

MINES SAFETY AND INSPECTION AMENDMENT BILL 2017

Second Reading

Resumed from 11 October.

MR S.K. L'ESTRANGE (Churchlands) [3.07 pm]: I will speak now on the Mines Safety and Inspection Amendment Bill 2017. This bill is very similar to the Occupational Safety and Health Amendment Bill 2017 that we just moved through the Parliament, which essentially will change penalties. I would like to step the chamber through the process and through some of my views on the bill as the shadow Minister for Mines and Petroleum. First of all, the bill amends the Mines Safety and Inspection Act 1994 to increase penalties listed under various provisions so that they are in line with other Australian jurisdictions and to ensure that the penalties better reflect the importance of a safe workplace. No-one in this chamber opposes the better conduct of safe work practice, particularly in the mining area, because we understand how important it is. Later during my speech today I will present some examples of tragedies that have occurred in mines to give members some context to the type of environment the mining workforce operates in.

The amendments will increase penalties for offences under the MSI act to better align them. We know that the Model Work Health and Safety Act was developed by Safe Work Australia in 2011 under the Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety. In 2014, the former Liberal-National government developed the draft Work Health and Safety (Resources and Major Hazards) Bill. That was a WA version of the Model Work Health and Safety Act, developed by Safe Work Australia and implemented by Australian states and territories. The government of the day released the WHS bill as a green bill for public consultation, which closed on 30 January 2015. The WHS bill contained the core provisions of the model WHS bill with some modifications to suit the Western Australian working environment, and the government of the day undertook consultation with stakeholders on the model WHS bill through its ministerial advisory panel.

Having looked at the different jurisdictions and the relevant penalty levels that apply, what I found interesting is that the penalties prescribed—this information was supplied by the office of the Minister for Mines and Petroleum in November this year—in the model work health and safety bill applied to the jurisdictions of Queensland, New South Wales, Tasmania, South Australia, the Northern Territory and the Australian Capital Territory. It was slightly different in each; in Queensland they applied to only general industry, whereas in New South Wales they applied to general industry and included the mining industry. Therefore, there are some subtle differences between some of those places. Queensland had a maximum penalty of three years' imprisonment or a maximum fine of \$252 300. On the other hand, Victoria had a maximum penalty of \$3 171 400. There have been differences in the penalties applied by the states. The government is attempting to align the Western Australian penalties with the WHS bill and with the penalties in the other states and we as the opposition support what is being attempted.

The description of “penalties” in the bill is an interesting area. We know that penalties are enforceable undertakings. The Department of Mines, Industry Regulation and Safety's information sheet explains the penalties and enforceable undertakings included in the Mines Safety and Inspection Act 1994. That information is available on its website. I have a copy of it here. The bill is written in a certain way and the people who put these legal documents together sometimes do not make it easy for the layperson on the street to pick them up and understand what the different levels mean. I will make the levels a bit clearer. As I said, on the department's website there is a section on the Mines Safety and Inspection Act, which states —

Penalties are divided into four levels of severity based on the type and extent of the breach:

- Level 1 — a breach of the Act, excluding General Duty provisions ...
- Level 2 — a breach of the General Duty provisions of the Act that does not result in serious harm or death
- Level 3 — a breach of the General Duty provisions of the Act resulting in serious harm or death
- Level 4 — a breach of the General Duty provisions of the Act in circumstances of gross negligence resulting in serious harm or death.

An understanding of the four levels is important because it gives context to the fines that are attributed to each level. I am glad I was able to find that on the website. The department's website also refers to an enforceable policy. I will explain what enforceable undertakings are and again I will read from the website —

An enforceable undertaking provides an alternative to paying a fine for breaching the Act, with the aim of improving occupational safety and health.

It is an alternative and it is worth remembering that that also exists. It continues —

Undertakings can only be entered into for minor offences and where no-one has been harmed.

