

WORKPLACE SAFETY

Motion

HON MATTHEW SWINBOURN (East Metropolitan) [11.30 am] — without notice: I move —

That this house notes the importance of safety in the workplace and the need for vigilance to minimise death and injury of workers throughout Western Australia.

I think it is without question that each of us in this house would support the notion that we have safe workplaces, and that we want workers to come home safely and to be free from injury in their workplaces. However, it is not enough for us to have good intentions for such an outcome to happen. At the time that I gave my inaugural speech in May, 63 Australian workers had been killed at their workplace. In the less than three months since that time, a further 47 Australian workers have been killed at work, bringing us to the unfortunate total for this year of 110 workers. Sadly, this includes workers from Western Australia, including the young farm worker who was crushed by a bull at Dalyup only last month. I also note that a worker was killed on a construction site in Sydney only yesterday. This is a matter that is pressing and is happening every day.

Of course, workplace safety is not just about the fatalities. It is also about injuries to workers, both physical and mental, as well as the diseases that they contract through their work. In this state we have the unfortunate record of having many workers suffering from diseases acquired through exposure to asbestos. That remains an ongoing and significant issue for this house; I know you, Madam President, have a personal interest in that.

Safe Work Australia figures lodged for 2014–15—the most recent statistics I could find—state that there were 107 355 serious claims for workers' compensation lodged in Australia, 90 per cent of which were for injuries and musculoskeletal disorders, and the other 10 per cent for diseases, with almost two-thirds of these being for serious mental diseases. Obviously, these claims for workers' compensation reflect injuries or diseases acquired in or caused by the workplace.

What is the cost of these fatalities and injuries to the Australian and Western Australian communities? Safe Work Australia estimates that in 2012–13, work-related injuries and diseases cost the Australian economy \$61.8 billion. That represents 4.1 per cent of our gross domestic product. We must reflect on that—\$61.8 billion for that year, and 4.1 per cent of our gross domestic product, as a consequence of workplace deaths and injuries. This figure is made up of direct costs, including such things as workers' compensation premiums paid by employers, or payments to injured or incapacitated workers from workers' compensation payments; and indirect costs, which include items such as lost productivity, loss of current and future earnings, lost potential output and the cost of providing social welfare programs for injured or incapacitated workers. Of these costs—this was a surprising figure to me—the overwhelming majority, 95 per cent, is borne by individuals and society. Workers bore 77 per cent of those costs, the community 18 per cent and employers five per cent.

As I said before, it is the workers who bear the overwhelming cost of poor outcomes in workplace safety. But of course, there is more than just the economic cost. There are the impacts on the family and the community of those who are injured or killed. The impact on family and friends of the death of a loved one is obvious. I think perhaps all of us have experienced loss, and we know what it is like. Often it involves the loss of the primary breadwinner, leaving the family with not only the grief of losing the loved one, but also the often crushing impact of losing the person who brings the money into the home, and although there are compensation schemes out there, these do not put the family back in the position they would have been in had they not lost their loved one.

There is also the impact on the family when somebody suffers a serious injury at work. There is the disruption to daily life, with all the medical appointments and rehabilitation, and the mental health issues, like depression, which often come with serious and not-so-serious injuries at work, and a loss of function. Plans and dreams often go out the window as soon as someone sustains an injury at work. I experienced this in my own family, seeing a family member go from being an active, healthy person, able to garden, fish and just get around, to being reduced to a person who could barely get off the lounge due to a debilitating back injury acquired at work. Although he has recovered to some extent from being that incapacitated, he has never been the same and will have to live with constant pain for the remainder of his life.

Of course, we have laws that provide that every employer owes a duty of care to the workers they employ, in their working environment, and to ensure that that environment is as safe as is reasonably practicable, without risk to their health. There is also an obligation on workers to perform their work in a safe manner. Our laws in Western Australia are now more than 30 years old, and are primarily based on the Robens model, which focuses on unifying the often disparate laws covering workplace safety and promotes the virtues of a self-regulating system rather than the previously highly prescriptive systems of workplace regulation. The jurisdictions around the world that have adopted the Robens model have seen significant improvements in workplace safety, including reductions in the number of workplace deaths. We should be grateful for those improvements.

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Western Australia adopted a Robens-type model in 1984, with the introduction of the Occupational Safety and Health Act, so we are in that position, although I must say that we still have a rather motley group of workplace laws in Western Australia. There are a number of them, including a few that I was not aware of, notwithstanding that I worked in this area for some time. There is the Occupational Safety and Health Act 1984, the Mines Safety and Inspection Act 1994, the Petroleum and Geothermal Energy Resources Act 1967, the Petroleum (Submerged Lands) Act 1982, the Petroleum Pipelines Act 1969 and the Dangerous Goods Safety Act 2004.

