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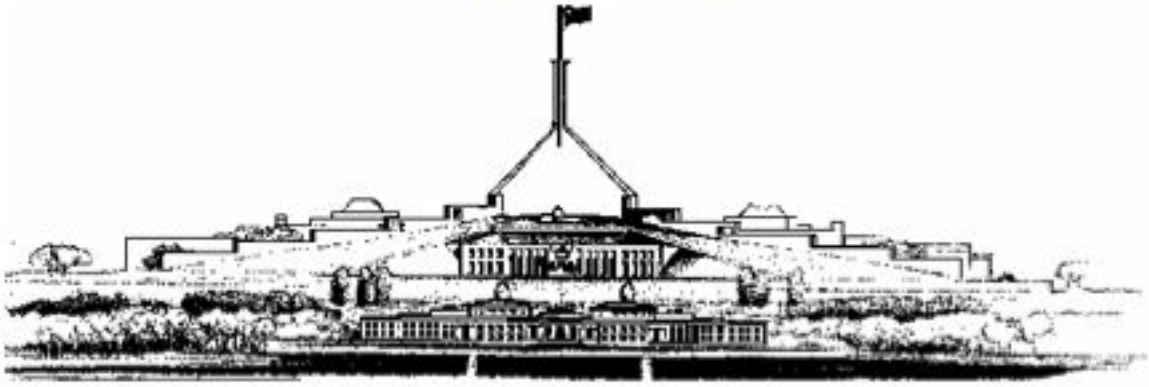

HOUSE OF REPRESENTATIVES

BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT BILL 2005

BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT (CONSEQUENTIAL AND TRANSITIONAL) BILL 2005

Second Reading

SPEECH

Wednesday, 10 August 2005

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Questioner		**Responder**	
Speaker	OÔÇÖConnor, Brendan, MP	**Question No.**	

Mr BRENDAN O'CONNOR (Gorton) (6.55 pm)—I rise to comment upon the two bills before us this evening: the Building and Construction Industry Improvement Bill 2005 and the Building and Construction Industry Improvement (Consequential and Transitional) Bill 2005. This has been an interesting debate because there are some very important matters being discussed today. One is about alleged corruption in a particular industry.

Some concerns have been raised on this side of the House about the way in which the Royal Commission into the Building and Construction Industry limited itself in order not to look at alleged malpractices and breaches of the law by employers. Therefore, even if we were to take some of the recommendations of the commission at face value, the concern for Labor and independent commentators about this piece of legislation, which reflects some of the recommendations of the report by the Cole royal commission, is that it has been set up purely to target quite a strong union in the building and construction industry.

Labor is concerned about the way in which the commission was established, the evidence that was sought and the particular witnesses who were called. For example, witnesses who wanted to make remarks about employer practices were not ultimately called. The whole tenor of the Cole royal commission, and now the tenor of the provisions in these bills, leads one to conclude that it has been an attempt to target an employee organisation registered under the Workplace Relations Act—namely, the CFMEU.

There are concerns in any industry when there are problems and unlawful activities, and I suggest that unlawful practices occur in all industries at some point. I would hope that there is no-one in this place who would condone breaches of law. It seems to me that the agenda of the Howard government is to target a strong union. We can all recall the efforts back in 1997 by the Minister for Workplace Relations and Small Business, Peter Reith, to gather a work force to displace maritime employees at the docks across Australia. Anyone who was around at the time would certainly recall the bringing in of new labour to replace organised labour in those workplaces and they would recall the efforts by this government in that term—led by the then minister for workplace relations, Peter Reith, coupled with the efforts of the Prime Minister—to target organised labour in that industry. There was a clear effort by this government to target what it saw as a strong union representing its members. That is why we saw attack dogs and people wearing balaclavas being sent to the docks to target—unlawfully, as the High Court eventually found—those workers.

We have a government that shows enmity towards ordinary working people, particularly those who choose to be represented by a trade union. When we see the hatred and intrinsic enmity directed towards organised labour by this government, it is very difficult to trust its intentions when it looks to examine matters in a particular industry. It should not surprise members opposite that Labor members have great difficulty in accepting the way the commission was established and in accepting the bill which has emanated from the recommendations of the commission.

