

MINES SAFETY AND INSPECTION AMENDMENT BILL 2014

Second Reading

Resumed from 9 September.

DR A.D. BUTI (Armadale) [12.30 pm]: I would like to continue the speech I was making yesterday on the Mines Safety and Inspection Amendment Bill 2014 before the debate was adjourned. As I mentioned to the Minister for Mines and Petroleum yesterday, we understand the reason behind his proposed amendments but we are very concerned about the strategy that he is seeking to incorporate of trying to widen the net of possible inspectors on mine sites. As I was saying yesterday, mine sites are very unsafe work environments for many people and unfortunately there are a number of fatalities. Although the number of mining-related deaths that occurred between 2009 and 2013 was not the largest of all industries, it was substantially out of kilter with the number of people employed in the mining industry. It is interesting to look at the number of fatalities between 2009 and 2013, which of course are very sad. All states are subject to a number of deaths in various workplace environments. For instance, between 2009 and 2013 in Western Australia there were 32 deaths in agriculture, forestry and fishing; the same number in postal, transport and warehousing; 15 deaths in construction; 14 in manufacturing; two in public administration and safety; eight in administrative and support services; 12 in mining; two in wholesale trade; six in retail trade and 18 in other industries, which made a grand total of 141 deaths. So, 141 people who went off to work in the morning did not come home to their loved ones at night. I am sure the minister would agree that that is a very sad situation. In the purview of the industry that he has responsibility for as the Minister for Mines and Petroleum, there were 12 deaths, which represented nine per cent of the workplace deaths in that period of 2009 to 2013. One has to wonder about the proportional analysis of the number of people who work in mining vis-a-vis some other industries. I am sure that the number of fatalities in mining is excessive. One death in the workplace is one too many. Being a mining state, WA has the unfortunate reputation of having the most fatalities of all jurisdictions in Australia but obviously part of that is due to the number of people in the mining industry in Western Australia. Between 2009 and 2013, there were seven deaths in New South Wales, four in Victoria, 10 in Queensland—which is comparable to the mining scenario in Western Australia, which had 12 deaths—two deaths in South Australia, two in Tasmania and zero in the Northern Territory, so 37 deaths in mining in Australia over that period. Between 2009 and 2013, there were 1 129 deaths in the workplace. That is very, very sad.

Deaths in mining continue. For instance, if one goes to the website of the government of Western Australia's Department of Mines and Petroleum and looks at the resources safety section, one will find a fatality summary for industry awareness. On 14 August 2013, a contract employee at a Pilbara iron ore mine was fatally injured in an ore processing plant. A team of investigators with the Department of Mines and Petroleum had been mobilised to commence an investigation. At approximately 9.35 am on 4 December 2013 a construction worker at a goldmine was fatally injured when a large piece of pipework rolled onto him. A team of inspectors travelled to the site to conduct a full investigation. On 29 December 2013, on the eve of the new year, while conducting maintenance work on a large surface miner, the cabin structure suddenly lowered, trapping the victim. He sustained fatal crush injuries to his lower limbs as a result. On 15 February 2014, while conducting clean-up work in an underground development heading, a failure of ground resulted in a rockfall, trapping the victim who sustained fatal crush injuries as a result. On 26 May 2014, a male worker was fatally injured during maintenance operations at a goldmine near Laverton. Department of Mines and Petroleum inspectors commenced an investigation into the circumstances surrounding the fatality. Of course I know the minister would be touched by that and would be seeking to do his best to try to improve the safety record in the mining industry. I am not sure that the bill before the house will result in any improvement in safety procedures or in the safety environment. With respect to those reports that I read out, we can see how inspectors are incredibly important in this whole industry. That is why it is important that we have inspectors of the highest quality.

The minister seeks to remove a requirement from the act. Section 18(2) of the Mines Safety and Inspection Act 1994 states —

To be eligible for appointment as a district inspector, a person must hold a first class mine manager's certificate of competency.

Clause 6 of the bill before us will remove that requirement. It may be the case that one does not need a mine certificate to be a good inspector. I am not arguing that that requirement will make someone a good inspector. I am concerned that if we remove that statutory requirement, it will not be replaced with any other statutory requirement. If we were to get rid of that requirement—I understand the reason is to try to increase the possible pool of people who could be employed as inspectors—it should be replaced by another statutory requirement. Anyone who is going to be an inspector should have achieved a certain level of skill, experience or qualification so we can then be confident that they will be competent inspectors in an incredibly important area of the minister's portfolio—that is, the safety of the workers in mining. I am sure that the minister, as a minister of the

Crown, would agree that the safety of people who work in the industry that he has jurisdiction over is one of his highest priorities and probably should be his highest priority.

I would like to read an email from a person named Garry Claxton, who has given me permission to read it out. He is a senior lecturer at Curtin University's graduate school of business. He is also doing a PhD on occupational health and safety issues. He is very passionate about the whole area. I sent him an email alluding to the fact that we were discussing this bill in the house. The email I received from Mr Claxton states —

What powers do inspectors have?

In order to fulfil their duties, mines inspectors may access any mining operation at any time.

They can enter, inspect and examine anything, although they must do so in a way that does not unnecessarily impede or obstruct the working of the mine.

[Member's time extended.]

Dr A.D. BUTI: The email continues —

They should, where possible, advise the mine manager or other responsible person before or upon arrival.

Inspectors can remove any substance or item relevant to an investigation from a mine for examination or testing, or for use as evidence. They can also take photographs and measurements, make sketches and recordings, and take copies of documents.

At a post-accident interview, inspectors can require a person to answer any question and complete a statutory declaration if appropriate.

An interview can be conducted in private. However, the inspector can have another person present to assist if required.

Authorised inspectors can obtain written statements from potential witnesses, and appear at inquiries into mining accidents. They can also call, examine and cross-examine witnesses at inquests relating to fatalities in the mining industry.

Then pray tell me how a non-competent person can ever hope to achieve all the above and then make recommendations that have the potential to save lives and prevent injuries?

