MINES SAFETY AND INSPECTION AMENDMENT BILL 2014

Second Reading

Resumed from 14 May.

MR W.J. JOHNSTON (Cannington) [4.20 pm]: I rise to speak to the Mines Safety and Inspection Amendment Bill 2014 on behalf of the opposition. I let the government know that the opposition has four other speakers and it will require a brief trip into consideration into detail because it wants to ask some questions. However, I am sure that we will manage to pass the bill through those stages reasonably quickly.

Next I want to thank the Minister for Mines and Petroleum for arranging for the Department of Mines and Petroleum and his office to brief me, as the shadow minister for Minister for Mines and Petroleum, and the opposition more generally on the bill. I appreciate the work of the knowledgeable officers of the department who provided detailed explanations for the effect of each of the provisions in the bill. I want to formally record the opposition's appreciation of the work of the departmental officers in providing that information. I now let the government know that the opposition will not support the bill and in a few moments I will explain the reasons the opposition opposes the legislation.

If I can segue from mine safety to more broadly related mining issues in the state, the minister said during question time today that India is a developing country. I make the point that it is not. It is a developed country. It has thousands of years of rich history that shows the long, long development of its people and economy. The fact that it was for a few hundred years a British colony does not detract from the fact that India has had a continuous development as a society for thousands and thousands of years. In fact, when one goes back and looks at the time that Indian priests were moving around east and south Asia with their various religions and were being invited as guests of all different empires and kingdoms over Asia, in England people were still living in villages and there was almost no communication and virtually no migration from one spot in England to another. Therefore, it is wrong to say that India is a developing country. Of course, it was held back for hundreds of years by British colonialism, and it has taken India some time to recover from that colonial experience, but of course India has used the idea of appropriate development for quite some time. That is to say, if it is appropriate to apply technology, it applies technology; if it is appropriate to use existing technologies, then it uses existing technologies. The fact that India, and Mumbai in particular, is one of the centres of information technology in the entire world and Tata Services Consultancy Ltd is one of the world's largest computing outsourcing companies in the world, demonstrates that India has actually maintained a very high level of economic capacity. We should not look at countries such as India, or, more closely, Indonesia or China, as developing countries; they are not. What they are doing is recovering, in the case of India and Indonesia, after a period of colonialism, and in the case of countries such as China, after periods of other interruptions. In the case of China, I refer to the particular problems in the 1930s and 1940s of World War II.

During question time the minister spoke about all of the uranium mines that are going to spring up in Western Australia. He named Yeelirrie, Toro Energy's Wiluna operation and Kintyre. It will be interesting to see whether any of those mines ever comes to the fore, because none of them can come into operation when uranium is $30 a pound. It is not environmental approvals or mine site inspections that are holding back those mines; it is the fact that money cannot be made out of uranium mining. It is interesting that Paladin Energy Ltd's mine in Malawi is currently under care and maintenance, but it will come onstream before any Australian mine because it has only to be taken out of care and maintenance and put back into operation. If we want a new uranium source, I read recently that a number of forecasts for the forward price of uranium are still talking about prices below $70 a pound in five years' time, and there is not going to be a uranium mine in Western Australia when the price is less than $70 a pound because the media commentary says that all the producers require somewhere around $75 a pound to get finance. If that were not true, we would be having a major debate about who is paying and how prepared the Department of Mines and Petroleum is for the approach to safety for uranium mines. But we do not have to have that debate and if the government were spending a dollar on regulatory issues for uranium mines, it would be a dollar too much. It does not matter whether one believes that uranium is good or bad, because it is not going to happen and there is no reason anyone would be bothered spending money on it. However, that is not the debate for today, even though it is directly related to the issues that are in front of us.

I want to explain why the opposition is opposed to the bill. The opposition is opposed to the bill on a number of fronts. Firstly, it is well understood by industry that the Labor Party believes that there should be a professional regulatory environment for workers' occupational health and safety. That means a unified system of health and safety rather than two separate approaches to health and safety. Having two separate processes for health and safety is unnecessary red tape. A contract organisation that might have contracts in the mining sector and contracts in other parts of industry has to comply with two separate health and safety regimes, and that is not a sensible outcome. If a government were interested in reducing red tape, it would be attacking that red tape.

It is also interesting that the government is trying to amend the mines safety inspection regime to allow people who are not qualified as mine managers to fill positions as district inspectors. The argument put to us in the briefings was that would take account of the fact that the mine safety regime does not apply only to mine sites. The example given at the briefing was the Port of Bunbury. Because it has loading activities for the mines sector—the minerals resource sector—therefore that operation is covered by the Mines Safety and Inspection Act. The government says that the current mining qualification is not appropriate for a person who is managing the loading operations at the Port of Bunbury. Indeed, that is a very strong argument. There is a very, very strong argument to say that, but that is why two separate regulatory regimes are not necessary.

The government is defending a system in which a shiploader loading coal at the port of Bunbury is covered by the mines safety regime, but a shiploader loading any other product—say woodchips—at the port is covered by a separate regulatory scheme. The government has acknowledged that the current arrangements are inadequate because a person might need other technical skills, not those of a mine manager, to supervise the safety of the operations at the port of Bunbury. The opposition agrees entirely. That is why there should be a single regulatory environment that allows the appropriate person to be in charge of the particular work involved.

Another thing happening here is that the government is removing the provisions that specify the qualifications of the district inspector, but it does not include new provisions that specify the qualifications required. Currently, a person in this senior role has to have had underground mine experience. When a person is supervising underground mines, they have to have underground mine experience. This provision will allow that to cease. In the briefing, we discussed the number of people in each of the occupations specified in the bill. At the moment, under section 18(2) of the principal act, a person has to have a first class mine manager's certificate in order to be eligible for appointment to the position of district inspector of mines. That is being removed by this bill. The government is saying that there will be no qualifications required for the appointment to the position of district inspector of mines.

Mr W.R. Marmion: No, it is not. That is illogical.

Mr W.J. JOHNSTON: We asked the minister's staff whether they could direct us to a clause —

Mr W.R. Marmion: There will be no qualifications specified in the act.

Mr W.J. JOHNSTON: Yes, that is right.

Mr W.R. Marmion: Almost every single act in Western Australia does not specify all the qualifications of the people who work in the departments.