Extract from Hansard

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Mr Sean L'Estrange; Dr Tony Buti; Mr Dean Nalder; Mr Bill Johnston

The enforceable undertaking may require the offender to take specific actions, such as remedying the breach, or carrying out a specific project designed to improve occupational health and safety.

The undertaking is an alternative to paying a fine so its cost should correspond to the fine nominated for the severity of the offence.

That becomes interesting because these fines will increase substantially. If, for example, a breach attracts an enforceable undertaking as opposed to a fine, no doubt enforceable undertakings will have significantly increased budgets to try to improve the occupational health and safety of the workers at a particular site. That is worth understanding. The information sheet on the website asks the question: who can ask for an enforceable undertaking? It states —

The option of an enforceable undertaking is available only if offered by the court.

It is not simply a case of a proponent asking for an enforceable undertaking. The courts decide that. Either the defendant or the prosecutor can bring up what the penalty should be, but it is still the court's decision and the court can order the offender to either pay a monetary penalty or enter into enforceable undertaking. It is worth noting that when we look at how an enforceable undertaking works, the website states —

The commitment to an enforceable undertaking must be lodged no later than 28 days from when the order was made ...

...

An undertaking cannot include actions the offender would have had to take anyway to comply with the Act.

That is an important aspect. An enforceable undertaking cannot be used to correct a breach. The enforceable undertaking is in addition to correcting issues around the breach. Does that make sense? It is like a fine that is applied to make the workplace even safer again. It is an interesting aspect of how the mines department manages enforceable undertakings and how it relates to the penalty provisions included in the Mines Safety and Inspection Amendment Bill 2017.

The penalties that are proposed to be amended can be broadly divided into two types; penalties attached to different levels, which I have explained, and penalties applicable to provisions other than those specified in the levels. That is outlined in the bill. The thing to focus on with the penalties attached to the different levels is the four levels in the Mines Safety and Inspection Act, which I outlined earlier. The new penalties for these levels have been approximated to the closest penalty in the model work health and safety bill, inflated by 14 per cent and rounded off to arrive at the amended proposed penalties. We know that that is the approach the government has taken with these penalties.

I have explained the breaches, which cover duty of care by employers, principal employers and other persons. The provisions are applicable to certain residential premises and plant designers, manufacturers, importers and suppliers. The penalty for a first offence at each level is different. There is a first offence for each level and, obviously, subsequent offences with an increased penalty for each level. It is worth making sure that we understand that. The current penalties for the four levels are stated in section 4A of the Mines Safety and Inspection Act. It is worth highlighting that under the current penalties, the fine for a level 1 offence committed by a person as an employee is \$5 000 for a first offence. I will deal with first offences for the sake of this speech. If the offence is committed by an individual who is not an employee, that person is liable to a fine of \$25 000 for a first offence. The fine for a level 2 offence for an individual's first offence is \$100 000 and for a corporation's first offence it is \$200 000. The fine for a level 3 individual first offence is \$200 000 and for a corporation's first offence it is \$400 000. The fine for a level 4 individual first offence is \$250 000 or imprisonment for two years and for a corporation's first offence it is half a million dollars. That gives us an understanding of where the fines currently sit. If an employer or self-employed person contravenes in circumstances of gross negligence, the employer or self-employed person commits a level 4 offence and level 4 fines apply.

Once the bill passes through Parliament, significant changes will be made to align our legislation with that of other jurisdictions and new penalties will apply. For example, the penalty for an individual first offence will increase to a \$550 000 fine and five years' imprisonment, which is a significant change. The fine for a corporate body will increase to \$2.7 million for a first offence, which is another significant increase. If an employer or self-employed person contravenes section 12(1) or (2) and causes the death of or serious harm to a person but it is not gross negligence, a level 3 penalty will apply. I suppose if it does not cause death and serious harm and it is not gross negligence, a level 2 penalty will apply. All of that is outlined pretty clearly in the bill and we now understand changes to the fines.