I think we probably all agree that the capacity for small employers, working across a number of industries, to understand their obligations, given the number of acts, is probably quite limited. Given that workplace laws are the purview of not only lawyers, but also everyday people, it should be our goal to make sure that they are as accessible as possible. This would suggest that they are not.

Having adopted the Robens model, we saw many, many benefits, but we are now seeing those benefits plateauing. There is not the same change in numbers that we initially saw. It comes back to the law of diminishing returns. For example, in the 16 years from 2000 to 2016, 315 work-related traumatic injury fatalities were notified to WorkSafe, equating to an average of 19.7 deaths a year in Western Australia for that period. If we take the last 10 years, however, 199 work-related traumatic fatalities have been notified to WorkSafe—an average of 19.9 deaths a year. This should not become a debate about statistics, for obvious reasons, because they can be used in many ways. But overwhelmingly, the thrust of the statistics is that we are not making improvements to workplace safety or achieving the outcomes that we need to see happen. We need to be in a position in which we are aiming for no deaths in a workplace, as an aspirational and, hopefully one day, real goal. To have, on average, 20 people in Western Australia dying in their workplaces is not good enough. While these figures are not significantly improving, it is not good enough to say this is as good as it will get, sit on our hands do nothing more.

So what can be done? It is time the current legislative regime was reviewed and modernised. I have said that the Western Australian workplace health and safety laws are contained in numerous sets of acts and regulations, delineated by industry boundaries. Neither employers nor workers are restricted to the industries these acts apply to. They work across industries and have interests in different areas. Having separate legislation for industries may work for particular industries, but the outcomes are not necessarily in favour of workers—the beneficiaries of safer workplaces. These laws, with the exception of the Dangerous Goods Safety Act, were all developed in the last century, and have largely not been updated or modernised. It is worthy of note that the last time the penalties in the Occupational Safety and Health Act 1984 were increased was in 2004—over 13 years ago. I would have liked a freeze on all my costs since 2004. Why we have been reticent to increase penalties in the act to reflect changes in values and society since 2004, I am not really sure. Certainly the way the act is drafted does not make it easy for that to happen, and hopefully the new drafters of any future legislation will put in place mechanisms that will increase the penalties and will reflect the increases the rest of society faces and also the increases in relation to how we view these matters.

These laws do not pay the necessary attention to changing workplaces. The traditional employment relationship is not what it was in 1984, let alone what it might have been in 1994 or 2004. There have been changes in the Western Australian labour market, like the rest of Australia, such that safety laws and regulators need to implement standards, inspection programs and enforcement strategies that accommodate subcontracting, labour hire, home-based work and franchise arrangements. It is particularly important that attention is paid to how these groups of workers are represented and how they can participate, to ensure that they do not fall between the gaps or that they are able to be consulted like other more traditional employees are in their workplaces. It is important they have the chance to participate in health and safety matters.

In 2008, Western Australia participated in the national initiative to develop a model set of work health and safety laws designed to introduce harmonised laws across all states and territory jurisdictions. WA provided input into the development of these laws, and they have been adopted in other jurisdictions, with the exception of Victoria and Western Australia. These laws apply in some parts of Western Australia, because if someone is covered by the commonwealth entities or as a commonwealth entity, like, for example, John Holland construction which built—or tried to build—the new Perth Children's Hospital, it was covered by the federal system of work health and safety laws, whereas the contractors on the job were covered under the state system. On the same job two different sets of workplace safety laws applied at the same time. Why we would want that situation, I do not know. It resulted in confusion, obfuscation and a range of other outcomes that were perhaps not desirable.

These harmonised laws offer an opportunity for WA to move its workplace safety regulation forward and allow for the benefits of harmonisation. I have not yet met an employee who does not want consistency to operate across state boundaries for these things. We go it alone with our small population and with our small economies of scale, and we are not therefore the beneficiaries of a more regular outcome. We harmonise laws in other areas; I am not sure why we do not for work health and safety.

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Notwithstanding that both the former Department of Commerce and the Department of Mines and Petroleum worked on these laws, the former government did not take up the opportunity to reform workplace safety laws. Even worse, it cut the funding to the regulator, such that the services it was able to provide to the Western Australian community were reduced. Following the election of the McGowan Labor government, the new minister asked the former departments, which I think have now been incorporated into a single department, to collaborate on the adoption of these model laws. In my mind this is a welcome approach to this area.