Tony this is a frightening thought.

We need to upskill not down-skill. The potential adverse consequences are too grave.

One of the problems we have in the OSH arena is that there are far too many people who simply do not have the necessary OSH skills to be effective and yet hold positions where people are relying on them.

That is the end of the email from Mr Claxton, who is also a lawyer who has appeared for and represented a number of families in coronial inquests. He has relayed to me that if one were only to look into the faces of the wives and children of deceased workers, one would work overtime to ensure the safest possible environment. I understand that the minister will not be able to prevent all accidents and fatalities in the mining industry, but he has an obligation to ensure that everything he does in this house, and in the policy administration of his portfolio, is geared to trying to improve the safety of mine sites and to decrease the possibility of death. He and the people in his department have responsibility for doing everything humanly possible to ensure that that happens.

One thing the minister can do is introduce legislation that provides a statutory framework to hopefully ensure that mining environments are as safe as possible. One such piece of legislation is the legislation that the minister seeks to amend—the Mines Safety and Inspection Act 1994—through the bill before us today, the Mines Safety and Inspection Amendment Bill 2014. Yes, the minister should be trying to ensure that the possible field of people whom he can employ as inspectors is increased, because he may then increase the potential calibre of that field. However, I repeat: to not have a statutory requirement for a certain level of skill or competence is a very dangerous strategy to pursue. In the briefing we had yesterday, officers from the department stated that that they would, of course, ensure that they employ people who have the necessary skills and experience. Well, the department may do that, but if it does not, there is no redress because there is no statutory requirement. The minister must believe in the value or worth of legislation, or he would not be bringing this legislation before the house. He understands that the legislative framework has a particular and powerful ability to determine how his department operates, and how the industry as a whole operates.

We understand the minister's purpose and perhaps his motivation in bringing this amending bill before the house, but we strongly believe that his strategy is flawed. This bill is a simple bill in many respects, and clause 6 removes the requirement for people to hold a first class mine manager's certificate of competency in order to be eligible for appointment to the position of district inspector of mines. That clause will delete section 18(2) of the Mines Safety and Inspection Act 1994. That is a flawed approach and we strongly suggest that the

minister reconsider it. I know that the member for Cannington will debate this point with the minister during consideration in detail, and we hope that the minister will reconsider it.

MS S.F. McGURK (Fremantle) [12.44 pm]: I, too, take the opportunity to place on the record a few comments about the Mines Safety and Inspection Amendment Bill 2014. I commence by saying that I join with other speakers from this side of the house who have expressed their frustration at the prospect of the bill giving effect to three small changes. Of those changes, perhaps only one of them has what we perceive to be the effect of minimising the standards that might apply to inspectors, and that is the amendment removing the minimum qualification requirements for the position of district inspector. That particular change, and other changes that are before us in this amending legislation, were described by the minister in his second reading speech as being administrative in nature. However, as previous speakers—most recently the member for Armadale—have pointed out, these changes are being made without replacing the qualification requirements for the position of district inspector with alternative qualification requirements. Our concern is that far from modernising the qualification requirements for the position, the changes will actually remove all standards in that respect.

I do not think there is anyone in this house or even in this state who would say that we should not have the highest possible standards as they apply to occupational safety and health in any workplace, particularly in the mining industry. In that industry, occupational safety and health is obviously a crucial question. At issue is why the time of this house is being spent on three small and minor amendments—one of which, as I said, is perhaps of a more substantial nature than the others—when we are still seeing fatalities and serious injuries in the mining industry. We have also heard that the minister and the department are preparing a green paper for a more substantial rewrite of the legislation.

We know that the harmonisation process commenced in 2008. I was working for the peak body of trade unions at that time, and it seemed to me to make a lot of sense, particularly when employers were arguing that because most employers were operating across state jurisdictions and across both federal and state legislation, it would make it much easier for their operations if they could work to one set of standards for occupational health and safety. As I understand it, that was essentially a demand from employers, so harmonisation for occupational health and safety legislation seemed to make a lot of sense. However, in 2008 when the current state government came to office, my experience was that it frustrated the harmonisation process even though, as I said, it was largely the employers who had called for that process to be put in place.

If there were only one set of legislation across states and the federal jurisdiction, more uniform standards might lead to an increase in compliance by employers and less confusion. For instance, one employer—particularly in the mining industry—might have a range of different subcontractors, and there would be no confusion about which jurisdiction would apply. That might result in increased compliance with the standards. I did not support moving to the lowest common denominator when we were harmonising the health and safety standards, and I think that was an important consideration. One would think harmonisation is straightforward—I can see the minister nodding his head across the chamber—but in reality, we know it is not straightforward and that these have, in fact, been quite complex exercises.

To move to harmonised legislation that looks at best practice in health and safety standards would, of course, be a good thing. As we now have a conservative federal government and the majority of states are under coalition rule, I am concerned that the Western Australian state government might have had a conversion on the road to Damascus during the process to harmonise the occupational safety and health laws and it may now have an increased appetite for, or interest in, harmonisation. I hope that is not the case. I hope that the government is looking at harmonisation for the reasons I have outlined.

We heard the member for Armadale quote the secretary of UnionsWA, Meredith Hammat, who is my successor in that position. She said that since the harmonisation process commenced in 2008, there have been 200 deaths in Western Australian workplaces; that is a staggering figure.

We also heard the member for Mirrabooka refer to the opportunity for employers to jump across to Comcare and be insured under the federal system. In some cases that represents a lessening of standards in not only health and safety laws, but also workers' compensation. Not all standards are less under Comcare, but the point is that in looking at occupational safety and health in the mining industry, the time of this house would be better spent investigating the implications of employers possibly moving over to the Comcare system and the harmonisation process. Can we re-look at the state's legislation and pick the best of all possible standards to apply to health and safety in the mining industry in this state? That is what employees in that industry and their families would want of us. The public as a whole would expect that of this Parliament, rather than it taking the time to consider fairly minor amendments, as we are doing today. It is pretty obvious, I hope, to this house how necessary it is to have high standards.