One thing that is interesting for me as the shadow minister is to look at how the wider community views these changes. I did a search for some examples and found that Ashurst, a law firm, in its safety matters alert dated 17 October 2017, outlined on its website what we need to know. It states —

For corporations, penalties would increase by a factor of five or more.

The legislation would bring penalties under both Acts into line with harmonised Work Health and Safety laws across Australia, and adds 14% for inflation.

The test for penalties under each Act would remain unchanged.

It goes on to state —

The Bills also propose increases by a factor of four in penalties for breaches of provisions where the penalty levels are not specified ...

Ashurst clearly outlines what the government is communicating. It is good to see that industry is picking up on this and communicating it to its members; that is a positive step. From what I read, there does not seem to be too much cause for concern. Ashurst seems to be quite supportive and is just highlighting the changes.

I found another article on the Workplace OHS website dated 29 August 2017. It is written by Hannah Dixon and titled "Massive hike in fines for WA safety offences". Under the subtitle "Penalties unchanged", the article states —

Premier Mark McGowan said penalties for workplace safety offences hadn't changed for 13 years.

The article then went on to state —

Phil Gleeson, principal solicitor at Maurice Blackburn Western Australia, welcomed increases in penalties and said a change was "well overdue".

However, he cautioned that "strong penalties are worthless unless they are also supported by a well-resourced prosecution organisation".

Alan Girle, director of Australian Business Lawyers & Advisors, said it was "helpful for industry if sentencing practices across Australia are consistent" but added that changes to the maximum penalties might not necessarily lead to changes in sentencing practices.

"It is interesting to see that WA is increasing their maximum penalties but it be more interesting to see if the sentence practices in the Western Australian courts were brought into line with New South Wales and the other states," Girle said.

Those were some good points to highlight. The real issue in that particular article is this notion of how maximum penalties might not necessarily lead to changes in sentencing practices. Although we are supportive of aligning these with the rest of the country, Workplace OHS has highlighted to us that the sentencing practices will need to be monitored to see how the changes are actually applied.

I found another piece of information on the ABC News website. Laura Beavis wrote an article titled "Tasmania's mine safety laws 'don't match best practice', Beaconsfield investigator says" that was posted on 25 April 2016. Fortunately, for us as a state, that article states —

Robert Flanagan from the AWU points to West Australian safety legislation as the best standard.

Although the standard for the safety legislation was seen by Robert Flanagan from the Australian Workers' Union as the best in Australia, which is a great credit to Western Australia, we are only changing the fines in the legislation. The legislation itself is unchanged, which is good, and the fines are increasing. It is good to read some of the feedback that exists because it helps us to understand where and how improvements can be made. There is no better example of why we need to keep a close watch on this very important area of safety in the mining area than the cases of prosecution undertaken by the Department of Mines, Industry Regulation and Safety. I have printed off the summary of prosecutions from its website and, I have to say to members, it made for sobering reading. Some of the incidents that have caused people to be killed on mine sites are quite tragic. I will share some, not all, of them with members to give a sense of the types of accidents that happen on mine sites. One accident happened at Paulsens goldmine. An underground jumbo offsider collapsed and died of heatstroke and exhaustion. The company admitted that it failed to maintain its ventilation system, which was a key cause of the man's death. The company pleaded guilty and was fined \$90 000. Of course, some would say that \$90 000 for a life does not sound like a lot, and it would have been extremely difficult for the family to deal with that. However, I just wanted to share that example with members.

In another example, an incident happened at the Boddington goldmine involving a crew conducting the relining of a ball mill. Work was being done to remove liners that were stuck. The gentleman who died was working under and next to the unsecured liners when the top unsecured liner fell and crushed him. That was a very tragic incident. A guilty plea was made and the penalty applied in that case was \$65 000.

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An incident at the Woodie Woodie mine resulted in a fitter being killed while attempting to remove a belly plate from a Komatsu 275 dozer. He was attempting to clean out the mud that had accumulated. When he was under it, the plate fell on him and crushed him—again, a tragic accident. After the company pleaded guilty, its penalty was \$110 000.