Mr W.J. JOHNSTON: Yes, that is correct, minister. Under the Occupational Safety and Health Act regime in Western Australia, there is a procedure to ensure that only a qualified person can be appointed to the job that they have. There are no provisions left in this legislation that would give the specified requirement of a mine manager's certificate for a person who is appointed district inspector of mines.

[Quorum formed.]

Mr W.J. JOHNSTON: I was just exploring the minister's objection to me saying that if we remove this provision, there will not be specified qualifications for a district inspector of mines, but, of course, that is exactly what would have to happen; otherwise, there would not be a district inspector of mines with qualifications relevant to the port of Bunbury. That is why we have been told this legislation needs to be supported. It was interesting—we asked the department, and were told that there are approximately eight district inspectors. I appreciate that the minister might get subsequent advice and in his reply to the second reading debate he might be able to provide us with more information about exactly how many district inspectors there are. That would be really useful information. There was also some discussion—again, I would appreciate the minister letting us know more detail on this—about the problems recruiting district inspectors for the Kalgoorlie region. Over the last four years, they have never had adequate staffing levels. They have not been able to recruit the three people that are required in Kalgoorlie; they have generally had two and occasionally they have only had one. I understand from advice that I have received that the minister will be able to appoint somebody to the position of district inspector of mines in the mining region responsible for the operations; I do not mean personally responsible because, obviously, the mine operator is actually responsible for the operations. I refer to the person who on behalf of the government oversees the mine safety regime. The minister will be able to appoint a person who does not have a first class mine manager's certificate to that district inspector of mines position in the Kalgoorlie region to supervise mines. If all the minister is doing is setting up a new class of district inspector of mines for things that are not mines and keeping the current mine safety inspection regime, I could understand that. I could understand it if the minister had added an extra class of occupation to the act—therefore, a person could be appointed district inspector of mines for everything covered by the act that is not a mine—but I cannot understand why the minister would delete the qualification with respect to the district inspector of mines who is responsible for mines. It makes no sense. It would make sense if the minister simply merged the two separate

regimes into one, because then there would be the flexibility contained in the Occupational Safety and Health Act regime, which is well understood by industry and delivers a competent person to the right job through a process of delegated instruments—regulations—that are easy to change, flexible, understood by industry and, in fact, based on the needs of industry through the commission, but it does not make sense to simply eliminate the qualification and leave it at that, and say that it will be for the State Mining Engineer to appoint the person. This is particularly the case because, as I understood the briefing, one of the benefits of this legislation is that those district inspector of mines roles that they have had trouble filling can be recruited more easily. The department told us that the reason that they want to reduce the qualification is to make it easier to recruit. It is not like they are saying they will only fill those jobs with what was previously the required qualification. They are actually coming to us and saying the opposite. They are saying that they want this legislation because they have had trouble recruiting; they want to lower the standard to make it easier to recruit. That gives us not a little bit of confidence in that process.

Another issue arose after I read the debate from the Legislative Council, when former member Hon George Cash—he is still honourable—introduced and passed the legislation in the other chamber. It was interesting to see the number of points about which the question of assistant inspectors and employees' inspectors was debated. I noted quite a deal of debate on this issue. The three Labor MPs who participated in the debate were Hon Mark Nevill, Hon Doug Wenn and Hon Tom Helm. As a matter of interest and as an aside, two of those members left the Labor Party before they retired from Parliament.

Just before I go on to the employees' inspectors, at one point Tom Helm said —

> It has always been a mystery to most of us that the Port of Dampier could be described as a mine. It certainly has a lot of water around it. This Bill indicates a more sensible attitude towards descriptions.

Hon George Cash replied —

> It is not a mine, but mining operations, such as in the loading, are carried out.

Hon Tom Helm continued —

> Mining operations are not ship loading. Mining operations may be beneficiation, grading, stock piling, or reclaiming, but it is not ship loading.

I endorse Hon Tom Helm's comment at that point of going back to workman's inspectors.

There was quite a lot of discussion on the issue. Hon Mark Nevill moved an amendment to clause 20 of the bill to insert —

> (4) Any vacant position of employee's inspector must be filled as soon as possible where the person holding that office has been appointed an assistant inspector.

He went on to explain —

> In my discussions with the Trades and Labor Council about this clause, there was concern that an employee's inspector might be appointed an assistant inspector before his term had expired, perhaps in anticipation of the result in an election, or something like that, and that because of financial constraints, the position would not subsequently be filled. The intent of the amendment is to ensure that that does not occur. Under the Interpretation Act, if that assurance could be given by the Minister, I presume that would ensure that it did not occur.

Hon George Cash then replied —

> The intention at the moment is that the process of filling any vacancy that might occur will be provided for in the regulations. Those regulations are in draft form at the moment, but they indicate that the process must be commenced within two weeks of the vacancy occurring. Hon Mark Nevill will be aware that the regulations will provide for all sorts of requirements under this Bill It is suggested at the moment that that will be sufficient, and I would be interested in Hon Mark Nevill's comments in that regard.

Hon Mark Nevill replied —

> If the Minister can guarantee that the regulations will make it clear that that position has to be filled, then the Opposition will be satisfied with that and I will withdraw the amendment.

Hon George Cash said —

> That is the point. That is the intention with the regulations; they will provide that the process must be commenced within two weeks of the vacancy occurring.

The reason that I have read such a large piece of the debate was that we do not currently have employees' inspectors. Even though they are required by the act, the department has not sought to fill those positions. That is

directly contrary to the undertakings given in the Parliament by Hon George Cash about the way these things would be done. He gave a specific undertaking that the process would be commenced within two weeks of the vacancy occurring. I would really like to know from the minister how he has not sought nominations for the position of employees' inspector.

Representatives from the department told us that sometimes it got only two nominations for two positions, and they even suggested that on some occasions the people nominating were not of sufficient capacity to fill the job. I would say that the proper response to a person's capacity is to specify what capacities are needed so that there is some sort of pre-qualification. I am not suggesting that a person who is not up to the job should be given it—far from it—but, equally, I have been approached by individual miners who have rung me and said that they do not want to see the loss of employees' inspectors. They believe these positions are very important and that the people who are elected out of the industry have a better understanding of the needs of the people in the sector than people who are appointed to the role.