Other speakers have discussed this bill before the house. The member for Cockburn referred to the fact that from 2000 to 2012 there were 52 deaths in the mining industry in this state. It is noteworthy that that statistic does not

include mine construction, which accounts for a significant period of activity in any mining operation. That statistic also does not include suicides or traffic accidents. Those three areas are, arguably, directly related to the activities of the workplace and, therefore, should be included in that statistic. Fifty-two is the minimum number of deaths that occurred between 2000 and 2012. Since then, if my reckoning is correct, there have been five more deaths; we have had two so far this year, and three deaths in short succession in six months, which attracted significant publicity. Each death attracts some public interest, but when people hear about three deaths in the mining industry within six months, they quite rightly ask: In the twenty-first century, in 2014, why are people are still dying in our workplaces? Can we not do better?

In 2013 the value of Western Australia's mineral and petroleum sector reached a new record. The Chamber of Minerals and Energy of Western Australia's 2012–13 annual report tallied the value of the industry at \$113.8 billion. It is a massive industry in this state, but despite advances in technology and massive amounts of money going into and being made from that industry, we still cannot be completely confident that workers can go to work each day and arrive safely home to their families at the end of their shift.

The International Commemoration Day for Dead and Injured Workers takes place on 28 April each year. That day is not limited to commemorating deaths in only the mining industry. Over the years I have attended commemoration events in Western Australia. In Perth we often commemorate that day at Solidarity Park just across the way from Parliament House. It is a day to reflect on the human cost of the faults in our regulatory system and how the regulations and legislation is applied in workplaces. We remember those workers who have died or been injured in their workplaces. Over the years I have met many families of workers who have died at their workplaces. As I said, this day is not limited to remembering those who have died in the mining industry. The plaques at Solidarity Park are small but important remembrance items for those workers who have died unnecessarily. One of those workers who died in the mining industry in the last year was Kurt Williams. Kurt was a 24-year-old New Zealand electrician, and after only a year in the industry in Western Australia he was killed at Christmas Creek in the Pilbara. His mother Diane was interviewed by the ABC earlier this year and her sentiments in that interview reflect the sentiments expressed by families when they speak at Solidarity Park on the international day to which I referred —

It really upset me. You know, has his death been in vain? You know, at least if he'd died and no more deaths were going to happen. But the fact that they're still happening and there are injuries—one boy lost his leg—there's something wrong with the safety.

Diane Andrew was referring to the fact that since her son's death there has been a number of accidents at Fortescue Metal Group's Pilbara operations. In October last year a truck driver had his leg amputated after an accident at Christmas Creek and in December a 33-year-old contractor was killed at the same Christmas Creek heavy machinery workshop. It is important that we take the time to look at individual cases and not only the statistics. It is very important that we reflect on those cases.

As other speakers have said—again, most recently the member for Armadale—we do not lay those injuries or deaths at the feet of any particular manager or company or even the state government. However, prosecutions may need to occur if compliance is found to be wanting. The challenge for this Parliament is to spend its time looking at creating the best possible regulatory system to ensure that there is zero tolerance of deaths and serious injuries in the mining industry. As I said, essentially, we are taking the time today to make bureaucratic changes to the act in relation to district inspectors and employees' inspectors. However, these changes remove the minimum qualifications requirement. There is a real concern that not replacing it with other minimum qualifications will diminish the standards that apply to district inspectors and special inspectors in the mining industry in this state.

I would also like to take this opportunity to comment on the effect of unionisation in the mining industry in this state and the effect that changes in the level of unionisation might have on the health and safety standards that apply in those workplaces. In the case of Kurt Williams, who I referred to before, the report of that fatality included an interview with the secretary of the Electrical Trades Union of Western Australia, Les McLaughlan. He stated that he had real concerns about a particular subcontractor at Christmas Creek, and that safety concerns raised with that employer were to no avail in that they had not been followed up. Another concern raised by Les McLaughlan was that immediately after that death, the employer had not allowed the union on site to assist in some sort of investigation and follow up on the concerns of the union's members about what was occurring. Real concerns had been raised with the contractor, such as, in this instance, a young electrician working alone on the site on the night he died. That should not have been allowed.

[Member's time extended.]

Ms S.F. McGURK: Not only had safety concerns been raised and not followed up, but also after the fatality it took months, as I understand it, for the union to be allowed access to that site so that it could speak to its members and be satisfied that it was contributing to an investigation. I understand that government authorities

were to undertake an investigation, as of course should be the case, but if union members have requested their union to be present on site, that is another check and balance in the system that should be encouraged.

One of the key benefits of union membership is that people feel that there is some safety in speaking as a collective. Having unions means that people do not have to speak up as individuals; they can speak up with the protection of the collective behind them. When people raise safety concerns in the workplace as a collective—they perhaps get their elected safety representative or their elected union delegate to raise those issues—there is some comfort that they are not speaking up alone. When there is a reduction in union representation and fewer union members or easily identifiable union members who might speak up, I believe people are less likely to speak up about safety concerns. It might not be the intention of the employer or line manager for people to feel intimidated or under pressure if they wish to raise safety concerns in their workplace, but if that perception is present, people will be less likely to raise safety concerns or be reluctant to undertake certain work. That can be exacerbated by lower union membership or union activity in the workplace; it can also be exacerbated by increased casualisation or contracting out in the workplace. In the more precarious forms of employment, people feel less secure about speaking up and saying, “Actually, I know there’s a deadline. I know we’re trying to get this job done quickly, but I’m not sure that we’re going about this the right way.” If people think they might be exposed by raising safety concerns, they might be reluctant about or they might second-guess raising safety concerns in the workplace. A whole range of issues can lead to improved standards in the workplace, but I think ensuring security for people who raise safety concerns through either a robust union delegate system, elected safety representatives or even people acting as a collective voice really needs to be taken into account. There are many benefits of being in a workplace where people are active members of their union, but speaking as a collective about safety and health concerns would surely be chief amongst them. In that regard, I believe the mining industry’s trend to dissuade union membership—initially through individual contracts and generally as, I believe, an employment policy by major mining employers in this state—has been counterproductive in improving safety standards in the industry.