At the Cloudbreak mine site, a gentleman was killed while working to service a strut and spindle component of a dump truck. He was struck by a round metal end piece that was ejected from the component under high pressure and at high velocity from stored energy. Again, someone was going about their normal work. Perhaps he did not understand or he was not supervised effectively enough to know where to stand when doing this work, so that when that piece of machinery failed and the piece of metal ejected like a bullet, it killed him. Who knows what would have happened if he had been standing in the right spot or what else could have been done to mitigate or change the situation. In any case, the company pleaded guilty and the penalty was \$195 000.

At the Brockman 2 mine site, a gentleman died while replacing a tilt cylinder on a Caterpillar wheel loader. The cylinder was being suspended by a chain and sling when it fell on him. He was killed because he was standing under the suspended load. The company pleaded guilty and received a fine of \$70 000.

At Alcoa's Wagerup alumina refinery, there was a tragedy involving a gentleman who was using high-pressure cleaning equipment. He accessed an open manhole and accidentally fell to his death. I remember visiting that site and I was shown the hole that the gentleman fell into. I was told at the site that apparently he went in feet first. He thought there was scaffolding on the inside, but he could not feel it with his feet. I was told that he thought that it was a drop of about a foot to the scaffolding; he took the step but it was not there. It was a very tragic incident indeed. In that case there was a guilty plea and a penalty of \$68 000 was applied.

Nothing as tragic as that has happened to me on a personal level, but all of us can reflect on occasions when we might conduct work around the house or at camping grounds or wherever. Unpacking a tent, for example, we might pull a pole a certain way, not realising it was suspended by only a bit of canvas further back. It then swings down under gravity and crushes a finger. We might think, "How annoying; how did that happen; how did I not see that?" If we look at those simple examples of safety that we face in and around our own households with our kids or whatever, or on camping trips, essentially it comes down to physics. Instead of dealing with tent poles crushing our fingers when we fail to see what might happen when the wind changes or if we push a pole a certain way, magnify that in dealing with mining equipment. When a person's mindset is that everything is simple and under control, they may not see the consequences of what they are doing straightaway, and then a tragedy occurs and there is a death on a mine site. In reading through the examples, I found myself asking, for example, why a worker would trust so much that the suspension of a piece of machinery would stay there. I asked myself why a safety supervisor was not there to say, "Don't stand there, because if that gives way, it's going to fall on you, and you'll be dead." Sometimes it sounds simple, but sometimes on worksites the simple can be overlooked, be it a momentary lapse of checking surroundings, or having no idea and simply not understanding the danger in the first place, and there is no supervisor who could have understood to be able to look after them. In all events, they are tragic outcomes on sites where the consequences of a mistake can be fatal, because of the types of equipment that is being used.

I also looked for some data on injury fatality incidents on mine sites. I found the Department of Mines, Industry Regulation and Safety WorkSafe division report, "State of the Work Environment: Work-related traumatic injury fatalities, Western Australia 2006–2007 to 2015–2016". Issued in 2016, this report has a number of interesting pieces of information. Although not listed as one of WorkSafe's priority industries at the time of the report, due to the industry being regulated by the then Department of Mines and Petroleum, the mining industry was included in the report because it is a high-risk industry. I found that the mining industry reported 29 work-related traumatic injury fatalities between 2006–07 and 2015–16, which equates to 14.6 per cent of all work-related fatalities recorded in WA for that 10-year period. There was one female death, in 2008–09, and all the rest were male. No fatalities were recorded in 2012–13, which is a rare event indeed. In fact, I think it is the only year in Western Australia's mining history to be fatality free. Three work-related fatalities were recorded in 2015–16. Two were in goldmining and one was in iron ore mining. During the 10-year reporting period, the prevalent month for work-related traumatic injury fatalities is August, then May. The most common mechanisms of incidents causing fatalities in the metal or mining subdivision were being hit by falling objects, which caused five fatalities; falling from heights, which caused four fatalities; and being trapped by moving machinery or equipment, also four fatalities. Of the 24 work-related fatalities recorded in the metal or mining subdivision, the most common miner occupation groups were stationary plant operators, who had nine incidents, and second were truck drivers and mobile plant operators, with four fatalities each. During the 10-year reporting period, 31 per cent of work-related fatalities were the result of workers being hit by falling objects. During the 10-year period of the report, the 25–34 years age group sustained the most work-related deaths in the mining industry division, with a total of 10 deaths. I thought that was interesting. Of those 10 deaths, two were in 2008–09, one was in 2009–10, two were in 2011–12, two were in 2013–14, one was in 2014–15, and two were in 2015–16. No work-related fatalities have been recorded