I am not saying that is necessarily the case and nor am I in any way suggesting there is anything wrong with any of the special inspectors or anybody else appointed under the act. But what I am saying is that none of those things are criticisms of employees' inspectors. The fact that it would appear that the government has actively reneged on the undertakings given on behalf of the government of Western Australia to the Parliament of Western Australia is a serious breach that should be fully explained. For example, given that these people, as I understand it, are actually the minister's employees, does the minister have any advice to say that he does not have to fill the jobs? If the minister does, please share it with us because obviously that would overcome one element of the criticism I am making, although not the other two elements, the first of which is that not only do I think people in the industry actually like inspectors, but also an undertaking was given on behalf of the government of Western Australia—I do not mean a Liberal government or a Labor government, I mean "the government"—but without any explanation it appears that that undertaking has been set aside. The third thing to consider is whether that can be done legally; and, if so, could the minister please explain how it can be done legally. I think they are quite important issues.

There was some debate, too, about the question of the position of assistant inspectors. I will just read the second reading speech of the minister, Hon Tom Helm, who said —

> In this Bill, provisions for the appointment of inspectors have been improved and clarified A new provision is included which gives a discretionary power to the Minister to appoint as assistant inspectors persons who have served a total of 12 years in the capacity of workmen's and/or employees' inspectors of mines. The purpose of this is to enable persons who have extensive experience and training to be retained to the inspectorate should they for any reason be unable to continue in the capacity of employees' inspectors of mines.

The assistant inspectors were not like an afterthought. I want to go through the comments from Hon Doug Wenn, who said —

> I have some concerns about certain comments in the second reading speech relating to part 3, the administration of the Act, where it states —
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> > A new provision is included which gives a discretionary power to the Minister to appoint assistant inspectors persons who have served a total of 12 years in the capacity of workmen's and/or employees' inspectors of mines.

Hon Doug Wenn went on to say —

> I question the time of 12 years, which is a long time. It is not a long time to be working in the mines if for the last 12 years one has done exceptionally well; but to be made the occupational health inspector of that mine for 12 years seems to me to be a very long time.

The minister, in his reply, said —

> Hon Doug Wenn also mentioned workmen inspectors.

I would, for your benefit, Madam Acting Speaker (Ms L.L. Baker), just make the comment that I am simply reading the words that were used in 1994. We probably would not use the term "workmen" anymore, but they are the words used in 1994.

Returning to the minister's reply, I quote —

> After the second reading debate last week, Hon Doug Wenn and I had the opportunity to discuss the matter somewhat briefly. We agree that the wording of the Act provides for workmen inspectors to be appointed so long as they have at least five years' experience. The reference to 12 years' experience

> was the opportunity to appoint persons who, for one reason or another, may not have continued to enjoy the appointment as a workmen inspector. They are elected positions. If a person of experience is not elected, the opportunity exists under this Bill for the Minister to make such an appointment. It is provided that that person should have 12 years' working experience to indicate a level of competence. It is a bonus or an additional benefit that is available. I have made the point before that my number one priority in the Mines portfolio is improving the safety of mining sites for all those concerned.

I have made the assumption that we have never actually had assistant inspectors. I know that we do not have any now and I wonder whether we ever had them. If the minister could let us know that, it would be useful for us to understand. We are not supporting the legislation, but I do not necessarily think that eliminating that position is in the same category as eliminating the other two or eliminating the other category and changing the qualifications.

I will also read out some comments from Hon Tom Helm —

> I too support the Bill and reflect the words of Hon Mark Nevill and Hon Doug Wenn in congratulating the Minister for providing the briefing to us. I will go a little further and congratulate the Chief Mining Engineer, Jim Torlach, for putting together what I think is one of the best Bills that I have ever read.

I thought that was an interesting comment from the opposition. Western Australia has a long history of bipartisan support for the mining sector and we want to continue that, because we think that these are important issues. Every time there is a mine death, we think it is not only a loss to the business et cetera, but also a human loss. It is a great tragedy that needs to be thought of carefully and properly reviewed and examined, and a proper response needs to be made.

We also need to ensure that there are rapid coronial inquests into matters relating to mine deaths. I note that we are still waiting, some years later, for a coronial inquest into the deaths following the cyclone at the Fortescue Metals Group site in the north west. Other members will probably talk about this, but we have had some problems getting dates lined up for a coronial hearing. It would be good for that to be looked at. It would be interesting to know why no additional prosecutions have arisen from those deaths. A prosecution failed on the basis that the courts found that the business being prosecuted was not the right entity to be prosecuted. We could ensure that those prosecutions are re-examined. Prosecutions are important because they show to the families being affected that the apparatus of government cares about the losses of their loved ones. It is up to the courts to determine guilt or innocence, but that is not an excuse not to pursue matters, particularly when a coronial inquest into those deaths has not been undertaken. Equally, it is disappointing that the minister was prepared to list all those issues in the budget papers but was not prepared to put mine safety as one of the measures of his department's success or failure. I think that that was unfortunate.

I understand that there are 64 special inspectors; could we have that number confirmed? It would be good too if the minister could let us know—I am not interested in who the people are—the range of qualifications held by those 64 inspectors. As I understand it, we will allow the district inspector of mines to be drawn from those 64 people, so what is the range of qualifications included for those 64 people?

My understanding is that the Kwinana nickel refinery is covered by this regime, but as the Kwinana BP oil refinery is a major hazard facility, it is covered by the major hazard facility rules and it is not covered by the Mines Safety and Inspection Act. Could I have an explanation of why the oil refinery is covered by the general occupational safety and health and welfare regime, but the nickel refinery is not? An explanation of that would be quite useful. It was suggested to us in briefings that a person with a first class mine manager's certificate would not be the right person to inspect and be responsible for the safety and health regime at the nickel refinery. I would probably agree with that assessment, but given that the government recognises that shortcoming, I am unsure why a separate bureaucracy is needed to administer the health and safety regime at the Nickel West refinery when so close by is an oil refinery that is arguably just as hazardous as the nickel refinery and it is covered by a different health and safety regime. It would be good to understand that.

Given that the minister is reviewing the entire mine safety regime in light of the federal move to harmonisation and is close to bringing in a new regime, I wonder why the minister is bringing in this bill now. When an employer chooses to be covered by the commonwealth Comcare system for workers' compensation —

Ms J.M. Freeman: And safety.

