



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

**BUILDING AND CONSTRUCTION
INDUSTRY IMPROVEMENT AMENDMENT
(TRANSITION TO FAIR WORK) BILL 2009**

Second Reading

SPEECH

Thursday, 13 August 2009

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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Questioner
Speaker Robert, Stuart, MP

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Mr ROBERT (Fadden) (10.35 am)—I rise to speak on the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2009. Like all Labor titles for bills, it seeks to create something which it is not. Perhaps the bill should have been called the building construction revolution, the BCR, or perhaps the construction revolution and productivity, though that acronym would not quite work. Either way, this bill will not seek to improve anything. At its worst, it will take industrial relations on construction and building sites back to the 1960s and 1970s, and at its best this bill will emasculate an organisation, the ABCC, whose work has been so vital in bringing harmony and order back to Australian construction sites. If power corrupts and absolute power corrupts absolutely, we have seen the ABCC's function rein in the worst excesses of the Australian union movement. Its removal will see corruption return to sites.

The other question that must be asked is: if you have done nothing wrong, if you obey the law, what do you have to fear? If you drive within the speed limit on the correct side of the road, you have nothing to fear from the law enforcement agencies. If people on construction sites—workers, unions, delegates and employers—obey the law, they have nothing to fear from commissions like the ABCC. Yet the furore I hear from the other side would seem to indicate there is something to fear. That in itself shows that something is wrong.

The coalition supports the work and the operation of the Australian Building and Construction Commission and will vote against any move in this place to water down the operation of that body. Keep in mind that the ABCC, its powers and functions came out of the Cole royal commission that was established because there was a culture of lawlessness, intimidation and unsavoury practices within the building and construction sector. It is almost as though I am speaking about an outlaw motorcycle gang with respect to lawlessness, intimidation and unsavoury practices, but I am not. I am speaking about Australian work sites and about a commission that seeks to give law back to them, which this Labor government wants to undo. The ABCC was established to improve practices within the construction and building sector and has achieved remarkable results. If something is so successful then surely you would want to roll it back—that is the

common sense thing to do, isn't it—and go back to the practices of the past that caused so much pain!

Interestingly, the Labor government always said that they would not touch the ABCC until 2010. Yet, on 25 June this year, the Deputy Prime Minister tried to sneakily issue a ministerial directive to neuter the ABCC from August this year. She sneakily tried to slide it in under the radar to take away its powers. It is good to see the Deputy Prime Minister keeping her word on what the Labor government intend to do. But then, again, I look across the table at the minister for the environment, who said, 'When we get in, we'll just change it all, won't we?' My goodness, haven't those prophetic words come true?

We should spend some time and look at what has occurred within Australian building and construction sites since the introduction of the ABCC. Let us deal with facts. Let us not look at the hyperbole of what Labor puts out; let's look at the cold, hard, brutal facts in the broad spectrum of daylight and at what this Labor government is looking at rolling back. Let me read from the KPMG report, commissioned by the Master Builders of Australia, dated 6 May this year. I am reading from the executive summary:

Both the 2007 and 2008 reports showed that, following the establishment of the Taskforce in 2002 and its successor the ABCC in 2005, and in conjunction with industrial relations reforms extending to 2006, the construction industry has achieved higher productivity than would otherwise have been expected.

And further, 'This 2009 update brings the economic analysis conducted in the previous reports up to date.' The report continues:

- ABS data shows that, by 2008, construction industry labour productivity outperformed predictions based on its relative historical performance to 2002 by 10.2 per cent.

Of course we have to roll this back—this is dreadful! It goes on:

- The Productivity Commission found that multifactor productivity in the construction industry was no higher in 2000/01 than 20 years earlier ...

Well done, Hawke and Keating governments! That is a great result—productivity no higher, it did nothing—

but rose by 13.6 per cent in the four years to 2005/06.

Clearly, the ABCC has failed! The report goes on:

- The Allen Consulting Group, in a report to the Australian Constructors Association, found a gain in non-residential construction industry multifactor productivity of 12.2 per cent in the five years to 2007.

The Cole royal commission found that, from 1980 to 2000, there was no change in productivity—there was nothing but lawlessness. Yet, in the five years to 2007, productivity rose by 12 per cent. In any language that is an outstanding success of the role of the ABCC and associated legislation. It is unable to dispute the facts, which is why the Labor speakers have not dealt with the facts. They have just rolled over about working families and children and how it is so unfair. The KPMG report continues:

- Using Rawlinson's data to 2008, the cost penalty for completing the same tasks in the same regions for non-residential construction compared with residential construction has shrunk. This implies a relative productivity gain for non-residential construction conservatively estimated at 6.2 per cent.

And further:

- Other studies conducted in this area support the findings of KPMG Econtech's analysis. These studies submit that industry reform has lifted construction productivity by approximately 10 per cent.

Whatever study you look at, wherever you go, there is a 10, 12, 13 or 14 per cent productivity improvement because of legislation the Howard government put in and, importantly, because of the role of the ABCC in countering and fighting lawlessness on building sites driven by lawless unions. The report continues:

... the Consumer Price Index is an estimated 1.2 per cent lower than what it would otherwise be under the Baseline Scenario ... due to industry reforms, consumers are better off by \$5.5 billion on an annual basis, in 2007/08 terms.

Surely such commendable results—industry productivity up by 10 per cent; an annual economic welfare gain of at least \$5½ billion per annum; CPI lower by 1.2 per cent; GDP increased by 1.5 per cent; a significant reduction in days lost through industrial activity to the lowest since records have been kept—say one thing: let's keep doing what we are doing; it is working and, if it's not broken, don't fix it. But here we are today trying to fix that which is not broken.