in the last seven years amongst workers 24 years of age and younger in the mining industry. More than one-third—37.9 per cent—of all mining fatalities during the 10-year reporting period were aged 45 years and over. The majority of the deaths are happening to older people, who we would think might actually be wiser to some of the dangers. Who knows—there could be many factors influencing that outcome.

We recognise that bringing these fines in line with those of other jurisdictions was an objective of the former government. It did not get to achieve that objective, so we support the government in doing this as a new government. It is clearly a policy priority for the new Minister for Mines and Petroleum, and we are happy to support the intent. When I came in as Minister for Mines and Petroleum late in the term of the Barnett government, last year, I was very interested in ongoing work to better understand the risks, the underlying causes of those risks, and the tactics, training and procedures to prevent those risks from causing near misses, injuries and fatalities. I asked the department to start looking into this in some detail. I know that, in parallel with that, the department was doing some work with Curtin University to better understand the safety environment. For me, near misses are just as significant as deaths, because if we do not focus on the near misses and focus only on the deaths, we may be seeing only the tip of the iceberg, as near misses could quite easily have turned into fatalities. I was very interested in researching the patterns of near misses and safety events, and looking at them not only by mine sector but right down to the ore body itself, and the type of mine. For example, an underground goldmine is very different from an open pit iron ore mine.

We need to look at a longitudinal study focusing on, say, underground goldmining, studying those near misses and safety events over time and particularly through different phases of a commodity price cycle. One of the things that we recognised before the global financial crisis, when the economy was booming and there was a huge amount of investment and growth in the mining and construction sector, was that mines were employing whomever they could get, because there were shortages of labour. We found that supervisors on sites, and underground sites, were getting promoted very rapidly, and many were lacking the experience and wisdom that attached to running their teams in these dangerous environments. Where an experienced supervisor of an underground team could have a sixth sense of what was about to occur in that workplace, and could get everybody out because they sensed that something was about to go wrong, less experienced operators did not have that sixth sense, and problems could occur. It comes down to experience. Understanding how risk occurred during a commodity price boom time might be very different from understanding the types of risks that apply during a downturn. During a downturn, the company does not have as much money and therefore—I am not saying that they do—there could be an incentive to cut corners, for example. It is a different type of risk, so understanding the commodity price cycle, and how these near misses and safety events occur in different phases of that cycle is just as important, because we can mitigate the risk differently. During a boom the mitigation needs to be against less experienced supervisors on mine sites. That may remove some risks and concerns there. In a down phase, how do we mitigate against supervisors or employees cutting corners, because of the company not being as flush as during the boom time? I am interested in partnering with universities to look at these longitudinal studies and research to try to understand risk better, based on commodity prices. I encourage the government to continue to look for ways to partner with universities to conduct that type of research. I think it is very important to not only partner for research but also communicate with industry to see how dangerous workplaces can be made safer.