I refer again to the media report on Kurt Williams’ death, in which the Minerals Council of Australia stated that fatalities had dropped in 2012, but plateaued in 2014. That is a euphemism for saying that fatalities increased in 2014. If we consider the trends of workplace deaths over time, we certainly need to redouble our efforts to improve safety and health in the mining industry in this state.

I refer now to a report by the Department of Mines and Petroleum, titled “Fatal accidents in the Western Australian mining industry 2000–2012: What lessons can we learn?” The report looks into the trends, and makes the point that there have been a number of step changes in fatalities in the industry in the last 50 years. In the 1940s and 1950s, the rate was about two fatal accidents per 1 000 employees per year; at 2013 employment levels, that would equate to about 200 fatalities. In the 1960s and 1970s, that rate halved to one fatality per 1 000 workers, which corresponds, in 2013 employment levels, to about 100 fatalities. In the 1980s and 1990s, there were typically eight to 10 fatalities each year for a workforce of about 30 000. But if we look at the 2000 to 2012 period—the period this report looks at—the average had dropped to about four accidents a year. The trends are telling us that there have been improvements; however, if we look at what happened from 2000 to 2012, and since then, although there have been drop-offs in some years—in 2012 there were no fatalities—in the last couple of years fatalities have occurred. We need to look at the trends, and the individual cases and the human stories behind those statistics. Those trends tell us that we can and must do better on health and safety in the mining industry in this state. It is a massive industry, it is a massive employer, it is a dangerous industry and we can do better. I am not convinced that the Parliament taking time to consider the amendments under the Mines Safety and Inspection Amendment Bill 2014 is the best use of this Parliament’s time or that those amendments are worthy of consideration. I place on record my concerns, along with those of other speakers on this side of the house, about the removal of any qualifications for the position of district inspector without the replacement of alternative qualifications.

That is not to detract from the important grunt work that is being done at the coalface. There are about 2 233 elected workplace representatives. I am not sure whether that is the current figure, but well over 2 000 elected workplace representatives on the ground are taking the time to become informed, to train themselves and put themselves forward in actively trying to improve safety in their workplace. They are the people who really need to be applauded in this industry. It would often be a thankless task, I imagine. As I said, considering the amount of precarious employment that can occur in this industry and many other industries, this can be an area where people put their heads up above the pack to speak out on safety issues.

Are we talking about those things in debating this bill today? No, we are not; we are talking about what the minister describes as fairly bureaucratic changes. However, in the instance that I have referred to, this could be a reduction in standards in relation to the district inspector positions.

MR M.P. MURRAY (Collie–Preston) [1.11 pm]: I was not able to attend the briefing yesterday on the Mines Safety and Inspection Amendment Bill 2014, so I ask that the minister bear with me if I am not across

Extract from Hansard

[ASSEMBLY — Wednesday, 10 September 2014]

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Dr Tony Buti; Ms Simone McGurk; Mr Mick Murray; Mr Bill Marmion; Mr Bill Johnston

everything that was said. Firstly, in relation to amendments to the Coal Industry Superannuation Act 1989 contained in part 3 of the bill, I have spoken to representatives in the coal industry and related metal trades industry, and they do not have any problems with the amendments. In fact, they quite welcome the changes. One issue that is of some concern is representation from the two main peak bodies—the coal miners' union and the metal workers' union—across the board. It has been brought to my attention that sometimes the information has not been passed down, so that the smaller group has not been able to have what it believes is a fair say in what is happening with the coal industry superannuation fund. Other than that, the changes are welcome, because this is a changing world and the position of superannuation is changing, although at this stage we probably do not really know where things are going under the Abbott government. There seems to be a lot of confusion, and I am a bit worried about it. There are a few things there that we could be looking at to make sure that there is no impact on coal industry superannuation.

Having said that, I now move on to the issue of the proposed amendments to the Mines Safety and Inspection Act 1994. I, too, have concerns about the removal of the qualifications for a district inspector of mines. Many qualifications can be obtained through universities, but there is also the qualification of life and learning, which in underground mining, where I worked for some 12 years, was much respected. I now see that that could be removed, and that people will be able, with minimum qualifications and not a great deal of time, to work in underground mining. I remind members that there is no more underground mining in the coal industry, but accidents and deaths are still occurring in the hard rock areas that I believe should not be happening. Some of the issues have to do with the pressures of production. I will not say that short cuts have been taken, because I do not think that that is exactly what it is, but it is about the rush to get the job done. That is probably more the issue.

Previously, when we had elected inspectors, we were able to pull the job up, generally through a union process. The workers would go to the elected inspector and say that a particular practice was unsafe. Then the district inspector or mines inspector would come down, and there would be discussions with the people on the job—the people who knew the job. I see that process as now being obsolete; it will not happen in the future. There will be someone without mining qualifications at the top end. They will have some mining qualifications, of course, but certainly not in the mine manager area, but they will be able to come down and tell the workers to get on with the job. The workers will have no rights to pull out other than to walk off the job. The way things are today, that could mean dismissal. If the whole crew is pulled out, workers could be fined under the Fair Work legislation. I have concerns about people, concerned about their jobs and their safety, but not able to stand up and speak their minds because some managers and some mining companies will not accept that. The member for Fremantle put it very well, talking about where safety starts. To be honest, it starts at the bottom, and the technical details are put in as we move up the line to the top end.