With the overwhelming evidence pointing towards the success and the economic gains to the whole

nation, when the CPI reduces, when the GDP increases, every Australian benefits. So why are we here looking at these reforms? The answer is quite simple: on 24 November 2007, Labor came to power. And on Monday, 26 November 2007, on the Gold Coast, where my seat of Fadden is located, the big burly union boys were out on the construction sites saying: 'Union ticket, or no entry; Labor has won.' That is why we are here. Since the November 2007 election, strike activity has increased by about 700 per cent—the unions believe they are back in town. In the last four weeks, one Rio Tinto mine site has had over 170 union right of entry demands—it is a non-union site and the unions want to be back in town. If that is not harassment, what is it?

I note with interest that the Attorney-General has produced a discussion paper on the new terrorism laws and their extension to psychological terrorism. How dangerously close is the CFMEU getting to psychological terrorism by making 170 demands in four weeks for union right of entry? This is all about unions exacting their toll for the tens of millions of dollars they put into Labor's coffers for Labor to win government. There can be no other reason why we are going there—no reason at all. Productivity is up by 10 per cent, the economic gain is \$5.5 billion, the CPI is down 1.2 per cent and the GDP is up by 1½ per cent. This is all because of what the ABCC and associated legislation has achieved—and they want to roll it back! It defies imagination. It beggars belief. If you did this as a university assignment you would fail because it makes no sense. You could not mount a substantive argument as to why you would seek to roll back the ABCC after such phenomenal success. But here we are today debating a Labor bill that wants to do exactly that. So it is worth while looking at where we have come from.

In August 2001 the Cole Royal Commission into the Building and Construction Industry was established to inquire into and report on the nature, extent and effect of any unlawful or otherwise inappropriate conduct in the building and construction industry. That royal commission sat for 171 days—16,000 pages of transcript, 765 witnesses, 1,900 exhibits and 29 general submissions from interested parties. Its final report, tabled on 26 and 27 March 2003, is staggering. Here is what the Cole royal commission found about construction and building sites and the unions that run them. It said in its summary of findings that, amongst other things, there was:

- (e) widespread requirement for employees of subcontractors to become members of unions—demanding it—

- (f) widespread requirement to employ union-nominated persons in critical positions on building projects;
- (i) widespread use of occupational health and safety as an industrial tool;
- (j) widespread making of, and receipt of, inappropriate payments;

That is called corruption. It is exactly what is going on with Queensland Labor at present—the inappropriate receipt of payments. The royal commission also found that there were:

- (k) unlawful strikes and threats of unlawful strikes;
- (l) threatening and intimidatory conduct;
- (n) disregard of contractual obligations;
- (o) disregard of National and State codes of practice in the building and construction industry;
- (r) disregard of Australian Industrial Relations Commission (AIRC) and court orders;
- (s) disregard by senior union officials of unlawful or inappropriate acts by inferior union officials;
- (w) inflexibility in workplace arrangements;
- (x) endeavours by unions, particularly the Construction, Forestry, Mining and Energy Union (CFMEU), to regulate the industry; and
- (y) disregard of the rule of law.

These are the findings of the Cole royal commission. Because of that the ABCC was put in place. And because of that and other legislation, massive productivity improvements and great economic gains have been realised throughout the economy—and this is what Labor wants to roll back. It makes perfect sense, does it not—it all adds up? It is absolute and utter nonsense.

Labor is proposing in this bill to wind back the powers of the ABCC; to narrow the scope of the application of the act; to introduce a whole range of bureaucracy—as if we do not have enough; and to turn a tough cop on the beat into a neutered, toothless tiger. The ABCC will be abolished under this bill and replaced by an inspectorate within Fair Work Australia. This inspectorate will be required to enforce the provisions of the new law if it is passed. An advisory board will be established to make recommendations to the inspectorate about policies and a range of priorities. The scope of circumstances to which the bill applies has been narrowed by removing application to off-site work, and penalties have been reduced. The ability

to compel witnesses to provide information to the building inspectorate remains; however, there are a whole range of requirements for such compulsion.

The reason why witnesses were compelled to provide testimony to the ABCC was the lawlessness and intimidation on work sites—if you gave testimony to the ABCC, that would be it; it would be all over. You would not get work anymore. You would be harassed and intimidated. Hence, the coercive powers of the ABCC were put in place. You were compelled to give testimony—so you had no choice. Watering that down and removing it will simply take us back to the bad old days. These requirements are nothing more than bureaucracy. They are designed to entrench and bog down the inspectorate and stop it from acting quickly to investigate any breaches.

There is a switch-on and switch-off interrogation power, I guess like a light bulb. The bill creates the ability for said powers to be switched on or switched off. The position of independent assessor, special building industry powers, may, on application from stakeholders, make a determination that coercive interrogation powers will not apply. There have been 170 requests for right of entry in the last four weeks on one Rio Tinto site. Do you reckon the CFMEU is going to request that the powers be switched off? Do you think they will be good corporate citizens and say: ‘No, you keep them on. We have nothing to fear from the law. We obey the law, so we have nothing to fear. You keep them on’? Do you reckon that is going to happen, after 170 demands for work access in four weeks? It is absolutely and utterly outrageous.

It is a neutered provision that will replace the ABCC. It is completely watered down. It is a payback to a union movement that helped the Labor government win. No other explanation can possibly make any sense. The economic good for the entire nation that has been achieved because of the ABCC and associated industrial legislation is beyond dispute. This is beyond reason. There is no other way to explain it. To water down the ABCC will simply take us back to a union controlled workplace. It will reduce productivity. It will increase inflationary pressure. It will reduce GDP. It will reduce output. It will affect the economy. Those are the outcomes from the legislation that Labor is putting in place. This legislation simply and utterly cannot be supported.