Linked to all that, particularly in relation to the Mines Safety and Inspection Amendment Bill 2017, is understanding the success or otherwise of higher fines making workplaces safer. I think that is important. I appreciate and understand that if the fines are not very high, it sends a message to the family of somebody who has tragically been killed or injured on a mine site that, “The fine is not that high, so the government is letting the company off the hook in regard to its responsibilities.” That is an emotional view, and for those families it is very real. But we need to make sure we understand whether there is actually an effect on changing the cultural behaviour of safety on a mine site by changing the fines system. That is also worth looking at. I said earlier that some commentary exists to say that it is all well and good having five times the fine, but if the courts do not actually apply those high fines it could not achieve the outcome of fines being attributed to reducing risk on mine sites. These are very important studies that I think should continue to be looked into and researched by the government, partnering with various research organisations to help in that endeavour.

To conclude, the opposition supports and understands the intent of the government’s bill. The increase in penalties for offences under the Mines Safety and Inspection Act to align with the Model Work Health and Safety Act is an important goal, and we understand why the government has chosen to account for inflation. We also know that with the exception of WA, Queensland and Victoria, all other Australian jurisdictions have implemented their versions of the model WHS act for their mining industries. I earlier said that the former government developed a work health and safety resources major hazards bill and the proposal included penalties consistent with the model WHS act, but that bill was not progressed. We are pleased to see this bill being progressed by the new government. Although Labor is progressing the development of the WHS bill for WA, I understand this bill will later

amalgamate with the general industries and resources sector. In the meantime, this bill will increase and align the mines safety act penalties.

We understand the intent. I encourage the government to continue to research all aspects of mines safety, with a particular focus on understanding commodity price cycles linked to particular types of mine sites to better understand risk so that they can support industry to develop tactics, training and procedures to mitigate those risks. I support and commend the bill to the house.

DR A.D. BUTI (Armadale) [3.43 pm]: I also rise to contribute to the debate on the Mines Safety and Inspection Amendment Bill 2017. In many respects this bill mirrors the Occupational Safety and Health Amendment Bill 2017 we debated last night. The intention of this bill is to bring in the increased penalties listed under the various provisions in Western Australia in line with other jurisdictions in Australia, and to ensure the penalties better reflect the importance of a safe working environment. The member for Churchlands went through different aspects in his contribution and mentioned the issue of penalties. Obviously, on their own, penalties are not necessarily the panacea to improve work culture, but they are very important. A PhD thesis was written by Garry Claxton of Curtin University titled “Occupational Health and Safety: Generating regulatory perceptions to encourage compliance”. For that thesis, he interviewed 60 participants—business owners, senior managers, managers, supervisors, occupational health and safety educators, and rank and file employees. A major finding was that several participants, apart from business owners, suggested that the current penalty regime was not working and believed that penalties needed to be higher.

Interestingly, it is often thought that employers really do not want to be that zealous in improving workplace safety, but in 1987 there was a new chief executive officer of Alcoa in the USA—it was a period of time when Alcoa was basically on its knees—and traditionally the incoming CEO invited shareholders to his inaugural speech. He started off the conversation talking about safety in the workplace, and said how important it was. After that meeting, many shareholders sold their stocks, but the profit performance of Alcoa improved over the next four or five years as a result of an emphasis on safety. Safety is very important from not only the human perspective but also the economic perspective.

On the issue of increased penalties, many of the writers in the area write about increased penalties for noncompliance with obligations under various occupational health and safety provisions. It is said they are used as a deterrent—the natural deterrent theory—and companies are generally rational actors, so if they do a cost–benefit analysis and find that the penalties are severe, they will hopefully improve their work safety practices. But it is also a signal. The government, through the minister, is signalling to the industry through the bill before us related to the mining industry, and last night in regard to industry generally, that we want to create a culture in which employers and employees have to put safety in the workplace at the forefront.