It is of great concern that people who could be inspecting fridges one day at Coles could be inspecting an underground mine the next day. I would like to hear from the minister whether that is the case. Are these people inspectors only for mining or, especially in the case of electrical inspectors, could they be doing work right across the state, with mining as only a part-time and not a specialist activity? It would concern me very much if that were the case. As I said, I was not at the briefing yesterday so I cannot really say whether that was discussed. Holding a first class mine manager's certificate of competency is an achievement by anyone's standards; however, to take away that experience from the inspectors' area is the biggest mistake that this bill makes. It is cost cutting and short-sighted in its intent. While I understand that we have to modernise and bring things in to the new century, I do not see that reducing the required qualifications is doing that. That is really what it comes to. It is about the qualification that allows people to have faith in that person. Take that away, and it is like the security guard downtown who is not shown the same respect as a police officer. That is exactly where we sit here. A person with a lesser qualification and a lesser ability, because they cannot get the qualification, will create problems.

I cannot say enough that there are too many accidents in the mining industry. Although we talk about deaths, let us move a bit further down the line and talk about the crook backs that plague people for their lifetime because they have been expected to do something that was unsafe, and people who have fingers missing or crook arms. I know that a lot of these people do not get onto the report sheets as such. It is said that in the coal industry, unless a person has 100 stitches, he does not rate. They have these pegs behind the door, so they hang the injured worker's tag on a peg and say that he is still at work. That is where it has got to. People are expected to come back and sit in a room all day so that they are not on the injury sheet. That is because the companies are cheating the system. They are cheating it for various reasons, and not always for safety reasons, but for insurance reasons. A worker with a major sprain is told to come to work and do some officework for a week while the injury repairs itself. Then, it is not recorded as an accident and it does not have to be investigated. It is a real problem, aimed mainly at insurance. At the same time, it allows the safety standards to drop. If a worker suffers a minor injury, such as a sprain, he can sit in the office behind the door and file papers and do something of that nature, so that it is not a lost-time injury. Who checks that? It is just lost in the system, and there is no inspector there because it is

not brought to anyone's attention. I believe that we need people with the competency and the willpower to go out and not be just another public servant—to have a real energy to get out there and work with people.

As I have said previously and as the member for Fremantle has said, the elected safety representatives are the people on the ground, but if they do not have faith in the people above them, the system will fall over. If we do not retain the appropriate competencies, I do not see how people can have faith in people who do not have the necessary knowledge. When looking at the issues in this state, we must remember that each mine is different. A lot of people will not understand the need to know about the cleavage of rock, which way the rock runs or the make-up of a fault that may contain gold or nickel. The make-up in each area is entirely different. I do not expect an inspector who has come off the street and gone through the system to understand each and every mine, because they differ greatly. That alone causes problems, but a mining engineer, or a mine manager with the proper qualifications will understand that. He can walk in and say, "No; we must drive this way because the cleavage runs the other way", whereas an inspector who is without any qualifications due to shortcuts can be fooled to the detriment of the workers. In my time in the mines I have seen many serious accidents. Over a 20-year period I was lucky enough—it was not lucky for the two people I knew who were killed in that industry—not to see a high death rate. However, the number of accidents and injuries was high. I believe the low death rate was because the system was strong. There were union representatives and elected safety representatives and management had to have the qualifications, from deputies, who were foremen, through the mining staff levels to the mine manager. Once we take that away there will be shortcomings because who will check the checker? That is what it will come down to.

A couple of other issues that concern me are that nearly all the mines are in remote country areas and the inspectors servicing the industry, given their low numbers, have to travel large distances. The number was increased when I think about 22 new inspectors were put on probably five years ago. Of those 22, I understand that 14 were located in the city. That is of no advantage to people working in country mines because they cannot ring up an adjudicator and ask them to look at a situation because they believe it is unsafe while management is saying it is safe. When asked why they need that support, their reply would be, "Because I'll lose my job if I don't work the mine." The management has the right to say, "You're refusing to do a job you've been requested to do", and no-one is available to say whether it is safe or unsafe. That worker could lose his job trying to work safely, but I am sure that, at times, it would be far better for someone to lose their job than lose a limb or their life. People should be reminded time and again that shortcuts will result in accidents one way or another.

Another area I am concerned about is referred to in the minister's second reading as follows —

The amendments will enable experienced inspectors qualified in disciplines other than mining engineering to receive the reports mandated by the amended legislation.

My understanding from those words is that an inspector could be reading a report but have no knowledge of the situation because it is about another area. The minister's second reading speech goes on —

Under the current legislation this administrative function is limited to inspectors qualified as mining engineers.

Is it not the best policy for that to remain because people with the relevant experience should be doing that work? As I said, it should not be farmed out to the bloke who might have been working at Coles one day looking at fridges and the next day trying to read a report on electrical issues in an underground mine in Laverton, for example. That would be very dangerous.

I have heard the minister talk in here at times about accidents and safety. I urge caution with what the minister is proposing here. When we go into consideration in detail he may wish to—he should—move some amendments to make sure that checks and balances are included in the legislation and that, as minister, he is not exposing people to unnecessary risk because the appropriate mining expertise is not available. I cannot stress enough that each mine is different. Some run up, some run down; there are various types of inclines and declines—all those terms that are familiar to people who work in the mining industry. How can a person who does not have the highest training as an engineer understand that?

With that, now the weight is on the minister's shoulders to try to understand that although the outcome of this legislation may be cheaper for the mining industry and it may be more relevant in some ways, in my view, the checks and balances are not there. I will be interested to hear what the minister says and whether he will attempt to change, or even be interested in changing, some of the clauses in the bill along the way rather than just following people who think they know.

MR W.R. MARMION (Nedlands — Minister for Mines and Petroleum) [1.26 pm] — in reply: I will attempt to respond to all the contributions from members opposite. I thank everyone for their contributions—the members for Cannington, Mirrabooka, Cockburn, Armadale, Fremantle and Collie–Preston. As everyone mentioned, the Mines Safety and Inspection Amendment Bill 2014 seeks to make quite simple amendments to

three discrete areas. One is to remove the requirement for persons to hold a first class mine manager's certificate of competency. As people know, to hold a first class mine manager's certificate of competency, a person must be a mining engineer. The bill also seeks to remove the categories of employees' inspector and assistant inspector. It also seeks to remove some transition provisions that are in schedule 1 that are there from when the original bill was introduced.