There is scope for the development of a single act in Western Australia to provide the primary legislation for workplace health and safety across the mining, other resources and general industries in Western Australia. The government has approved the development of a modernised workplace Occupational Safety and Health Act, based on the structure and content of the model laws, to provide primary legislation for workplace safety. We need to commit to progressing workplace safety reform, and it will be pleasing to see the introduction in this Parliament of new and updated laws as soon as possible. We must strengthen the workplace regulator.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [11.45 am]: I had not intended to speak on this matter. I welcome the honourable member raising this issue for this Parliament because it is an area of significant concern to those in the workplace, and of course the dependants of those in the workplace. It is an area of significant importance. I agree with probably about 99 per cent of what the member said. There are a couple of things I feel need to be corrected, and with which I take issue. They are really in the closing comments the honourable member made. It was twofold: something about cutting funding to the regulator. I would like to see the evidence of that. It was the case that under our government the number of full-time equivalents for occupational health and safety inspectors in WorkSafe Western Australia was reduced, but it was reducing from a figure that had never been filled. My recollection is that there were something like 103 FTEs in that department, and even the previous Labor government eight and a half years ago could not get 103 FTEs to fill those positions. In fact, the figure hovered around 95 or so, or 97—I cannot quite recall now—FTE positions that were able to be filled, and that figure was consistently maintained. So although a number of FTE positions were removed from that agency, it was only a practical reflection of the number available in terms of qualified people to fill those positions. But if the member has evidence that somehow funding had been cut to WorkSafe, I would be glad to see it.

As for taking the opportunity to reform work health and safety laws, a considerable amount of work had been done on that, and indeed a green bill had been released for consideration. The problem with harmonised laws is that it is all very good in principle and theory; it is the practical side of it that generates concern. The model laws that had been prepared under the auspices of the federal government that introduced the model bill and set that particular standard radically changed the occupational health and safety regime that had been operating successfully since 1985. I will get to that in a moment, if I can. But the problem with the laws, and one of the reasons Victoria did not adopt them and we were reluctant to adopt them wholesale, is that there had been no proper regulatory impact statement prepared about those laws. The feedback that had been obtained was that those laws were more prescriptive than the ones we had, were less flexible than the ones we had, and would have imposed an enormous burden on small to medium-sized enterprises. It is one thing to set up harmonised laws and uniformity in the mining industry, requiring all sorts of paperwork to be generated and all sorts of obligations and micromanagement to be imposed; it is quite another thing for small to medium-sized enterprises. One of the successes of our regime was that it generated various duties and obligations that could be adapted to a particular workplace. Rather than say that our laws are out of date and we are approaching a stage of diminishing marginal returns, we need to look at the reality of some of the figures. In 1985, there were 31 500-odd workplace lost-time injuries. In 2014, it had gone down to 16 957, which is the figure I have. That was a 46 per cent reduction over that period. Since 1988–89 in Western Australia, it had reduced by a total of 68 per cent by the end of last year. Even when looking at 1985 this is over a time when the population in Western Australia had something like doubled. More people were involved in more activity—more workers in more work places, yet an enormous reduction in injuries. Any injury is unfortunate and has its consequences but our workers' compensation premiums in this state—I should say our WorkCover regime is the envy of other states—have been reduced over the last several years because the premiums do not need to be as high as those in other states. We have expanded the availability of WorkCover over that period.

I think to focus on fatalities is focussing on the wrong end of the equation. Certainly Safe Work Australia's report is misleading. Safe Work Australia covers motor vehicle journey claims and those incidents can be outside the control of any employer. If a person on the way to work is hit by someone who runs a red light, how is that the responsibility of their employer? It may be covered by WorkCover as a journey claim, but it is a very different thing to hold the employer responsible, saying they should have done something about it. Those figures need to be considered in any comparison of Western Australia's progress with national figures.