Mr W.J. JOHNSTON: That is how we interact between the mine safety and inspection regime and the Comcare regime. As I understand it, companies, particularly large companies, can apply to be self-insured under the Comcare scheme, which some companies see as an advantage. When I used to deal with Coles back in the Dark Ages, it was self-insured under the WA regime, at least for a while. Then, of course, HIH Insurance started throwing out all the loss leaders and we know how all that ended. However, for a while Coles was self-insured. It

is not that self-insurance is unusual, but it is about the separate Comcare legislation that companies can access. It would be interesting to know how many companies covered by the mines safety and inspection regime in WA are Comcare employers and also how the Comcare arrangements line up with the mines safety and inspection regime. Does the Comcare arrangement set aside, given cover the field, the mining and safety inspection regime so that the commonwealth legislation applies and not the state legislation? At first glance I imagine it would be cover the field, but I do not have any direct knowledge. It would be good if the minister could let us know how many are covered by Comcare and whether that sets aside the mines safety and inspection regime; and, if so, the consequences of that. Do those companies get inspections at all from the state special inspectors?

Also, to get back to the question of the number of district inspectors, the department was not in a position to advise us at that time because we did not ask them in advance, so I take nothing out of that. There were about eight positions of district inspector. If that is the correct number, how many of those are filled permanently? How many are filled on an acting basis? Obviously, nobody can be appointed to the job of district inspector of mines without the appropriate qualification, but is anyone acting in the job with a different qualification or acting in a job equivalent to the district inspector of mines without the appropriate qualification? They are some important issues that we need to look at. It is interesting that the minister has *Heart of Gold* going on at the moment.

Mr W.R. Marmion: It is a great song.

Mr W.J. JOHNSTON: Yes, it is a great song. Does the minister sing it regularly?

Mr W.R. Marmion: I certainly do.

Mr W.J. JOHNSTON: Excellent. I have to draw attention to the minister's comment the other day that a lower gold price was good for the sector because it meant that companies were looking to operate more efficiently. That was actually good for the sector.

Mr F.M. Logan: Try telling that to those that have gone out of business.

Mr W.J. JOHNSTON: Yes, I was going to say that any mine with a cost of production exceeding the price is not going to be long for this world. I wonder whether the minister can give an assurance that the increase in the royalties will not lead to a reduction in employment in the sector.

Mr W.R. Marmion: How does that relate to the bill?

Mr W.J. JOHNSTON: The bill is about safety inspection. We cannot pay for the safety regime if we do not have royalties.

Mr W.R. Marmion: We have a mine safety levy; the member knows that.

Mr W.J. JOHNSTON: The levy will go down if operations close. If there are fewer miners in the industry and fewer workers in the gold sector there will be fewer people paying the mine safety levy, and that means that fewer inspectors will be available to the state of Western Australia. It will directly impact on every element of the bill that the minister has presented to the house. Maybe that is why the minister is trying to lower the qualifications, because he recognises that he will have less money and so he will need to reduce the qualifications to employ people at a lower income, because he knows that there will be an impact on employment. It would be good to know what the minister thinks will happen. I know what people in the gold industry say will happen if the royalty rate is increased, but what does the minister say will happen? Does he say that increasing the royalty rate will reduce employment, or does he say that it will not reduce employment?

Mr W.R. Marmion: That is a good question.

Mr W.J. JOHNSTON: Excellent, but is there an answer?

Mr W.R. Marmion: You answer it; you answer your own question if you want to. I will be responding when I am allowed to talk.

Mr W.J. JOHNSTON: Madam Deputy Speaker, I do not have any objection to the minister interjecting on me at this particular moment. I invite the minister to interject. That is completely in accordance with the practice in the Parliament. I would be offended if I thought —

Mr W.R. Marmion: It is irrelevant.

Mr W.J. JOHNSTON: It is not; it is directly relevant to the bill that we are discussing—namely, the Mines Safety and Inspection Amendment Bill 2014. That is about the safety regime. The minister needs to convince us that he is not trying to reduce the qualifications so that he can reduce the salaries to make up for the loss of income from the inspection regime.

Mr W.R. Marmion: I will.

Mr W.J. JOHNSTON: Okay, excellent, because it will be important. This is one of the problems with the proposed royalty increases, because I know that some Liberal members are going around—I am not picking on the National Party yet—telling the industry not to worry, because it is only the Treasury running off on its own, and then we have the Treasurer telling us that it was a cabinet decision.

Dr A.D. Buti: That means it was the Premier's decision.

Mr W.J. JOHNSTON: That could be true. In 2010—I think that that is the right year—the Premier said in this chamber that he had been told during the summer break by people in business that the mining sector was "getting away with murder" in respect of royalty payments. I think those are the correct words that were said in this chamber. I think it was in February 2010, just before the federal Labor government talked about the minerals resource rent tax.

It is going to be a very difficult time for the resource sector in Western Australia. We are already seeing articles about people losing their jobs. There was an article in *The Australian Financial Review* a couple of months ago about a mining services company reducing its staff from 28 to eight, and an article today stated that 12.9 per cent of geologists are now unemployed. I know, Madam Deputy Speaker, that Kalgoorlie is affected directly by the rise and fall of the gold sector. This will be a difficult time. According to the newspapers today—I have no knowledge of my own—the Gindalbie Metals Karara iron ore project is the highest cost iron ore project in the country, and it is likely to be placed under severe financial constraints. We know about the technical issues with the operation. That has been well reported in the media, and there has been extensive discussion of those issues already. This will be a very difficult period for the mining and resources sector in Western Australia. I am unconvinced that this is the time to be increasing the royalties on these operations. I know that the minister will say that Gindalbie is not part of the royalty review—I acknowledge that—I am just making the point that there are plenty of problems. I have no inside knowledge, so let us not talk only about the Gindalbie Karara project, but if a mine in whichever sector were to close, then that would be a problem for the whole sector, because all those extra staff would be trying to find jobs in the mining sector. This will be a particularly difficult period.

I will not delay the house any further. I look forward to the minister responding to some of my comments in his second reading reply.