At the very beginning I make the point that one aspect of the issue that was not covered by the opposition was why we are doing this. Everyone focused on the fact that we are removing a qualification and that would make the legislation worse. The only reason for these amendments is to concentrate on improving safety in the industry. This is not about just fatalities in the mining industry; they are well covered. If there is a fatality, the coroner comes in and does a full investigation, so fatalities are very well covered. It is important that we address the number of injuries in the industry because an injury could end up as a fatality, so we need to address injuries that indicate a potential fatality in a mine. As the member for Collie-Preston said—I value his contribution because he has experience in this area—injuries are very important. When someone is reporting an incident on site—not a fatality; all incidents—they are required to report it to the district inspector. I will give members the updated figures because they were asked for. Seven district inspectors are currently employed. I think two new inspectors are eligible for employment because they have just completed their training. Six months' training is required regardless of who does it. One inspector is going through the training and that will take another four to six months.

Other trained staff in the Department of Mines and Petroleum are qualified district inspectors because they are mining engineers who have a mines certificate. I want to make it clear that district inspectors are not the people who rush out and look at the mine site. As everyone knows, a team of specialised inspectors are the first port of call to go on site. They report to the district inspector—hence to the manager of the inspectors. Mining has become extremely complex in recent years. There are many aspects to it and I take the member for Collie-Preston's experience on this. He highlighted probably the more dangerous area of a mine site, particularly of an underground mine. Knowing the geotechnical nature of the rock is probably the scariest part—if I can use that term—of mining underground. Indeed, it is so specialised these days that a geotechnical engineer actually advises the mine manager. Although the mine manager might have gone to the School of Mines, got a qualification and had a reasonable amount of experience, that person will still rely on the expertise of the expert, because that is a serious area. A company such as GHD—I do not want to specifically promote it—or a similar engineering consulting organisation will be involved. It will have inspectors to recommend what has to be done if there is a potential schist or something else that could potentially cave in. They have to work out whether it is safe to continue mining and, if it is not, what needs to be done to ensure the mine is safe for workers. Making sure it is safe is the pre-emptive and most important thing to be done. We have some specialist inspectors to cover that area and the district inspector may or may not be of that calibre, so we have a range of inspectors who can cover things, including electrical engineers, mining engineers, geotechnical engineers and engineers qualified in a range of specialist areas. The member for Collie-Preston may support the following argument. Some people may not have an engineering qualification, but they may have a trade qualification in certain areas and they may have worked on mines and had that experience. They could go through our training program. Therefore, we would have qualified people who have worked in mines—skilled tradespeople—who are inspectors, and we would have a range of people whom the district inspector could call on at a mine site.

We are making the system more flexible and responsive so that if there is an accident on a particular mine operation, the accident report does not sit in the district inspector's in-tray for a long time because he gets a lot of reports. It can be acted on immediately. It is important that accidents are acted on immediately, because, as I mentioned before, that accident could have involved a fatality. Unless there is some remedial action and the incident is looked at, another incident might occur next week that could also involve a fatality. This legislation is about making the process more streamlined, flexible and quicker in order to respond immediately to an incident.

With that little introduction, I will just cherry-pick a few points made by each member who spoke in the second reading debate. I will start with the member for Cannington. As I read my notes, he indicated that he will not support the bill on the basis of his belief—most members opposite made this point—that we are lowering the qualifications of the district inspector, suggesting that it will have an impact on fatalities and indeed injuries. He claimed that the qualifications are being watered down. I do not agree with that—nor does my department and nor does the industry. There has been a lot of consultation, and it is a bit disappointing from my perspective that we had two briefings, one in early August and one yesterday, and the member has chosen to oppose the bill without perhaps discussing with industry whether it supports it.

I have answered the question on the number of district inspectors.

Mr P. Papalia: Did you ask the unions whether they thought it was a good idea?

Mr W.R. MARMION: I am just trying to get through my millions of pages of notes.

The next part of my notes I am trying to read, although there was an interjection and I did not interject on anyone else when they were talking —

Mr P. Papalia: I'm asking a question.

Mr W.R. MARMION: I am not going to answer it. I have 10 pages of questions I am answering. After I finish those, I might decide to answer the member's question, although I have consideration in detail to get through as well.

The next question was about why we have not put forward employees' inspectors. That is a reasonable question to respond to because it specifically relates to the bill. In years past, as was briefed, when elections were called for employee representatives, in the majority of cases there were either no nominations or very few, and if people were nominated, they did not have the right qualifications. Indeed, there are only two currently in the system. The member asking the question drew on the fact that a previous Minister for Mines and Petroleum said that they should be replaced. There is a provision for the State Mining Engineer to decide whether there needs to be an employees' inspector deployed to a region and the decision was made, considering we are making this change, that it was not required for particular districts.

Mr W.J. Johnston interjected.

Mr W.R. MARMION: The member can ask me at the consideration in detail stage; otherwise I will not be able to get through the 500 questions because there are so many to look at.

I think I have covered the question about the range of qualifications of the special inspectors. Indeed, one of the points I have to make is that regardless of who they are and what qualifications they have, they still have to go to the department's six-month training program—and even then, basically, they will be provisional anyway. We have a very good system. I have a lot of faith in our inspector system. Indeed, there was an issue some years ago before I was the Minister for Mines and Petroleum when perhaps the standard or quality of our inspectors was not at the same level as that of the industry, because industry could pay a lot more money, as the member for Collie–Preston would know. That is why we introduced a levy scheme for mining companies. When there is a sufficient number—that is so that it does not affect the smaller companies—the companies pay the levy and the money goes into a fund that is quarantined to pay inspectors. We now pay our inspectors very close to what they could earn with a mining company. In fact, one could argue that the mining industry is going down a bit in price, so maybe we have to look at that, too! We have people of the same skill level as their mining company counterparts on site now.