A lot more can be said on the issue, but our performance in WA is not as obvious as it may appear simply from the figures. There has been caution exercised over the last several years and considerable consultation with not

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only the mining industry, which, of course, desires some uniformity because it operates across jurisdictions. But also there is the burden placed on small businesses and medium sized enterprises and whether it will be detrimental to them. They are covering a new regime that they are unused to and if it is more prescriptive, it will encourage less and less compliance. I know a ministerial advisory council has been appointed by the minister to achieve harmonisation. I should say that I thought the idea of harmonisation and adoption of the model laws had been abandoned. That is certainly what the Housing Industry Association was told at a forum in February this year when three members of the then opposition explicitly volunteered that they were no longer going down that path. I will watch with interest what the government has done or plans to do in this area. I caution against throwing out the baby with the bathwater and achieving harmonisation for its sake, losing the flexibility in Western Australia that we might desire to craft the laws that will be suitable for our particular business and employment environment, simply for the sake of having a uniform set of legislation across this country that is of dubious value. In jurisdictions that have adopted the model laws, they have not necessarily shown improved performance, whereas, Victoria and Western Australia have very good records in this regard.

As I mentioned, looking at fatalities is sometimes looking at the wrong end of the problem. Every fatality is a tragedy. Sometimes, because of one failing there may be two fatalities, as happened with an incident at Galleria Shopping Centre a few years ago. That can boost figures and figures are volatile in the case of fatalities. The important thing is not to look at the end result—a fatality is basically an injury with extreme results—it is to look at stopping those injuries in the first place. That should be the focus. It has been interesting in looking at the number of fatalities in the last several years. They were high towards the end of the last Labor government and then dropped and, because they are volatile, they started to increase over the last couple of years, but not to the same level. I hope they drop again. The important thing is to look at whether trends and failings can be identified and can then be addressed by the laws in place. By all means, they should be reviewed and improved. However, I caution against saying that this law is 30 years old, therefore something is wrong with it and we need to update it and the number of injuries is not being reduced as dramatically as it has in the past.

There will always be a stage at which people may not be able to be protected from their own failures of judgement. I would love to see the road toll at zero. Do I think it will happen in the foreseeable future? No, I do not because we cannot control everything and we cannot legislate for everyone. I look forward to seeing what progress this government makes in that regard but I caution against taking hasty action and not consulting fully with those who will be affected.

HON KYLE MCGINN (Mining and Pastoral) [11:55 am]: I thank Hon Matt Swinbourn for putting this motion up. As people will be aware, I spoke in my inaugural speech about workplace safety and some of the circumstances I have been through in my time offshore and working my way up. I want to reflect on a few things in my days offshore, particularly around the comments made by Hon Michael Mischin about lost-time injuries. I will talk about something leading up to the *Stena Clyde* incident. I was a second cook on the day shift on the *Stena Clyde* and I cut my finger to the point at which the end of it was hanging by the skin. I went to the medical centre where I was treated. While I was being treated the offshore installation manager on the rig came down immediately and said, “You’ll be okay to go back to work won’t you?” I asked what he meant. The top of my finger was still hanging by the skin, by the way. The *Stena Clyde* had a seven-year LTI-free pin tag that it was very proud of. During the 12 months I was on that rig I saw incidents when someone was injured and were put in the exact same situation I was finding myself in. “You’ll be okay, get back out there on the job; we can’t afford for you to hop off the rig because we would have to lose our seven-year LTI-free pin tag, which is good for our customers to see.” This creates a bad safety culture from the top all the way down to the bottom. People begin not to report issues, not go to the medic and feel uncomfortable about reporting. I said to the OAM, I would not go back to work because my finger was still hanging by the skin. When the medic had finished dressing it, they put my finger in a splint, but I was still being pushed to go back into the kitchen and I said no that it would not happen. We settled on a compromise. I still regret making that decision; I should have gone home. The compromise was that another worker would come out and perform the role and I would sit down and watch TV on the rig. That meant that the rig’s LTI-free seven-year pin tag remained intact. Hon Michael Mischin may say that LTIs have reduced since the 1980s. I will say that the safety culture has gotten worse within our workplaces such as heavy industry and hospitality—we can talk about them all—based on intimidation and fear. I think another big factor to take into account is casualisation and labour hire. Too many times over my career, someone has come up to me and said, “Look, I think this is unsafe, but I’m not going to raise it because I haven’t had a job for two months; I’m casual and if I do raise it, I’m in fear that I potentially will not get the call to come back to work.” It is a disgrace in this country for a casual worker on a job that is worth millions of dollars to say they will not raise an issue because the last person who did that is down the road and has not had a job since. I have seen that happen and have seen people not wanting to be the health and safety representative on board a vessel due to fear of retribution. It is people’s basic right to raise safety issues if they feel unsafe at work. They should not be put into a position where they are

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in fear of that. The *Stena Clyde* was LTI-free for seven years, only to have two people killed not long after. If LTI-free is being used by companies to sell contracts, it has to reflect the actual figures.

