



**Sharon Grierson MP
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Building & Construction Industry Improvement Amendment (OHS) Bill 2007

Ms GRIERSON (Newcastle) (11.09 am)—I rise also to speak on the Building and Construction Industry Improvement Amendment (OHS) Bill 2007 and to give it my qualified support. I say 'qualified' because, while any measures to improve occupational health and safety law are welcome, it has to be noted that the improvements in this bill are improvements to what is already a very unsatisfactory set of regulations. I will come back to those regulations later.

Firstly, though, why is it so important to improve occupational health and safety in this important industry? In my city, Newcastle, and my region, the Hunter, we do some of the heaviest lifting in the Australian economy. We are a centre for mining and energy production, manufacturing and engineering, and transport and shipping. That is the hard, often dirty, and dangerous work that the people of our region have been doing for generations. It has been a testament to the role that the advocates of working people, in particular the union movement, have played that conditions of work and safety standards have been steadily built and improved over time. In the newer and growing areas of our economy, in our services industries, tourism, viticulture and health and education sectors, to name just a few, occupational health and safety standards are just as important. These working environments pose their own safety hazards, and we do need to be aware of those in a changing workforce. However, this bill relates to the occupational health and safety in the building and construction industry.

It is my sad duty to bring to the attention of the House a work site fatality in my region this year. Mr Robert Watson, a Central Coast man well known and liked around the industry in the region, was killed at a Wyong work site in March. It was a tragic accident, and I would like to take this opportunity to put on the public record once more my sympathies, and I am sure the sympathies of the whole region, to the family of Mr Watson. It was a tragic event to have a husband and father taken away from a family like this. Mr Watson leaves behind a grieving widow, Kathy, eight children and 10 grandchildren. He was working on the Kooindah Waters Residential Golf Estate construction site at Wyong on 29 March when a wall collapsed on him. Tragically, his co-workers—including, I understand, his son-in-law—were unable to save him. At the time, questions were raised about safety standards at the site, including that the newly constructed wall had not been adequately braced. That occurred before the accident. Those questions were raised. They are being investigated, of course, by WorkCover.

There are about 50 deaths at work on building sites each year in this country—almost one a week. That is 50 too many. I would like to read to the House the statement made by Mrs Kathy Watson following the death of her husband. She said:

"I would like to express my concern and grief at the unnecessary loss of my husband Robert. I am now a widow and my eight children no longer have a father. I want to speak out to express my concern at the deterioration in safety standards on building sites.

Too many workers are being killed or seriously injured and the new Federal Workplace laws undermine workers rights to work in a safe environment, and workers are too scared to speak up about safety matters because they fear losing their jobs if they do. The tragic death of my husband should have been avoidable, and if we just sit back and accept this deterioration of safety standards and workers rights and we allow this unrelenting push for profit at all costs - even over the safety of workers - I fear that the number of widows of building workers and fatherless children will increase.

I would like to appeal to all workers on building sites to refuse to be pushed into unsafe situations like my husband, think about their families and don't be quiet, stand up against the system that is letting them down and demand better safety and fight for workers rights."

I think most of us, particularly the opposition, would fully endorse those words. The whole community—employers, workers, unions and government regulators—all have a role to play in ensuring workplace safety. Unfortunately, I do not think the government has got it right with many aspects of this regulation, including the Australian Building and Construction Commission, but I will come back to that.

I would first like to put some further information before the House about the circumstances of Mr Watson's death, which sadly highlights the real pressures being placed on workers and their families at the moment. Less than a week after Mr Watson's death, it emerged that his family's life insurance payment was in jeopardy because his employer had not been up to date with its superannuation contributions. I know you will be interested in this, Madam Deputy Chair. We raised this with the Commissioner of Taxation. The anguish that this must have caused an already grief-stricken family is almost too much to imagine. It meant that Mr Watson's widow and his eight children were left in severe financial distress—indeed, it was left to the Construction, Forestry, Mining and Energy Union, the CFMEU, to their credit, to assist in organising money for the funeral and other expenses. The union also offered and is still providing ongoing support and counselling services to the family.

