

Workplace Safety Laws Must not be Compromised

As the prosecutions over tragic deaths at Gretley Collier in 1996 have been called into question, Andrew Vickers, General Secretary, CFMEU Mining and Energy Union recalls what really happened on that fateful day and why changes to occupational health and safety laws could undermine the strong standards that miners in NSW already have.

At 11.00 pm on 13 November 1996, 8 mineworkers went to work underground at the Gretley Colliery near Wallsend. At 5.30 am on 14 November 1996, 4 of the men were killed when the piece the machine they were driving broke into old mine workings which were full of water. When the machine holed-in water rushed into the mine with tremendous force. The men were engulfed by the water, swept away and drowned. The force of the inrush swept the machine they were driving, which weighed over 35 tonnes, 17.5 metres along the underground roadway. The other 4 mineworkers were in a nearby crib room and were shielded from the force of the water.

Following the tragedy a Judicial Investigation was held. In June 1998 a comprehensive report of the investigation recorded a number of causes of the tragedy. In his report his Honour Justice J.H. Staunton found that maps kept by the Department of Mineral Resources were wrong about the location of the old workings. However, his Honour also found that the mine should not have relied upon those maps as the sole source of information when it developed its mine plan. Experts gave evidence that to the trained eye it should have been clear that the Department's maps were wrong.

The Judge found that the mine surveyor should have conducted his own research. His Honour also found that before mining the mine's managers should have checked that research was done and been satisfied about the accuracy of that research. Further findings were made about the conduct of the mine managers in the weeks prior to the inrush and the failure to fully investigate concerns that had arisen about the location of the old workings.

The Inquiry looked at the record of prosecutions in the mining industry. After recording that there had been 33 deaths in coal mines from 1990 to 1998 and that many of those involved gross negligence and breaches of the law, the Judge said "Prosecution has a place in securing mine safety. The statutes create offences. Mining companies and senior officials must be made aware, by timely prosecution, that they are accountable under the law for their actions."

Following the Gretley Inquiry charges were brought under the *Occupational Health and Safety Act 1983*. The two mining companies which ran the mine and eight of the mine managers were charged.

The mining companies and the managers pleaded not guilty to the charges and a trial was held. By the time the prosecutors commenced the mine was owned by Global mining giant Xstrata. The companies and the managers had high powered legal teams. Every point was taken and the prosecutor was required to make out every aspect of the case.

The two companies were convicted, so were two managers and the mine surveyor.

The legal proceedings took 10 and a half years. Put briefly, the companies and the managers had their day in court. Ultimately, the companies were fined a total of \$1.46 million and the Mine Manager was fined \$42,000. Much more was spent by Xstrata on lawyers to avoid a conviction.

Since Gretley it has become routine that fatalities and serious injuries in the mining industry are thoroughly investigated and charges under the NSW OHS laws, where warranted, are brought. This is not disreputable. It is what every worker, their families and their communities expect.

Sadly, there is a view developing that industry specific OH&S laws, like we what have in NSW with the Coal Mine Safety and Health Act 2002, have no place in modern Australia.

Under the Federal Government's National OH&S Harmonisation Review, there is a growing view among lawyers and bureaucrats that industry specific safety laws – laws that protect coal and metalliferous miners for example – ought to be scrapped. The trouble is miners and their families and their union have been left in the dark. We still do not know if the new laws will be tailored to meet the safety needs of our industry. Despite this, the Federal Government is pressing on with its changes.

Yet the reality remains that the safety of miners and their families and the future of our mining communities are too important to ignore. And we have fought too long and too hard for tough safety standards in our industry to give them up now.

Andrew Vickers, General Secretary CFMEU Mining and Energy Union