I was not a worker back in the 1980s—I was not around; I was only born in '88—but we had quite a strong movement in respect of eight-hour days and acceptance of the 38-hour or 40-hour week. The attitude back then was one of “toughen up”, and the culture was, “Just get on with the job.” People wore shorts—there were no long pants in heavy industry. There are some pictures from back then that just shock me. That culture was around an eight-hour day, which had been won. We are now looking at people who are doing 14 hours a day. I will say that 12 hours is what is on the books, but some travel two hours from camp to mine site. They work 14 hours a day with a four-and-one roster. The other thing that goes hand-in-hand with that is mental health issues. I can tell members now that if I was working in an unsafe workplace and I had to put bread on the table for a family, I would have to worry about ensuring not only that I did not get the punt, but also that I did not get killed on the job. To be able to do that without being able to raise a safety issue is a failing. I believe this is happening a lot more to casual workers. I worked with a few sites in the stevedoring industry where even the permanents had got to the point, because of the amount of victimisation of casuals, that they were afraid to raise an issue. Their reason to me was, “I don’t want to put a target on my head.” How can we say that safety is a target for termination? That is unacceptable. Anyone has the right to raise safety issues and to be protected when they raise safety, not to mention the families and people who are impacted by deaths and injuries within workplaces. Too many times we see people who get injured and go home. A lot do not want to go on workers’ compensation. They feel that workers’ compensation becomes a mark on their name and that it is another factor for them to not get a job. We need to ensure that these types of things improve. I believe that workers’ compensation should be there for the person who is injured and not just for those who are brave enough to put their hand up and accept it.

There is another issue that we foresee within this issue, particularly, again—I am sorry; this is my background—in seafaring. There were situations when we had foreign labour on vessels. We see it happen on flag-of-convenience vessels that come in and out of our harbours every day. Port Hedland is a prime example of flags of convenience coming into that port, where people are engaging with operations with crews who do not speak English. That creates a safety issue within itself. I believe we have a high standard on safety, or we try to have a high standard on safety, in Australian workplaces. How can we ensure that when we are performing work with people who come from another country that their safety standards are the same as Australian safety standards? That is something they should be welcomed with when they come into this country, and not different standards on their operation from an Australian operation, which is what we see on flag-of-convenience ships. We have to have a serious look at what is happening within this culture and what workers are being faced with every day out there on the job. As members of this place, our families expect us to come home safe. People who work in heavy industry or in any industry in this state or country deserve to go home safe, just as we do. I thank the member for putting this motion up today. I look forward to listening to more debate.

HON ALISON XAMON (North Metropolitan) [12.03 pm]: I rise in support of the motion and thank the member for bringing such an important issue to this chamber. I disagree with one comment made by Hon Michael Mischin; I think it is important that we talk about the number of fatalities, because that is obviously the absolute worst outcome that can occur, with life-long effects for the people who are left behind. Indeed, this is one reason I have personally done so much work around the issue of worker safety, both previously as a union official but also in my time in the Parliament, because I believe it is one of those areas that deserves to get far more attention than it does. There is a lot more that government could be doing to ensure that our workplaces are safe and to ensure that people are able, at the end of the day, to go home to their families where they belong.

There is a disturbing number of injuries that occur and, as has been pointed out, diseases that are contracted through the course of employment, as well as deaths. I, for one, think this should be the source of front-page news every time it occurs, because workplace deaths are pretty much avoidable. I have been asking some questions about what is happening with the number of deaths on notice and also the activities of Worksafe. I wanted to know how many work-related fatalities had occurred on Western Australian worksites in recent times, because I wanted to get the most recent figures. What I can tell members is that for the 2016–17 reporting period, I was advised that there were 11 confirmed work-related traumatic injury fatalities. The fatalities occurred in the following industry divisions: five in the construction industry; two in the electricity, gas, water and waste services industry; two in the agriculture, forestry and fishing industry; one in the accommodation and food services industry; and one in mining. Worksafe is still investigating 16 other work-related traumatic injury fatalities. That is a lot of people who have been killed and a lot of families who have been left absolutely devastated. There will be parents, spouses and children who will be left to live with the legacy of these deaths for the rest of their lives. If that is not an issue that every single member of this chamber needs to treat with utmost priority, then I am really struggling to think what is.