Some grave concerns were raised by a number of bodies—and, indeed, governments—about the way the commission was established. The New South Wales government was concerned that the original bill had industry specific application rather than broad application; would add unnecessary complexity to the Australian industrial relations framework; had punitive, heavy-handed and unbalanced provisions; would promote a litigious, adversarial and costly approach to industrial relations which would hinder rather than assist good faith bargaining; breached ILO conventions regarding the right to organise, collectively bargain and freedom of association; and was retrospective with no demonstrated justification for the retrospectivity of the bill other than an attempt to prevent further enterprise bargaining negotiations. This bill had raised concerns and the New South Wales government articulated six clear reasons why the original bill—and now the 2005 bill—was not necessary.

It is also important to note that the Australian Democrat senators' minority report referred to their previous report on the Building Industry Improvement Bill 2003. In that report they indicated that they were against the need for industry specific legislation. The Democrats also questioned how, if one of the key findings of the Cole

royal commission was that there was a weakness in the current enforcement mechanisms, creating new workplace relations laws would resolve this problem. Their view differs from Labor, but they say:

> We support one central proposition behind the Bills, that greater regulation and enforcement of workplace relations is necessary. We do not support the second central proposition behind the Bills, that industry specific legislation and sweeping new Workplace Relations Act 1996 provisions are necessary to achieve this aim.

So even other parties in this place—in the Senate—raised concerns about the way the government chose to specifically set up legislation to regulate a particular industry, which, they believed, there was no need to do. As I said earlier, if we want to find the motivation behind these bills it is that this is a government that seeks wherever possible to damage the capacity of organised labour to represent hardworking Australians in the workplace. Indeed, it is clear that if you show any capacity to effectively represent employees then it is likely you will be targeted in an intrusive and pernicious way by this government.

It was not surprising to see in the government's first term its assault on maritime employees in which it sought to sack ordinary workers, displace them with a group of selected workers and effectively remove them from their workplace. The same government now proposes this legislation following on from a royal commission into the building industry whose terms of reference focused on employee and union activity but were not concerned about occupational health and safety, injury or death in the building industry and the way that some employers placed their employees, on occasions, in dangerous situations. There was no effort to uncover or to solve particular problems in what is quite a dangerous industry.

It is important to put this in historical context. For many decades—and other speakers on this side of the House have raised this in the debate—building workers did not have any security of employment and worked in very dangerous situations. That was the norm, not the exception. It really did take organised labour to bring about a change in the way employees were treated in terms of security of employment, superannuation benefits—they now have the very successful Cbus scheme—and portability of long service leave for long-term building workers who were not in receipt of such entitlements. Those things did not come about by accident or by some magical wave of a wand; they occurred as a result of employees coming together and realising that they had to negotiate with their employers collectively to bring about a safer and more secure workplace which would reward them for their hard work. Those changes, in the end, should be attributed to the working people and their organisations, the building unions, over the many decades.

I place that on record because, if you were to listen to those opposite, you would think that the CFMEU's role in this industry was a destructive one, when in fact they have brought about those benefits to employees in this industry. And now, because of their efforts to organise and give some bargaining power to employees over the many years—and they have done so successfully, I might add—it is not surprising that this very anti-union, anti-worker government chooses to spend $60 million of taxpayers' money on an inquiry which, in the end, effectively seeks to diminish the capacity of unions to go about their business and represent their workers in what is a relatively tough industry.

No-one pretends that the building industry is necessarily an easy industry in which to work. It is a tough job and it is certainly a tough life for those people involved. There are extraordinary commercial pressures and, as I raised earlier, there are some health and safety matters which I think are peculiar to that industry; therefore, you really need cooperation amongst the major parties. You have got an organised work force in the main in an industry with large employers and some small employers. It seems to me therefore it is important that there is some genuine effort at collaboration by employers, employees, unions and their respective members to actually work on those matters together. These bills attempt to do the opposite, to actually make out that the CFMEU is indeed a bad union, to make out that the CFMEU does not have a constructive role to play in the industry and, indeed, to limit its capacity to continue to perform its core objective of representing workers.