MS J.M. FREEMAN (Mirrabooka) [5.07 pm]: I also rise to speak on the Mines Safety and Inspection Amendment Bill 2014, and I thank the member for Cockburn for letting me come in so that I can make my meeting at 5.30 pm. I wanted to put that on record because he tells me that I am a bit naughty, and I have done this to him before.

I thank the minister's advisers for giving us a briefing today. I came away from that briefing completely bemused and frustrated by the fact that we are taking up valuable time in a parliamentary session on a bill that is effectively for the sole purpose of removing a requirement for persons to hold a first class mine managers' certificate of competency in order to be eligible for appointment to the position of the district inspector of mines. Secondary to that, we are also getting rid of the employees' inspectors and assistant inspectors, for which no positions are actually filled at this time. They are completely redundant, empty positions that are not being filled. The reality is that we are debating this bill only for that purpose. I was completely bemused as to why this was happening. We are using parliamentary time for this? We recently dealt with a red tape reduction bill. This measure was not included in that bill. This shows to me the absolute focus that we have on the operation of the mining sector, instead of other areas that should have similar sorts of priorities. For example, the minister knows about the consumer affairs bill because he has had some contact with it in the past. Every year since I came into this house in 2008 we have been told that we will see that bill introduced. We are told that the green bill is out there and the substantive bill is on its way. Every year I am told that this legislation will be introduced in the spring session, or later in the year. We are still waiting for something of extreme importance to many organisations operating in our community, yet we are here to debate removing the requirement for persons to hold first class mine managers' certificate of competency to be eligible for appointment as a district inspector of mines. I am completely bemused about why a bill that simply removes a qualification for who can be appointed as a district inspector is so important that it has come before the house in such a manner. Thankfully, I was given a paper headed "Current Employment Opportunity: Inspector of Mines-Mining Engineering: Specified Calling L4", which has given me perhaps some understanding of this. It is my understanding—I am happy for the minister to confirm this—that after this Mines Safety and Inspection Amendment Bill is passed it is the minister's intention to ensure that all the inspectors he appoints will have to cover mining, petroleum and dangerous goods. That will occur, without the minister having had any discussion about the reform bill the minister will bring before the house next year and without any debate about whether technical expertise is needed in any particular area. All the minister wants to do is open the capacity for the State Mining Engineer to move staff around wherever they want. I get that that is probably because the State Mining Engineer has difficulty employing people in this area. We are told that of 180 people employed in the resources section of the

Department of Mines and Petroleum there are 64 inspectors and only about eight of them undertake this district inspector of mines role. I get that that must be somewhat restrictive but that has been happening for some time despite the minister regaling us all with stories about how fantastic the safety record is in the area. The present policy is not having a major impact on safety at this point. Meanwhile, this administrative change is taking precedence over other legislation.

What is even more serious than allowing the minister's department to dominate the Parliament's time for this one little amendment is that the bill has come before the house when the rest of the country is looking at harmonising mine safety and occupational health and safety laws. This is not something Western Australia has not been involved in. At a Council of Australian Governments meeting in 2008 all state and territory ministers agreed to undertake a mine safety review and that they would seek to ensure that nationally consistent laws around mining safety would apply to businesses operating in Western Australia. That seems reasonable and good policy. I take the minister back to July 2008 when the Council of Australia Governments formally committed to the harmonisation of work health and safety laws by signing an intergovernmental agreement for regulatory and operational reforms in health and safety. The policy paper states —

> The Work Health and Safety (Mines) Act —

That is the New South Wales act. Sorry; I am getting myself a bit confused here.

Since then a national mine safety framework has been set up, which was made up of seven strategies focusing on key areas where consistency across jurisdictions would be most beneficial to the industry—namely, nationally consistent legislation, competency support, compliance support, a national coordinated protocol and enforcement, consistent and reliable data collection and analysis, effective consultation mechanisms and a collaborative approach to research. We are here making a tiny change because the government has become the human resources manager of the Department of Mines and Petroleum. Meanwhile, we have not moved anywhere towards nationally consistent mine safety legislation, the aim of which is to achieve a nationally consistent occupational safety regime in the mining industry. Victoria, South Australia, Tasmania, the Northern Territory and the Australian Capital Territory have all said they would give effect to the national mine safety framework. There has been agreement that Queensland, New South Wales and Western Australia have some non-core issues that they need to sort out. It was agreed in May 2010 that those non-core provisions would be endorsed and they were endorsed with drafting instructions in August 2011. In November 2011 an intergovernmental agreement to those non-core drafting instructions was signed. Queensland has got on with drawing a proposal for a nationally consistent framework. It has spoken to its stakeholders and moved towards getting nationally consistent legislation. It received 28 submissions to its consultation paper, "Nationally consistent mine safety legislation", which went out in 2012. It has since put out "Queensland's Mine Safety Framework: Consultation Regulatory Impact Statement". It is going down the path of maintaining its own legislation but at least it is responding to the businesses in the mining industry, rather than being HR managers for the Department of Mines and Petroleum, which is what we are being asked to do.

As I said, New South Wales has put through consistent legislation and now it is onto the regulations consistent with nationally harmonised laws. But we have brought in legislation, despite the fact that we agreed to conditions in 2010 and 2011, and have been on the same page since 2008 to do something aimed at delivering to the industry—not to the department because it cannot be flexible enough to respond, so it has to come to us. In July 2004 the state government provided approval for the Department of Mines and Petroleum to begin development of the resources safety bill, which is expected to be operating by mid-2016. I put to the minister that there is nothing urgent about the legislation before us that could not have been included in that resources safety bill and to which this debate could not have applied; that is, the qualifications that are needed should they be reflected in regulation or should they be done in any other way. Frankly, all that will do is undermine what should be an efficient way to implement mine safety and occupational health and safety in the mining industry. It is my personal view—one that I hold very strongly—that that should be done through the centralised system of the occupational health and safety legislation. There should not be a separate mine safety act. That would give the government the flexibility it is seeking, which is to allow inspectors to cover mines, petroleum and dangerous goods. It would give the government what this says. I congratulate the Minister for Mines and Petroleum for his department's stated goal, which is —

> Under the Reform and Development Resources Safety (RADARS) —

Great name! It continues —

> , we aim to become a best practice safety regulator, enhancing the safety performance …

The goal is zero harm. A goal of zero harm is excellent. Basically, the minister is saying that to make these changes the government is undergoing the expansion of our resources safety workforce. The department agrees that a significant increase in the employment and range of employees is needed to maintain a minimum program

of enforcement work. That is what we are here for; we are here to do the Department of Mines and Petroleum's HR work instead of doing the work we should be doing—that is, the policy work around harmonisation.