Just in response to some of the comments about Worksafe, I am one of those people who has been quite critical for a long time about the activities of Worksafe. It has been really difficult to fill the positions within Worksafe to

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get the appropriate number of inspectors. That is because, quite simply, we are not paying people the amount they need to be attracted to do that sort of work, particularly with the sort of expertise that is required. It has to be looked at as a matter of urgency. It has been a systemic problem that has been around for far too long. It is one reason we are not able to fill the number of places as well as we should. We need to ensure that we release funds to ensure that this occurs in the future. I want to acknowledge how important this is. One thing was done under the previous government that I agree with. I agreed with Hon Norman Moore, whom I normally disagree with on everything in the whole, wide world, on this particular issue. One thing he did as mines minister was to recognise that there was an issue in attracting appropriately qualified mines inspectors, so legislation was passed in this place to ensure that we were able to have packages and wages that were commensurate with the level of experience and expertise that was required to ensure that we had people who were qualified to go out onto the mines and who would be able to safely oversee what was happening on those sites. The data has demonstrated that it did certainly have an effect. It was a positive improvement. On that note, I note that this government has been talking about blending Worksafe and the mines safety inspectorate division. If those sorts of measures are going to occur, we need to ensure that we bring Worksafe up to the level of those inspectorates and not the other way round. I know there is genuine concern about how that is going to be rolling out within the mining industry. One particular concern is that the mining industry currently pays a levy that effectively pays for the expertise of those people to come out to inspect their sites. With the machinery of government changes, it is very unclear what is going to happen with those inspectorates and regimes. That is something I will be keeping a particularly close eye on, and I actually have some questions pending around this issue that I hope to get answers to. I have long been concerned about the culture within WorkSafe and a perceived, or maybe actual reluctance, to be proactive in a number of investigations. I hope that this very, very important government department starts getting the resources and attention that it deserves.

I will comment on the occupational health and safety laws. I am of the view that the time has long passed that we can simply look at adopting the harmonised laws; I was pushing for this seven years ago and it did not happen then. There is no doubt at all that our OHS laws and penalties are woefully inadequate. There are not enough provisions in our laws to look at a range of orders that need to be implemented, such as adverse publicity orders, work orders and training orders; the range of things that we need to ensure that our workplaces are as safe as possible. I hope this government will make some moves on that. I am very much aware that the mood within industry and certainly the unions at the moment is to simply not adopt the laws at this point because that ship has sailed. We need an overall review and we most certainly need to look at improving them. I will point out, of course, that I currently have on the notice paper the Criminal Code Amendment (Industrial Manslaughter) Bill 2017. I hope that this attention and concern around worker safety will result in ringing endorsement for that legislation—which is long overdue reform—when it comes time to debate it in this place. It is the case that people make decisions in the workplace that they know could feasibly result in a death. When a death does occur, they should be held liable for that death. Everyone in this place likes to talk about being tough on crime—well, you know what? This should be considered a crime, and I look forward to members supporting that particular bill. It is important that we have the potential for strong penalties hanging over errant employers.

I will make one final comment. When we talk about the whole regime around worker safety, I do not want us to ever ignore the importance of what is happening with mental health on worksites. I note that although it does not normally fall within the remit of what we deem to be worker safety, there is a concern around the correlation between the rate of suicides on some sites and what is happening on those sites. I give a big shout out to Mates in Construction for the sort of work it does trying to make sure that it draws attention to mental health and suicide prevention because it is everybody's business and we need to be doing more. I always remain very concerned to ensure that we do not overlook the impact of precarious employment, bullying and the sorts of issues that occur in the workplace that can in themselves cause a whole range of issues in terms of mental health distress and potentially lead to suicide. It is a bit of a hidden one, but one that I think we need to be talking about explicitly.

I am really glad this motion has come up. Frankly, I would like us to talk about this issue every single week until there are no more fatalities and injuries on worksites. Unlike the views of other members, I think every single death on a worksite is potentially avoidable. That is exactly what we should be aiming for, and the government can play a really key role in that.

HON SIMON O'BRIEN (South Metropolitan) [12.13 pm]: I notice that Hon Martin Pritchard wants to make a contribution, too, and we would like to hear that so I will be as brief as I reasonably can. I want to offer support for this motion; indeed, it is couched in terms that would be almost impossible not to support. I have listened closely to the contribution of various members and, as I anticipated, we have all heard their perspectives, and it is a variety of perspectives that one has on this particular subject. I thought I might offer a few and that might help our collective understanding of what we are talking about. I notice also that a standing committee is inquiring into related matters. I will be very interested to see where that inquiry goes and what it produces. That is based on my former stewardship of the Department of Commerce and another agency, WorkCover, which is a very well run

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Western Australian agency. If members want to compare its efforts with some of its counterparts in other states, they will soon come to the same conclusion. I have listened to the comments of Hon Alison Xamon, for example, who I know has always had an interest in this area dating back to the time when I was a minister actually. I listened with interest to another former Minister for Commerce, Hon Michael Mischin. Some of the issues confronting this subject do indeed seem perennial, but it is also interesting and informative to listen to the experiences of those people; indeed, just about all of us have stories to tell, either first or second hand, about experiences with occupational health and safety.