It is not surprising that we find ourselves debating this matter. We will of course receive more legislation in the area of industrial relations over the course of the next few months. The Prime Minister made that very clear on 26 May 2005 when he made a statement about his intentions to reform workplace relations and the industrial laws of this country. It is interesting that the Prime Minister now seems to be running away from what he said on 26 May. He seems to be trying to qualify what he said. I accept the point that has been made that we have yet to see the detail of the legislation that is proposed, but I would like to make some reference, in the context of the bills that we have before us today, to a number of things that were put on the record and raised at the dispatch box by the Prime Minister in late May this year about his intentions to change workplace relations in this country radically. That is my word, not his, but they were certainly radical changes that were proposed by the Prime Minister

Firstly, he made it clear that he wanted to remove the capacity of the Australian Industrial Relations Commission to determine minimum wages in this country. He wanted to remove the independent statutory authority of the commission to determine what is a reasonable minimum rate of pay and to set up instead, in that lovely Orwellian language that the government is getting so used to using now, the Australian Fair Pay Commission—a body that the government can control, a body which has no capacity to be at arm's length from the government and which has no independence. The Australian Fair Pay Commission would be allowed to determine the minimum rates of pay for Australian workers.

The only commitment that the Prime Minister was willing to give on that day was that there would not be a reduction in the rate that would be determined by the 2005 safety net review. That is all very well and good, but the question remains whether there is indeed a commitment to protect that rate. There is of course no reason why that rate will not fall in real terms over the coming years. There were no commitments to providing any indexing to either the CPI or any other benchmark that may assure workers—the two million or so that have to live off the minimum rate—that they will actually be able to keep their living standards secure as they would know that there might be increases in the future. Indeed, if that were to be the case, why take it from the Industrial Relations Commission? If indeed the government wants it to be determined and wants to ensure a reasonable agreement, why take it away from the commission? We know why the Prime Minister wanted to take it away. He wanted to take it away because, if the submissions of the government that were put forward to the commission since 1996 were accepted by the commission, the actual minimum rate would be $50 less than the rate is today. If the submissions by the Commonwealth were adopted by the Australian Industrial Relations Commission, workers on the minimum rate would be exactly $50 a week—or $2½ thousand or thereabouts a year—worse off. So we know exactly what the view of the current government is on that.

From the Prime Minister's explanation we also know, amongst other things, the only provisions that he is willing to protect under the law. Let me say this to the Prime Minister: federal awards are indeed orders determined by a statutory authority and have the power of law; they are determined under the Commonwealth law and they are there to provide protection now. Let us remember this in the context of what is going on with the government's changes: the government is proposing to unilaterally remove provisions from effectively the terms of contracts of millions of Australian workers. It is proposing to remove by law terms of contracts—that is, award provisions—without any involvement of the parties to those contracts, those awards. Instead, the Prime Minister has said—and he has got himself into a whole lot of trouble over his failure to commit himself to decent conditions for the working people of this country—that the conditions that he will protect under law now, as a result of the changes being proposed, will be annual leave, personal leave, parental leave and a maximum number of ordinary working hours. What about penalty rates? No mention of penalty rates. What about overtime? No mention of overtime. What about long service leave? We know that in many instances long service leave is regulated by state acts, so that does not provide the Commonwealth with the capacity to assure anything. We know that there are long service leave provisions—for example, for nurses in Victoria, as we have heard about over the week—that exceed statutory protections, but there has been no assurance to protect those.

What we know, and it was outlined in the Prime Minister's ministerial statement of 26 May this year, is that the government has a plan to remove the entitlements of Australian workers. The government has a plan to remove the umpire from the playing field. The government has a plan to limit the capacity of unions to represent working people in this country. The government has a plan to take away smokos, meal breaks, penalty rates and overtime. That is the plan; we will wait and see whether it sticks with that plan, but I think the Australian people are waking up to this government and its desire to remove entitlements from hardworking Australians. The backbone of this economy is the Australian workers who built this country. What is their reward for that? They have a government that wants to attack them and strip away their entitlements and conditions of employment. *(Time expired)*