It is no wonder the member for Cannington asked about the minister's concern about Comcare. Given that the Liberal federal government has now raised Comcare, ministerial approval will not be needed and we will not need to show that we are operating nationally; the government will use the Corporations Act power. Given that since 2008, 2010 and 2011 when the minister sat at the table on all those occasions—he knows how important it is to harmonise mining and safety across the area—is the minister not deeply concerned that people in that industry will go to Comcare? Frankly, the minister has been asleep on the job. It is not enough to start talking about his resources safety bill 2016. That bill should be before us today. That is what New South Wales, Queensland, Victoria, the ACT and South Australia are doing, and that is what we should be doing today. This bill is a disgrace and does not deserve to be supported.

MR F.M. LOGAN (Cockburn) [5.19 pm]: I, too, rise to speak against the Mines Safety and Inspection Amendment Bill 2014. Before I go into the detail of the bill, I will remind the house of the nature of the industry and the dangers facing the 100 000 or so employees who work in the mining sector in Western Australia. Between 2000 and 2012, there were 52 deaths in the mining industry in Western Australia. That is an average of four people killed in the mining sector every year. The year 2012 was the first year with no fatalities, and it was a major breakthrough in mines safety in Western Australia. Unfortunately, in 2013 three people were killed. I think—I am not 100 per cent sure, but the minister might be able to confirm this—one person has been killed so far in 2014. Seventy per cent of the workers killed were tradespeople or operators. The mining sector in Western Australia is still one of the most dangerous places to work in Australia, and that is why we should take seriously any changes to the Mines Safety and Inspection Act 1994.

The bill before the house will amend the Mines Safety and Inspection Act 1994. As the members for Mirrabooka and Cannington have already said, the basics of what the amending bill seeks to do comes down to clause 6, which will delete section 18(2) of the Mines Safety and Inspection Act 1994 and the reference to the qualification required by a district inspector. Other clauses of the bill will delete sections 19 and 20, which refer to employee's inspectors and assistant inspectors, and later in the bill there are changes to other parts of the act and to the Coal Industry Superannuation Act 1989 to ensure that the changes sought by this bill are mirrored in provisions elsewhere in the act and in the Coal Industry Superannuation Act 1989 as it refers to employee's inspectors.

That is really the guts of the amendment bill before the house. The member for Cannington has laid out very clearly why we oppose the legislation; that is, we cannot see why the minister would bring to the house an amendment to delete the requirement for a district inspector to hold a mine manager's certificate of competency. Why would he get rid of the requirement that a person hold a first class mine manager's certificate of competency and not replace it with a minimum qualification? Section 18(2) of the Mines Safety and Inspection Act states —

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

For a person to hold a first class mine manager's certificate of competency, they are required to be a mining engineer.

I thank the minister for providing the briefing to us earlier today to explain exactly why he wants to do this and the outcome of it. I understand his objective of trying to get more mines inspectors on the job. That is the intention of deleting section 18(2). However, we argue that, in doing so, the minister will water down the qualifications of those people who undertake the role of a district mines inspector. As I indicated, a district inspector is required to hold a first class mine manager's certificate of competency and, to get that, the person requires a mining engineering degree. The explanation put forward by the officers of the Department of Mines and Petroleum for removing this requirement and not replacing it with anything was that mines are complex things and involve a series of different disciplines of knowledge—everything from geology and geotechnics through to electrical engineering. There is a wide range of disciplines for people who are employed in mining. Therefore, why can we not use as mines inspectors other people who are equally qualified in engineering to carry out the role of a district mines inspector? Specifically, why can we not dip into the pool of special mines inspectors to fulfil the role of a district mines inspector? We were advised that there are 56 special inspectors and approximately eight district inspectors, which is a total of 64 inspectors.

The argument for this bill is that it is difficult to replace somebody in Kalgoorlie or Karratha who has a mining engineering degree and is eligible for a first class mine manager's certificate of competency and therefore it makes sense that the department should have the flexibility to dip into the pool of special inspectors to fulfil that role. The officers of the DMP argued that because mines are complex, it makes more sense that people who have specialist knowledge of particular areas be used as district inspectors rather than just special inspectors, with

their knowledge and capacity. The example given, which was referred to by the member for Cannington, was the type of person who would be employed to do an inspection at the port of Bunbury, which is clearly not a mine but comes under the Mining Act.

I remind the Minister for Mines and Petroleum what a mining engineering degree comprises. Although the Department of Mines and Petroleum officers were quite right in saying that mining is complex and includes a wide range of disciplines, some of which are specific to certain parts of a mining operation, the unique thing about a mining engineering degree is its overall approach to a range of disciplines in mining. Indeed, that is why a mine manager, the person who holds a first class mine manager's certificate of competency, is required in his or her employment to hold a mining engineering degree, because that person has broad knowledge about a range of disciplines that come under mining. I refer to what a person is expected to undertake in the mining engineering degree course at Curtin University. As stated on Curtin's website —

> Mining engineers plan and manage operations to exploit minerals from underground or open-pit mines, safely and efficiently. They design and direct mining operations and infrastructure including:
>
> - drilling
> - blasting
> - loading and hauling
> - tunnel creation and maintenance
> - access road planning and maintenance
> - water and power supplies.
>
> Mining engineers may supervise other engineers, surveyors, geologists, scientists and technicians working on a mine site and may find employment in metropolitan or regional locations or in different countries.

