or any of those sorts of things; it must compromise. That is what happened with the Work Health and Safety Bill, and I accept the compromise. From my contact with the families of workers who have passed away, I know they accept the compromise as well. I do not see it as a failure or flaw of the bill that we had to compromise to get it through this chamber.

In my view, the debate was painful, and unnecessarily so. The feedback that I got from the affected families was also that it was painful. Members of this house should reflect on how the community perceives the way in which we conduct ourselves. The way we conduct ourselves is not well understood outside of this chamber. It is not appreciated. Members conduct themselves earnestly, and sometimes not earnestly—perhaps disingenuously and in a manner that is more about scoring points and feathering egos, and any number of other things. I hope at some stage we have some reform of the Legislative Council so that it more accurately reflects the perceptions of our community—the people we are here to represent—and that we conduct ourselves in the most efficacious way when considering legislation.

Notwithstanding the compromises involved in passing the bill, it is a very significant reform. One of the most significant reforms is the introduction of the concept of a PCBU—a person conducting a business or undertaking. This will mean that the regulator will be able to drive home the responsibility for workplace injuries and deaths to perhaps those who are the most responsible for them. My experience comes through my time working for the Construction, Forestry, Maritime, Mining and Energy Union and seeing employers, contractors, principal contractors and designers and others face very little sanction for their involvement in and responsibility for the serious injuries and deaths of workers. Deaths of workers gets the most publicity, but in that industry many, many very serious injuries to people get no publicity whatsoever. The impacts of a death on families are very well highlighted, but now we have some laws to go after those responsible. The concept of the PCBU will make a difference. Those who control the business unit are held responsible. If officers of corporations with decision-making responsibility are happy to take responsibility for the profit, they also have to be liable for the negative things that can happen in those situations.

I also had the opportunity to sit on the Standing Committee on Legislation, which examined the Work Health and Safety Bill. I thank Hon Pierre Yang for stepping down so I could step up on that inquiry. I have to say that the quality of submissions made to that committee were not of equal measure. Perhaps I am a little biased because of my union background, but I did appreciate my union colleagues coming in and giving a very strong argument in support of elements of the bill. They were very well weighted arguments. They were not inclined to use hyperbole and they focused on what the bill could possibly achieve and how it would be achieved. I cannot say the same for those groups who represented alternative views. The contribution made by the Pastoralists and Graziers Association was truly alarming. The problem we are trying to deal with is the idea that the cost of people's safety and wellbeing is just brought down to what it costs the individual in terms of money. It was shocking to listen to some of the evidence that was given. It was truly appalling for a representative from the Master Builders Association to equate families with just wanting to achieve an eye for an eye. Those families gain nothing out of this bill for their personal circumstances. They have lost their loved ones; they have gone. What they want to see is a regime that discourages employers and those who control workplaces from having another death in that workplace. That is all they want, so that another family does not have to go through what they went through. To call that an eye for an eye seriously puts into question the motives of the person who made that statement. I could not stand for it. I called it out at the time and I will call it out again. This is not what this is about. Nobody wants workplace deaths.

Lobbying went on behind the scenes. Ridiculous arguments were raised against the bill. Individuals from this house were bullied behind the scenes by some of these groups, with threats of dire consequences thrown at them. None of that will happen.

In some respects, this bill is a modest reform but a very important reform, and a reform in the right way. One thing is absolutely true: the culture of a workplace is very important in terms of how safe it is. No laws can stop good employers from having good safety cultures. Parliament does not need to make a law to do that—they should do that anyway. The idea that the safety chain will be broken by this law is absolute rubbish. Good, responsible employers

will make sure that their workplaces are safe for all workers at all times. They do not need us to tell them to do that. These laws are not aimed at them; they are aimed at those who do not get that message and who are being expedient in terms of what they think about—money versus safety. They make a judgement to put in place a moral calculus. It is not even a moral calculus; it is perverted in that way. It happens.

As I say, I am glad that the Work Health and Safety Bill passed this house. I am glad a reform that was introduced in most of the rest of Australia will finally be put in place here, after it passes the other place, after 10 years of it being in and around this place. I had the unique experience of drafting enterprise agreements 10 years ago that contemplated the introduction of this model law into workplaces. We kept turning it over every couple of years. We anticipated that it was coming. Finally, in 2020, it looks like it is about to pass. I am glad to see that.

I will finish my comments by acknowledging the families. We can never appreciate the suffering that they have gone through with the loss of a loved one. The legislation committee heard evidence from some of the families and it is very hard to understand what they go through each day. I thank those families for being courageous enough to come in and share their stories. They continually share their stories and relive the emotion and the hurt that they went through probably the first time they heard they had lost their loved one. I hope no worker and no family goes through that ever again. Unfortunately, life suggests that that will probably be in vain.

Finally, I would also like to acknowledge my union colleagues, who have been championing these changes for many years. It is a hard slog, but the bill has got here and I am really pleased that we now have the chance to see what these reforms can do to make our workplaces safer.