I worked in Port Hedland in the early 1980s when Hon Kyle McGinn was a twinkle. During my time with the Australian Customs and Border Protection Service, I boarded more ships than anyone in any other occupation. I might go on half a dozen or more ships in the course of a day, and they might not be alongside; they might be out at sea. I have hung off those conical structures with rope nets. The crane would pick me up—this is on an oil rig—swing me out and suddenly I would be over a vast distance and it would drop me onto a heaving tender out at sea. I have done all that. Hon Kyle McGinn would be interested to know that as commonwealth officers, I think we had a balanced and sensible approach and culture around workplace safety and access to compensation and all those other things he touched on. He might be interested to know how we would categorise the various vessels that we saw. In terms of amenity, the Australian vessels were off the dial and the British and Japanese vessels were very good examples, but we would say about some from less happy places, “What a massive fleet they have coming out of Monrovia! What a seaborne titan is the good place of Liberia!” We would sometimes come back to the office and say, “How’d you get on on such and such a ship,” and people would say, “God almighty, you’re lucky if you don’t fall through the deck.” The expression we used was that it was as though they had a Plimsoll line halfway up the funnel! That was the regard they had for safety. Indeed, I have been on board ships and looked in cabins that I thought had been uninhabited for 30 years; but, no, apparently they were housing a couple of crew members. There were different standards. I think that we can be very satisfied that we in Australia have higher standards compared with those of a very large proportion of the world. As Hon Martin Swinbourn pointed out, by bringing this motion to the chamber —

Hon Kyle McGinn: It is Hon Matthew Swinbourn.

Hon SIMON O'BRIEN: Sorry; Hon Matthew Swinbourn. I was getting ahead of myself with the next speaker; forgive me!

As Hon Matthew Swinbourn has brought this subject up for debate, he is quite right to remind us that in any place we can always do better. We need to answer the questions: Okay, now what? We have achieved all this. There is no permanent line drawn under it, so where do we go to next? As the mover of the motion pointed out, complacency is also our enemy. That is why we must always be running the ruler over our conduct in this area and striving to ever do better for all the reasons that were mentioned.

I would like to canvass some other matters that I will follow up with a few of the members who have spoken. I will do that outside of this debate because I want to make sure that the next speaker has some time. I believe that assertions made about some employers wanting to preserve no lost-time injury records are misconceived and not in keeping with the spirit of health and safety legislation that we should exhibit here in Western Australia. I have a story about a relative who was absolutely hounded because that person had suffered an injury at work. It was not a life-threatening injury but the nature of it could be seen. It was a muscle tear and the swelling and disfigurement could physically be seen. Clearly, this person had incurred this injury, it needed to be looked at, and a few days off would be required given the nature of the work. Equally clearly, the employer, as required to do by law, had workers' compensation insurance. So what was the problem? The wage at that time would have been about \$150 a day. A doctor's appointment or two would all have been covered by insurance anyway—so what was the point? That employer fought it tooth and nail. I might add that the insurance company had a bit to answer for as well. I was present when the first driver arrived with a lawyer's letter that said, “You're up to no good here and you can be up for \$10 000 in penalties” or something to that effect. I was still present 20 minutes later when another courier arrived with another lawyer's letter. How many days' wages would all this have paid? This letter said, inter alia, “We'll give you \$5 000 if that'll settle the matter.” My relative said, “All right. I will take the \$5 000”, which settled the matter, “and I will tell my employer to get stuffed because I can get a job anytime I like.” That was not a happy outcome. Those are the sorts of attitude that I would not like to see today but I fear endure in some sectors. Therefore, we need to exercise some cultural vigilance.

You might be able to tell from my enthusiasm, Madam President, that I have a lot that I would like to say about this, and perhaps another occasion will present itself, but I am very interested to hear what Hon Martin Pritchard will say. I conclude my remarks by supporting the motion and thanking you for the opportunity to speak.

Hon Matthew Swinbourn; Hon Michael Mischin; Hon Kyle McGinn; Hon Alison Xamon; Hon Simon O'Brien;
Hon Martin Pritchard

HON MARTIN PRITCHARD (North Metropolitan) [12.22 pm]: Thank you, Madam President, and I thank the previous speaker. I know other people wish to speak so I will endeavour to be brief and see that as an opportunity.