It is a four-year course that requires two years of study to be undertaken at Curtin's Bentley campus and two years of study in Kalgoorlie. Before a person is able to graduate, he or she is expected to undertake 12 weeks of engineering work during summer breaks to fulfil the requirements of the degree. Before a person can hold a mine manager's certificate, he or she must have that level of knowledge and competency and that type of degree. That provision was put into the act so that mines inspectors and mine managers can debate whether something is safe; and, it allows mine inspectors to direct the mine manager on the basis that the district inspector has the same qualifications and knowledge as the mine manager. As the minister knows, in the past mine managers were gods on the ground on which they walked. I know that has changed a fair bit over the years with the larger corporations, particularly multinational corporations, which have a range of people who sit above mine managers. Nevertheless, it is the mine manager who calls the shots throughout the gold and nickel industries. The mine manager is the boss on the ground. He is in complete control of all operations and is legally responsible under the act for all operations on that site, similar to the captain of a ship. He holds significant responsibility for plant, equipment and people at mining operations. District inspectors are required to have the same level of knowledge and capacity as mine managers so that the mine manager can be directed by the district inspector about things that are wrong on the mine site.

Section 18(3) of the Mines Safety and Inspection Act relates to special inspectors, and reads —

> Special inspectors may be appointed for the purpose of making inspections, inquiries, and investigations that require technical or scientific training or knowledge as directed by the State mining engineer.

As laid out under section 18, the first level of responsibility for mine safety falls to the district inspector. When there is an incident or accident, or the likelihood of those occurring, or when an inquiry needs specialist knowledge, the district inspector and the State Mining Engineer call on the special inspectors to carry out that investigative function. Clearly, that is the way the act is written and it is why the district inspector has been required to have that level of knowledge and training. Earlier this morning during our briefing we learnt that section 18(2) of the act will be deleted. There will still be district inspectors, but decisions about their appointment will fall to the State Mining Engineer. District inspectors may well be drawn from the pool of special inspectors or others. There will be no legislative minimum requirement for district inspectors.

Earlier, I heard the minister interject on the member for Cannington that acts do not normally specify that. But there is good reason that the act specifies the minimum competency that a person must have before becoming a district inspector. That provision is being removed and no other provision will be put in its place. When questioning DMP officers and the minister's staff about what minimum qualifications special inspectors will need, we were informed that new special inspectors will have a minimum qualification of a mining technician certificate and will be employed at public service level 6, which means that special inspectors will have either a restrictive quarry ticket or an underground mining ticket. Obviously, the department has special inspectors who

are mechanical engineers and who have various other professional qualifications, but the two qualifications relating to quarrying tickets and underground mining tickets are not professional qualifications. The government is removing the obligation that district inspectors have a professional qualification equivalent to that of a mine manager. It has been watered down to the point at which the State Mining Engineer can appoint someone in the role of district inspector even though that person may have only a restricted quarrying ticket.

[Member's time extended.]

Mr F.M. LOGAN: I refer the minister to why section 18(2) was put in the act; namely, if a district inspector challenges a mine manager about a situation being unsafe, there can be a professional and equal debate between the two about the situation because they both have the same professional qualifications. With all due respect, when a bogger or front-end loader operator, who may well have done a whole series of occupational health and safety courses and have diplomas and experience in the industry, comes up against a mine manager who has experience in Western Australia and all over the world and who runs a very tight ship, my money is on the mine manager when it comes to the argument and debate. The mine manager will have it over the front-end loader driver any day. Why is that? It is because the mine manager has professional qualifications and will be able to defend what he or she is doing on a mine. An appointed district inspector might have the legal authority behind them and the experience to say that something is unsafe, but they do not have the professional authority granted to them by way of a degree to authoritatively challenge a mine manager. That is the reason it was put in there. I put it to the government that removing this provision and leaving nothing behind does a disservice to the industry and the Department of Mines and Petroleum because it undermines the professional qualifications within the department. I also argue that it does a disservice to safety in Western Australia because it diminishes the qualifications and the competencies of those people who act in the role of district mining inspector. It is for those reasons that the opposition opposes this legislation.

The member for Cannington also referred to employees' inspectors. The officers of the Department of Mines and Petroleum argued that things have changed and that there are over 2 000 occupational health and safety delegates across the mining industry who have been elected and who have obligations on mine sites to carry out their roles, and that, therefore, employees' inspectors are an anachronism—a hangover from the 1948 Mining Act.

The second point made by the officers of the DMP was that it is very difficult to find people and that people are not putting up their hands to do the role of mines inspector and that the capacity, knowledge and competency of those who put up their hands is questionable. I will not go into any more detail on that. However, I put a different argument to the minister. Seriously, the Department of Mines and Petroleum cannot honestly put its hand on its heart and say that it cannot find four people to be employees' inspectors in an industry of 100 000 people. There are 100 000 people working in the industry, for crying out loud! The money paid to an employees' inspector is not bad money. For some, it means no fly in, fly out and they are roughly on about the same money they were on before. It is not as though a person is taking a huge pay cut to be an employees' inspector. I do not believe that the effort was put in to seek out and have elections held properly for employee's inspectors to be utilised properly, and given the argument from the Department of Mines and Petroleum that it wants to become more flexible in the use of its staff, therefore using special inspectors for the role of district inspectors in order to have more feet on the ground, why get rid of an opportunity to put more feet on the ground under employees' inspectors who are experienced people out of the industry? They are people who could quite easily fulfil the role of special inspectors. I would not stand here and argue that they would immediately be able to come in and be district inspectors, but they could certainly continue to fulfil the role of special inspectors. That would allow some special inspectors to requalify as mining engineers and step up to the role of district inspectors and fulfil the objective the minister is after—that is, more feet on the ground and more people out there in the role of mining inspectors.

Regardless of the number of statements that have been made about employees''s inspectors, I honestly cannot understand why the minister would get rid of this opportunity to bring people out of the industry. People are not being brought out of another industry. People with experience could be brought from within the industry into the department, and they could be given an opportunity to train up and be given a career path and an opportunity to add to the overall number of inspectors. Their appointment will not have any impact on the number of occupational health and safety delegates on the job at the moment because their role is pretty much separate—it is an assisting role to the department as opposed to an on-the-job occupational health and safety delegate's role in the mine. For that reason, I think those two changes—the changes to the eligibility requirements to hold the role of a district mines inspector and the eradication of the employees' inspectors—are not justified. The arguments that have been put to us so far are contradictory and it does not assist the minister's objective of trying to get more people on the ground to undertake a mine inspection.

I support the arguments that have been put forward by the members for Cannington and Mirrabooka that this is a flawed bill and it should not have been brought into the house in this way. In fact, if there is a reform process underway, as has been debated, particularly leading towards harmonisation, any changes to the structure of the

Department of Mines and Petroleum in mining inspection should really be undertaken as part of that national reform process. These proposals are half-baked and they do a disservice to the department and to the mining industry in Western Australia.