During the contribution of the lead speaker for the opposition, he went through the various parts of the bill. We may not agree with some of his comments, but he took a serious approach to the issue. That was in contrast to the performance last night of the member for Dawesville. I was absolutely appalled by the contribution of the member for Dawesville last night. We were talking about an incredibly important issue of people’s lives being at stake—people die—and he wanted to make a political point about a senior public servant. During his inaugural speech, he talked about his experience on a construction site. I am not so sure how much he experienced at the coalface of a construction site—I wonder. He has also made contributions about unions. I will tell members a couple of the reasons I was appalled by his speech last night. Professionally, I used to be a lawyer and worked in the area of personal injuries. I saw some of the devastating effects of workplace injuries. But I will talk from a personal perspective because the member for Dawesville often brings his personal life into his contributions.

It was August and about a week before my sixteenth birthday. I was on school holidays—it was in years when we used to have three terms. I remember the supervisor of Armadale hospital bringing my mum home. She was bent over because she had a slipped disc. She was asked to lift up on her own a patient who was quite heavy, and she slipped a disc. Her back never recovered from that. A year later, there was water and oil on the floor of the hospital and she slipped. She injured a cervical vertebrae in her neck. Since then she has had to have major operations and has constantly been in pain.

My father worked in construction all his life. I would like to compare my father’s construction history with the member for Dawesville’s construction history. My father lost a finger while working on a construction site. He told us how the Builders Labourers Federation and the Construction, Forestry, Mining and Energy Union helped to improve the culture on construction sites. When he started, they basically had no safety provisions. He arrived in Australia in about 1951. He used to work up north in the 1960s, way before we had fly in, fly out workers. He used to go up there for a year at a time. He lost a finger. He had other near misses.

I watched my father pass away. It was a very painful death. He died at the age of 76. He had scarring on his lungs due to the dust that he consumed while working on building sites. Last night the member for Dawesville treated the whole issue of occupational health and safety as a purely political pointscoreing mechanism. Shame on the member for Dawesville! He can laugh. Does he think it is funny to see a father die as a result of dust he consumed on a worksite? He has no idea. His problem is that he worked in a political office and he sees everything from a political perspective. He has no sympathy or empathy for the real world. He should not tell us about construction sites.

Point of Order

Mr D.C. NALDER: I draw the member's attention back to the issue at hand.

The ACTING SPEAKER (Mr T.J. Healy): I will draw the member back to the bill. He is speaking broadly and referring to another member's speech.

Debate Resumed

Dr A.D. BUTI: I have respect for the member for Bateman. I am not sure whether he was here last night, but the contribution from the member for Dawesville had no relevance to the bill that we were discussing, which was incredibly important. It was introduced into this house by the minister. All he did was engage in a political pointscoreing exercise when he spoke about a director general of a department. It had nothing to do with occupational health and safety. It was absolutely disgraceful. It is about time the member for Dawesville treats this place seriously and realises that there are real people out there, and they are not political pawns for the member.

Point of Order

Mr D.C. NALDER: I draw the esteemed member back to his own speech. He is claiming that the member for Dawesville was not referring to the bill. I ask that he refer to the bill.

The ACTING SPEAKER (Mr T.J. Healy): There is no point of order but I will ask the member for Armadale to please speak through the Chair.

Debate Resumed

Dr A.D. BUTI: I understand what the member for Bateman is saying. I have been given a lot of latitude in what I am saying, but a ruling was given last night as there was a lot of latitude given to the member for Dawesville when he made his speech. He could have made a serious contribution to the bill before the house last night and he did not. He even has the temerity to smile and grin when I talk about some personal issues. He is a disgrace. His speech last night was one of the worst I have experienced in seven and a half years in this place. I do not even think the former Premier, the member for Cottesloe, would have been proud of what his speech entailed last night. The member can grin but it will not remove the terrible contribution he made last night. People out there are dying on worksites—in mines and construction sites. All the member did last night was talk about something that occurred in the public service. That might be an important issue and he should raise that, but last night was not the time to raise it during debate on an important piece of legislation. Shame on the member. Congratulations to the minister for bringing this bill before the house.