Like Hon Simon O'Brien, I was working in the early 1980s. I was working as a shop assistant when the Occupational Safety and Health Act was introduced. I want to speak a little bit about before and after that act came into place. Hon Matthew Swinbourn mentioned that there were a number of acts, but this is the principal act that had an effect on me and the workplaces I have been in. I am quite certain that it was called the Occupational Health and Safety Act when it was first introduced.

The PRESIDENT: That is correct.

Hon MARTIN PRITCHARD: Someone obviously looked at the acronym and thought that OSH was a better acronym than OHS.

I was working in the Aherns department store when the act came into place, and had worked in good and bad workplaces before that. In the bad workplaces, occupational health and safety was never discussed. Workers did what they were told and it was a matter of the issue never being raised. In good workplaces, the manager took responsibility for it and selected a number of people to be on a committee. That is probably still what happens in a lot of places. The manager chaired the committee and organised meetings—usually with department heads around the store—to talk about occupational health and safety. The manager would say that they might be able to afford to do one thing, but other things would have to be put off. All the decisions were made by the manager. The introduction of the act encouraged employees to take responsibility and be involved in it. That was a very good outcome of the introduction of that act.

I have often said that I am a shop assistant done well—I am proud of that. My experience has all been in retail, and, obviously, there are workplaces that have more severe consequences of bad occupational health and safety standards, such as the building industry. As I mentioned before, my father was a bricklayer, so I have an affinity for bricks. I note the tilt-up concrete building of the current era and shudder. I drive in Malaga and see big slabs of concrete held up by what looks like small pieces of stick and wonder how more people do not die. I know a number of people have died in that manner. I look at the mines and see that it is almost expected that a number of fatalities will occur each year in the mining industry. I look at the long-haul drivers and the pressure they are under to make deliveries and the lengths they go to ensure that they are on time. Obviously, a lot of other industries have more severe consequences for poor occupational health and safety, but any injury at work has a consequence and it is usually long term, whether it be someone hurting themselves and having to take time off and claiming workers' compensation and then experiencing difficulty in finding employment for the rest of their lives, or the depression that comes with a long-term injury.

During a previous job, I was in the Shop, Distributive and Allied Employees Association of WA. A lovely lady there called Rosemary Landwehr used to deal with occupational health and safety. I used to pity her every day because of the sad stories she was exposed to of people hurting themselves at work. Clearly, the introduction of the act was a giant leap forward. I have mentioned how it was before and after the act, and, as I have said, there are differences now.

I have also experienced this issue through my daughter's ownership of a pizza place—a small business. Although I was not the owner, I understand the pressures, particularly on small businesses, of the impacts of training and costs of providing a safe work environment and the consequences we have spoken about here of claims made of them. Small business owners may be reluctant to accept claims because their insurance company dues will go up each month. The pizza industry is a dangerous one because it employs a lot of young children and the margins are wafer thin. One reason my daughter got out of it was that she could not make a profit. A lot of people stay in the industry trying to achieve wafer thin margins and anything that impacts on them can be a disaster to their cash flows. Having somebody off, having to fill vacancies, having to train kids and having a big turnover of staff are quite detrimental to small business—but that should not override the desire to achieve the safest environment we can, even in places that are not building sites, where the consequences can be major. Even places such as Kentucky Fried Chicken that deal with hot fat are dangerous. All those sorts of places are dangerous. A lot of wiring goes through them and a lot of extension cords are used. They are still very dangerous places.

As I said, I wanted to speak quite a lot about this issue but I did not think I would get time. If members read through the act, they will see that it mentions the obligations of employers and employees, which I was going to touch on. If members read the obligations, they will see they are quite sensible and reasonable. Anybody reading through them—even an employer—would say, "I do that all the time; that's what I do." The problem is, of course, that when other pressures come to bear, corners are cut. Even employees cut corners to try to achieve an outcome.

Extract from *Hansard*

[COUNCIL — Thursday, 17 August 2017]

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Hon Matthew Swinbourn; Hon Michael Mischin; Hon Kyle McGinn; Hon Alison Xamon; Hon Simon O'Brien;
Hon Martin Pritchard

I used to look after warehouses and a bonus scheme was introduced for warehouses. Employees acted unsafely to try to be quicker than otherwise, and that resulted in an unsafe working environment.

Motion lapsed, pursuant to standing orders.