I want to raise another general issue. When we bring in the reform for mining safety in 2016—we are currently going through the consultation process—we will go through a risk-based safety regime, with reliance on the industry, as we should, as the member for Collie–Preston knows because he is the one person in this place who knows how it works —

Dr A.D. Buti: How do you know that's true?

Mr W.R. MARMION: I have spoken to him.

Dr A.D. Dr A.D. Buti interjected.

Mr W.R. MARMION: He has been underground, though.

Dr A.D. Buti: Yes, so have I.

Several members interjected.

The ACTING SPEAKER (Mr P. Abetz): Members, the minister has the floor.

Mr W.R. MARMION: I will get to the member's comments in a minute.

Mr M.P. Murray: Anyway, what's wrong with open-cut?

Mr W.R. MARMION: That is safer!

Now I have lost my train of thought.

We are moving towards a regime under which the company is responsible for its safety and an inspector is not telling the company what it should be doing. Indeed, I use the example of the most risky area—that is, geotechnical advice. The last thing we want is a mines inspector telling a company what to do about geotechnical advice. The company must be responsible for ensuring that the workplace is safe for its employees.

Jumping ahead to some statistics that were raised by a number of members, they show that the mining industry has improved considerably over time. The Leader of the Opposition commented a couple of weeks ago that he visited a mine site just north of Kalgoorlie. I also visited a similar one. The safety induction process and the

signing of the forms took longer than the tour of the facility. They are really careful. I find at all mining sites they always say, “If you spot a hazard, please bring it to our attention.” That is even though one may be a new person on the site. The culture is changing considerably. I do not want to be negative on any other industry, but I have to say that mining does hold its head up pretty well. Mining is a very risky area to operate in and it is probably doing a very good job in that space. Other industry sectors would do well to look at what mining is doing to try to get the number of fatalities down. It is wrong to look only at fatalities. It is important to also look at lost-time injuries. Anyone who has worked on a mining or construction site knows that the area of lost-time injuries is where the biggest inroads can be made to improve safety.

In wrapping up my response to the member for Cannington’s points, I do not believe that we are diluting the system of the quality of district inspectors. All we are doing is improving the administrative process. We will now have a very good pool of highly qualified inspectors who can be sent to a particular mine site, if there is an issue under their category of expertise.

The member for Mirrabooka wondered why the government had introduced this bill to the house. She thought it was possibly a waste of Parliament’s time and that the government should be prioritising other things. She will be pleased to know that we are working on a change to the safety regime, and we cannot wait 12 months for a new bill to come in. We have to act when we can on important improvements to safety in the mining industry. That was the member for Mirrabooka’s main issue. I have covered the qualifications.

The member for Cockburn quite rightly talked about the data on deaths, and the figures he referred to were correct. There have been two deaths in 2014, there were three the previous year and nil the year before that. As everyone has said, one death is one too many in any industry, let alone the mining industry. From 2000 to 2012 there have been 52 deaths. Although it is not part of this bill, the new bill will address the issue of hazardous areas. Whether it falls under “general” or “mine safety” keeps changing when there is a change of government. Members might find it will go back to mine safety. That does not affect this bill; that will be down the track.

The member for Cockburn mentioned the minimum qualification requirement for specialist inspectors. They now undertake a considerable amount of training. I get to hand out their certificates and I have attended some of their training programs. They are a good bunch of people. Some very good quality and enthusiastic people are employed by the Department of Mines and Petroleum in this space.

Mr F.M. Logan: My real area of concern was the same as that of the member for Cannington. Was the original legislative requirement for a district inspector the same as a mine manager—that is, a mining engineering degree?

Mr W.R. MARMION: I understand. The government believes that although that is a specific qualification and it probably applied a few decades ago, mine sites these days will have a conveyor belt and the conveyor belt is related more to the construction industry because it has mechanical and electrical issues, and a huge range of safety issues. There are specialist safety people with safety qualifications who can spot things that a mining engineer may not spot. There is a whole regime of safety. The argument put forward by the member for Mirrabooka was to combine all safety into one general safety regime, which I personally would be concerned about. Mining is significantly succinct in its field and the dangers around it. Any amalgamation of those two would be —

Mr F.M. Logan: That argument the minister has put forward could be said for mine managers. Why have a first class mine manager’s certificate? Why have a mining engineering degree and be a mine manager because it is a specialist area of operation? It is because mining engineering degrees cover a wide range of disciplines. The minister knows, and I know, what mine managers are like—they run the show. Somebody with authority is needed who can go toe to toe.

Mr W.R. MARMION: The State Mining Engineer has that qualification. We have someone there. The district inspector is really like a manager and is not the person who is on site at the coalface in the first instance; it is a specialist inspector.

Mr F.M. Logan: I agree, but he may well do, and he has the authority to go toe to toe.

Mr W.R. MARMION: Yes, but so does the State Mining Engineer. The member would probably find that a lot of specialists have it anyway. By coincidence, many of the district inspectors do now anyway. The member might find that a high proportion of them will have that qualification.

A mining engineering degree is a bit like a civil engineering degree. It involves a broad range of qualifications across every area. Structural engineering is covered in civil engineering. Those engineers do not design a bridge by themselves. When the bridge engineers design the bridge, they can ask a semi-intelligent question about the design but they are not the experts. The industry is very comfortable with this. They see that requiring a district inspector to have that qualification causes a bit of a bottleneck. It is really about safety. If a specialist is needed,

there is already access to specialists. To specifically provide the accident report to a district inspector would slow down the whole process.

I now move on to the member for Armadale's comments. I do not want to repeat what I have already said. He commented on the number of deaths right across the industry. There were 141 deaths from 2009 to 2013, of which 12, or nine per cent, were in the mining industry. The member mentioned that that number was higher than in any other state. There are 100 000 people employed in the mining industry in Western Australia. I think it peaked at about 120 000, or a bit over.