MR W.J. JOHNSTON (Cannington — Minister for Mines and Petroleum) [3.53 pm] — in reply: I am very pleased to have brought this legislation to the house. I am pleased that the opposition is supporting action. The member for Churchlands outlined the opposition's support for the Mines Safety and Inspection Amendment Bill 2017, and referred to the 2014–15 green bill, which related to general health and safety. A process was set up by the former government to deal with the work health and safety legislation. That was still incomplete at the change of government. It did not result in the green bill; the green bill came from WorkSafe rather than the Resources Safety Division. Otherwise, it was a pretty accurate position. That is one of the reasons we are able to proceed so quickly. We were able to pick up the fact that the former government had done work on this matter. The difference is that we are interested in introducing legislation to protect workers, and we are getting on with it.

The member for Churchlands also referred to the question of sentencing practices. That is obviously a very important issue. The government is aware of the questions that arise around sentencing practices. That is one of the reasons we are increasing the maximum penalties because the courts tend not to award the maximum penalty. The process of increasing the maximum penalty would generally push up the results of the findings.

I do not want to delay the house for long. I want this bill to be passed before private member's business.

The member for Churchlands spoke about people having a sixth sense of problems that are going to happen in the mining industry. That is one of the most terrible things to suggest. The idea that somehow or another it is the worker's fault when they get killed at work is something that we should all reject. The simple facts are that the responsibility for health and safety always falls on the employer. This is about safe systems of work and identifying why workplaces are dangerous and eliminating those dangers. That is what happens in occupational health and

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Mr Sean L'Estrange; Dr Tony Buti; Mr Dean Nalder; Mr Bill Johnston

safety and that is what we are trying to get. I agree with the member's comment that there is a difference between underground gold operations and open pit iron ore operations. That is a correct assessment and that is why the government is determined to create a single professional organisation to deal with health and safety, because every industry is different. In the same way as the gold industry is different from the iron ore industry, so is the construction industry different from the retail industry. That is why a single professional regulator is preferred to the previous government's arrangement of two separate regulators in the health and safety sector. I do not agree with the member on one point but I do on the other.

I congratulate the member for Armadale for his contribution because, as always, he makes sensible remarks in this chamber. He is a person to be respected and acknowledged for his great work and his great capacities. Dr Tony Buti is a fine Western Australian and has a strong background in the law.

Mr W.R. Marmion: He should be a minister.

Mr W.J. JOHNSTON: He probably should be. If he was a Liberal, he would have been a minister because he stands head and shoulders above all the others on that side of the chamber.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

MR W.J. JOHNSTON (Cannington — Minister for Mines and Petroleum) [3.57 pm]: I move —

That the bill be now read a third time.

I see that I have 30 minutes on the clock. I understand that normally a minister would simply move that the bill be read a third time and sit down and allow other members to speak, but I understand that nobody else wants to speak on the Mines Safety and Inspection Amendment Bill 2017. We are so close to private members' business time that I am sure the Liberal Party would be very keen for me not to sit down before four o'clock, so I will keep talking on this important legislation.

Mr S.K. L'Estrange: I think the Leader of the House might like you to keep talking.

Mr W.J. JOHNSTON: Yes, he might too. I think both sides of the chamber are very keen for us to move directly from this legislation to private member's business because I am sure the Liberal opposition has many exciting things to share with us in this chamber during private member's time.

Mr S.K. L'Estrange: We used to enjoy your private member's time, member.

Mr W.J. JOHNSTON: I rarely got permission to speak during private member's business time when I was in opposition. I was scheduled to sit here from 4.00 pm to 6.00 pm every Wednesday. I do not have a choice; I have to be here between 4.00 pm and 6.00 pm on a Wednesday. I get the joy of listening to private member's business.

I think we have now consumed exactly the amount of time that we needed to consume. I look forward to the house supporting the third reading of the bill.

Question put and passed.

Bill read a third time and transmitted to the Council.