I understand that the union also helped to negotiate ex gratia payments from the contractor and the subcontractor, and that was the right thing to do. However, it should never have come to this. No worker should have to worry whether his superannuation guarantee is being paid. No grieving family should find out under these circumstances that the employer had not been meeting its obligations to its workers. It shows that while the government's approach is to come down hard on union activity and workers'

rights in the construction industry, it does not necessarily come down hard on employers that do not meet their obligations to their workers.

The ACTU briefed some of us last night and gave us some very interesting figures on Comcare and the number of actual visits, the number of actual prosecutions and the number of actual outcomes being pursued, and they fell far below any state's statistics. I raised the issue of superannuation with the Commissioner of Taxation in a hearing of the Joint Committee of Public Accounts in April. The commissioner reported that each year 11,000 complaints are being made about the superannuation guarantee not being paid. That is a significant drain on families. As the commissioner pointed out, these are only the complaints received from employees. Many employees, such as in the tragic case of the Watson family, would not know that their superannuation guarantee is not even being met by their employer. This is a significant issue when it comes to the obligations that employers have to their workers.

We also know that, under the non-union agreement in place at that site, workers got no holiday pay, no rostered days off, no public holidays and no overtime. They were being paid an all-in rate that cashed out all award entitlements including ordinary time and penalty rates, special rates, allowances and entitlements to paid leave. Good working conditions and workplace safety are clearly linked. Workers need a day off from time to time. They need reasonable hours and they need rest breaks. We cannot expect safety on building and construction sites if we have in place a culture where people are being worked to the bone. We cannot expect to take the Howard government seriously when it imposes crackdowns on unions and workers but does not ensure employers are meeting their obligations—not only in the area of safety but also in other areas.

For example, in March this year a 15-metre section of wall from an apartment building construction site in Newcastle collapsed onto a church building next-door. Thankfully, in this case no-one was injured. I raise this incident in particular because, as I mentioned, it is not just in the area of safety that some employers are not meeting their obligations. The development in question in this incident is being carried out by a company called the Hightrade Construction group, the parent company behind several companies which collapsed last year with collective debts of more than \$80 million. My colleague the member for Hunter has raised concerns about this industry collapse in this place previously—as we both have about the collapse of another building group in our region, Bay Building. This is not the time to go into the details about those financial collapses, apart from making the important point that it is often the workers and contractors who lose out because the company has gone into liquidation and there has been nothing put aside to cover the outstanding entitlements of these workers.

All of the points I have made lead us to the nub of the issue when it comes to workplace laws under the Howard government. The workers' needs obviously come last. Whether it be in terms of pay and conditions, bargaining power, unfair dismissal protection or, as in the case we are discussing, occupational health and safety, the workers' needs always come last.

Let us look more closely at this bill and at this government's approach to safety in the building and construction industry. The Building and Construction Industry

Improvement Act establishes the powers and functions of the Federal Safety Commissioner and establishes the occupational health and safety accreditation scheme covering this particular industry. The bill before us amends the legislation to cover situations where building work is indirectly funded by the Commonwealth or its authorities. It seeks to ensure that people accredited under the scheme at the time of entering into a contract are also accredited while the building work is being carried out. It makes other amendments, including extending the accreditation to other funding arrangements, streamlining the appointment process for federal safety officers and allowing people working in the Office of the Federal Safety Commissioner to disclose information on the scheme to the minister.

These seem fairly innocuous amendments—and they are, as far as the current scheme goes. But we have learnt to be suspicious of any bill proposed by this government to regulate the building and construction industry. One immediately casts one's mind back to where the scheme began, the 2003 report of the royal commission into the building and construction industry—a royal commission that cost the taxpayer \$60 million with very little to show for it.

One of things, though, that we do have to show for it is the original legislation that the bill before us is amending. That was the legislation that established the Australian Building and Construction Commission. Labor opposed that legislation, and it continues to oppose the Howard government's overall approach to the regulation of industrial relations and health and safety in the building and construction sector. Labor do not believe that there should be an industry-specific approach to industrial relations, with different sets of laws for each industry. There is a vast amount of regulation in the building and construction industry, with the Howard government having created more than 200 pages of new legislation for this sector alone.