Dr A.D. Buti: I acknowledged the fact that the state has more.

Mr W.R. MARMION: I know the member did, but I am just reacknowledging the fact. Without having that, we do not get a rate.

The member for Collie–Preston has left the chamber. I think that the number of actual injuries is another really good indicator. Lost-time injuries is probably a better indicator of —

Dr A.D. Buti: It may be, but a death is a death.

Mr W.R. MARMION: That is serious. As the member knows, the coroner goes through that. We have an extensive report.

Dr A.D. Buti: But we should try to stop it.

Mr W.R. MARMION: Absolutely. One death is a death too many.

The member for Armadale commented on a lecture at a university about the role of an inspector. That description of the role is correct; that is what an inspector does. Inspectors are skilled and this bill does not water down any of the inspector's qualifications. In fact, the actual qualifications of inspectors are probably a lot higher than they were a decade or two ago.

The member for Fremantle covered the same ground about the concern with reducing the qualification and she highlighted some specific fatalities in the industry, and we all agree that one death is too many. She also spoke about the need to have more unionisation on mine sites, which is not covered by the bill.

I acknowledge the expertise of the member for Collie–Preston. I am sorry; I put him a smidgen above the member for Armadale. The member for Armadale was a close second, and the member for Cannington was a close third because his daughter is a geologist.

With those concluding comments, I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 to 3 put and passed.

Clause 4: Section 4 amended —

Mr W.J. JOHNSTON: This clause will delete the definitions of “assistant inspector” and “employee’s inspector”, and further on in the bill are a series of amendments that will give effect to this change by getting rid of specific provisions that give rights to these two categories of inspector. I thought that, because this is the first time the issue is dealt with, it was the best time to ask some questions about these positions. I would like to first start with a question about employees’ inspectors. I still do not fully understand the information on this issue. I understand that there are no employees’ inspectors and that the last term of office expired last year. That is my understanding. How did it come about that the positions were not filled? There are two parts to that question. Firstly, Hon George Cash gave an undertaking to Parliament to make sure that those positions were filled, which I referred to yesterday and which the minister acknowledged in his reply. Secondly, did the minister have advice that he did not need to fill the position of employees’ inspector?

Mr W.R. MARMION: I will start with the big picture; let us keep everything in the big picture rather than talk about the micro issues, but I will get to the micro issues. We have a really good system in place, with very good inspectors who are really well trained, while in parallel another system has been going on for decades under which an employees’ inspector is elected and they can become an assistant inspector after 12 years. That system is not working. Why is it not working? There are lots of reasons it is not working, but the main one is that it has become obsolete in the modern industry. Why is that so? It is because an elected health and safety representative is employed on each mine site. As the member will know from the briefing, there are 2 233 health and safety representatives. Someone on-site does that job. The other part of the process is to have Department of Mines and

Petroleum inspectors. We have put on a lot more inspectors; there are about 64 in total. In the past, there was another methodology of having employees' inspectors, but it has evolved over time so that now there are none. We have decided that we do not need that system. We have consulted with industry, and most people agree that it is a waste of time calling for nominations and running a process through the Electoral Commission even though no-one nominates. The system that is in place with 64 well-trained inspectors—there is a six-month training program on top of the qualifications they already have—is better than the system that is not working. Even when there were nominations, the people may not have had the appropriate qualifications to be suitable to be an inspector.

Mr W.J. JOHNSTON: The minister has just told me the policy reasons that there should be a change to the law. I understand that, because I have read the second reading speech and I have had the two briefings, and I appreciate the policy reasons for changing the system. But, of course, that is not what I asked. Firstly, what happened to the undertaking to the Parliament and the people of Western Australia by the Crown that these positions would be filled expeditiously? Secondly, did the minister receive legal advice that he could ignore the laws of Western Australia and act against the written law of the state? They are not particularly complex questions. The fact that he has refused twice—once during the second reading debate and now during the consideration in detail stage—to answer the question about whether he has received this advice speaks volumes. If the minister would say that he received advice and that the advice was that under a certain section he did not have to fill the positions, I would be happy and I would sit down and never ask the question again.

Mr W.R. Marmion: I'll get up and give you an answer then.

Mr W.J. JOHNSTON: Okay; tell us which section of the act allows the minister to do it.

The ACTING SPEAKER (Mr P. Abetz): I urge members to keep their voices down so that we can hear the minister.

Mr W.R. MARMION: In 2012, only two inspectors remained; the others had resigned or their term had expired, as the member knows. That is the background. DMP obtained legal advice on how to proceed, given the low level of interest and the fact that amendments were being pursued to abolish the role. The advice recommended that the two remaining employees inspectors be gazetted to operate across the whole of Western Australia until such time as the position of employees' inspector was abolished. That is the answer.

Mr W.J. JOHNSTON: My understanding of that answer is that the advice was that the two remaining inspectors should be allowed to continue in office until the legislation was amended.

Mr W.R. Marmion: You spoke too quickly for me. I missed what you said. There is too much noise going on.

The ACTING SPEAKER (Mr P. Abetz): It is always a challenge at this time of day!

Mr W.J. JOHNSTON: It is always a challenge, Mr Acting Speaker.

Ms R. Saffioti: Can you tap dance?

Mr W.J. JOHNSTON: No, I cannot!

The question is easy.

Mr W.R. Marmion: Can you sing *Heart of Gold* by Neil Young?

Mr W.J. JOHNSTON: Ha-ha! No—I cannot sing and I cannot dance!

The ACTING SPEAKER: Members, direct your comments through the Chair, please.

Mr W.J. JOHNSTON: My understanding of what the minister said is that he was advised that he should gazette the last two employee inspectors to have responsibility for the entire state.

Mr W.R. Marmion: Correct.

Mr W.J. JOHNSTON: Okay; I accept that. That will be the case until the legislation is changed.

Debate interrupted, pursuant to standing orders.

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