DR A.D. BUTI (Armadale) [5.48 pm]: I also rise to contribute to the debate on the Mines Safety and Inspection Amendment Bill 2014. The contributions of the members for Cannington, Mirrabooka and Cockburn have been excellent, and I hope that the Minister for Mines and Petroleum, who I have always found willing to accept good arguments, will consider the cases put by the three opposition members who have already spoken—and I hope to contribute to that discussion.

Of course, safety is incredibly important to the mining industry. I will talk about some of the fatality statistics in the mining industry later in my contribution. However, the explanatory memorandum provided when the minister introduced the bill states —

> The purpose of the Bill is to make amendments to the *Mines Safety and Inspection Act 1994* … and the Coal Industry Superannuation Act 1989 … to improve the services provided by the Department of Mines and Petroleum and to modernise the qualification requirements for inspectors under the MSIA.

That is the Mines Safety and Inspection Act. The explanatory memorandum goes on to state —

> The proposed amendments fall within three discrete areas:
>
> (1) firstly, removing the requirement for persons 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;
>
> (2) secondly, removing the category of inspectors known as 'Employee's Inspectors' and 'Assistant Inspectors' from MSIA and 'Employee's Inspectors' from CISA; and
>
> (3) thirdly, removing the savings and transitional provisions of the Schedule 1 to the MSIA, as they are no longer operational.
>
> Industry has been consulted about the proposed amendments through discussions at meetings of the Mining Industry Advisory Committee (MIAC) and received the majority support of the members present.

In his second reading speech, the minister stated —

> In our modern mining industry, safety is managed by a wide range of skills over and above those of a mining engineer. Critical aspects include geotechnical engineering, occupational hygiene, electrical engineering and a host of other occupational health and engineering disciplines. The management of mines and occupational health and safety in particular is no longer the sole purview of the mining engineer. This being the case, the position of district inspector of mines needs to be opened up to include a wider range of qualifications.

The explanatory memorandum states the three particular purposes or effects of the bill before us and the minister stated in his second reading speech that the whole idea is to open up the field—open up the potential candidates who can be inspectors in the mining industry. As was quite well articulated by the member for Cockburn, that is a laudable purpose. In the minister's endeavour to have a greater pool of potential inspectors, he has undertaken or agreed to a very dangerous strategy because he is removing, through clause 6 of the bill, any minimum safety requirement, knowledge or experience as shown by a particular qualification. That provision removes the minimum requirements now in the act—that is, the first class mine manager's certificate of competency—in order to be eligible for appointment to the position of district inspector of mines. It has not been replaced by any statutory minimum provision.

I thank the minister for providing the briefing we had today and the officers in attendance at the briefing. It was stated in the briefing that although it was the intention or the policy of the government to only appoint people believed to have the necessary experience or qualifications to be a competent inspector, there is no statutory requirement. If the department decides that X should hold that position, there is no statutory obligation for it to ensure that that person has a minimum requirement of competent skills in order for them to fulfil their inspector role. When I am talking about an inspector role, I am particularly talking about a safe working environment. That is incredibly important to the mining industry. The whole idea of occupational health and safety is important not just in mining but in many areas.

I digress for a short period. The Attorney General, Hon Michael Mischin, has stated that the government is moving towards agreeing to the harmonisation of work health and safety laws that were instigated under the previous federal Labor government. Although some states have taken the initiative by agreeing to the harmonisation, others, such as WA, have not. It would be true to say that WA has probably dragged its feet on this issue more than any other state. It is important to have harmonisation of the industry, whether it is the mining industry or just the general workplace environment. I believe that the Western Australian government

should seek to hurry up the process of harmonisation. It would appear from the latest comments that the government appears to be a bit more willing to engage in that process. Is that because there is a new federal government of the same political persuasion? I would hope that would not be the case because we should not be playing politics with the health and safety of workers; it should be above politics. It would appear that when we had a federal Labor government, the WA government showed little inclination towards agreeing to harmonisation of occupational health and safety laws.

Also of importance is the fact that the minister has discussed the issue of a new resources safety bill. It was quoted —

> Minister for Mines and Petroleum Bill Marmion said that "the best aspects of the model laws will be adopted with those which do not suit the unique Western Australian context amended or removed as necessary", guided by an intention to "place a greater focus on risk management and to be less prescriptive", with "the onus … placed on industry to demonstrate they understand hazards and have control measures in place." The Government is hopeful of enacting the legislation by mid-2016.

The government's intentions are laudable. I would hope that that process can be fast-tracked. Of course we do not want to fast-track it to an extent that we end up with laws that are not of sufficient standard to ensure that we can create the best possible safe environment for the mining industry.

As I stated, the government has been dragging its heels on the harmonisation of work health and safety laws. The secretary of UnionsWA, Meredith Hammat, stated that since the harmonisation process commenced in 2008, there have been 200 workplace deaths in Western Australia. Since 2008, 200 people left their families one morning or evening, said goodbye to their loved ones, and did not return at night-time or in the early morning if they were on night shift. They left their families to go to work and they did not return. I know that the minister is a person of good character and he has empathy for people who engage in dangerous activities. I am sure that he would be alarmed to know that since 2008 there have been 200 deaths in the workplace. These deaths are not all in the mining industry; most of them are not, but there is a high proportion considering the number of people in mining. That is 200 deaths too many. No government, no employer, would ever be able to guarantee a complete risk–free work environment, particularly in the mining industry. Many things should be done. The minister is responsible for providing the statutory framework to ensure that we have the safest possible workplace environment in the mining industry. That is why it is of some alarm that this bill has been brought to us. The government is removing one of the statutory provisions that were in place to ensure that inspectors had a certain level of competency or qualifications to ensure that they could perform their duties.

The statistics around the whole issue of safety in the workplace, in the mining industry in particular, are quite alarming. Between 2009 and 2013, we had 32 fatalities in agriculture, forestry and fishing, 32 fatalities in transport, postal and warehousing and 15 fatalities in construction in Western Australia.

Sitting suspended from 6.00 to 7.00 pm

[Leave granted for the member's speech to be continued at a later sitting.]

Debate thus adjourned.