Labor have announced that we will replace the Australian Building and Construction Commission in 2010. Instead, we will have an industry-specific division in our proposed Fair Work Australia and will address health and safety issues across the board. What the Howard government is doing is coming back to the parliament to correct elements of its industrial relations platform—making bad alterations to bad policy. Why do we see the Howard government coming back on this legislation? Why do we see it seeking to change its extreme Work Choices laws, and not just by changing the name? Because on industrial relations the Howard government gets it wrong time after time. I was interested to hear the Prime Minister say in question time on 8 May, and I quote:

"I can inform the House that between now and the caretaker period, whenever that may begin ... there will be no bad policies from this government ..."

Well, thank goodness; the days of bad policy from this government are apparently behind us. Unfortunately, for working Australians all the Howard government's bad policy in the industrial relations portfolio is already bad law. That is why it comes back and changes its building and construction bill; that is why it tweaks at the edges of Work Choices with a fake safety net and attempts to introduce fairness—because they are bad laws. And the community outrage about Work Choices has demonstrated that. Working Australians continue to shy away from these changes. No matter what

tinkering around the edges is done, come election day they will not forget. They do care about job security, dignity in the workplace and safety in the workplace for all Australians.

The problem with this government is that its response to the fundamental unfairness of its workplace laws is not to fundamentally change those laws. Its response has been twofold, and it is very revealing of the psychology of this tired and arrogant government. The first response is secrecy. We have had an unprecedented attempt by the Howard government to cover up the details of the true impact of its Work Choices laws. When the statistics coming out of the Office of the Employment Advocate showed just how many rights and conditions were being stripped away by Australian workplace agreements the government ordered it to stop issuing those figures and statistics. It shut down the flow of information to the public. Since then we have had to rely on leaks to get updates on AWAs. Unsurprisingly, those leaks show that the rights of workers continue to be stripped away every day.

How else do we get information from this government? We do try in estimates. For instance, we found out that since November last year the Office of Workplace Services and the Office of the Employment Advocate have refused to provide a single answer to questions on notice put to them in Senate estimates. Almost 300 questions have gone unanswered—an amazing level of secrecy when it comes to detailed questions about this government's policy in an area that is vital to all Australians: workplace relations.

Perhaps those two agencies have been too busy implementing a government-ordered name change—part of the process of trying to make the words 'work choices' disappear—to get around to answering any questions. This leads me to the government's second response to community outrage about Work Choices. After covering up the substance, it is spending up big on the spin. When it comes to publicising the glossy, ad agency generated key lines, the government is certainly no shrinking violet. Its fake fairness test, you will remember, was being advertised in full-page ads in the daily newspapers and through \$4.1 million a week in TV advertising space before the legislation was even passed. But no amount of advertising is going to address the basic unfairness of being forced to sign an AWA to get a job, or of not being able to reach a collective agreement when a majority of the workplace wants one. Because the Howard government does not believe in equality, with its individual contracts it is picking off workers one by one—each time diminishing the voice of the whole until it can no longer be heard.

If the government were really serious about restoring fairness in the workplace, it would take up the proposals Labor has adopted in the *Forward with Fairness* policy. I do not believe the government's approach to occupational health and safety in the building and construction industry is the right approach. I do not think it is going to avoid tragedies like the one that occurred for a Central Coast and Newcastle family. It is a political approach that, in combination with the National Code of Practice for the Construction Industry and the Work Choices legislation, is more focused on heavy-handed regulation than on actual safety outcomes. It also does nothing to address some of the wider issues in the construction industry which I have outlined, including the protection of workers' entitlements and the avoidance of employers' obligations. I

commend to the House the approach that Labor is proposing in this area, which is to replace the Australian Building and Construction Commission in 2010 with a specialist division within the proposed Fair Work Australia.

I earlier mentioned the company Hightrade, a Chinese company that is operating in our city redeveloping a site called Latec House. It is particularly concerning to know that many of the workers on that site are Chinese workers brought in on 457 visas. The city itself has been quietly worried about their safety conditions. The union is not allowed on that site for inspection, and that company has unfortunately not established a good record in standards or in safety.

We will pass this legislation because we will not stand in the way if the government is trying to repair some of the damage its bad policies have already done, but it is disappointing that the legislation will not go far enough to address the real needs of occupational health and safety of people in a very high-risk industry. We will continue to advocate for Labor's alternative approach, an approach which places occupational health and safety in the building and construction industry within the context of a comprehensive plan to restore fairness and safety in all Australian workplaces.