



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**BILLS**

**Building and Construction Industry  
(Improving Productivity) Bill 2013, Building  
and Construction Industry (Consequential  
and Transitional Provisions) Bill 2013**

**Second Reading**

**SPEECH**

**Monday, 2 December 2013**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

**Date** Monday, 2 December 2013  
**Page** 1269  
**Questioner**  
**Speaker** Hayes, Chris, MP

**Source** House  
**Proof** No  
**Responder**  
**Question No.**

**Mr HAYES** (Fowler—Chief Opposition Whip) (19:32): Not surprisingly, I rise to oppose the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013. I should make the disclosure at this point that, when I was about 21, I think, I was first engaged to work for a trade union and, for the next 25 years, I worked to represent the interests of working men and women. I started off looking after people who worked for the water board—salaried officers. I then moved to the Australian Workers Union and looked after shearers and miners, and, as most people who are more aware of my immediate past know, I looked after police officers. So I say to those on the other side: don't give me a lecture about law and order and tell me that that is what this legislation is about.

These bills, quite frankly, masquerade as an attempt to improve productivity, but we know why they are before us. In the lead-up to the last election, those on the other side pledged not to reintroduce Work Choices, not because they did not believe in it but because they knew the political reality—that the last time they tinkered with Work Choices it caused them to lose government, in 2007. That is what this is about, trying to reinstitute and bring back those things by picking on one area of industry, thinking that this would just meet with the view, 'Well, it's only one union, the CFMEU; it's okay to look at them,' because they are big, tough fellows out there working in the construction industry. They think, 'We'll give you a pile of statistics to say why the area is less efficient.' But I have not heard one single element about some of the employers that operate in that industry, and I might talk a little bit about that as I go on.

I would have thought that some of the people who actually donated to the Liberal Party, people from Leighton, would be involved in some aspect of this debate. I would have thought that, in terms of doing damage to the national psyche and doing damage to industrial relations, people going out to bribe contractors, with a view to winning contracts, would require the attention of this parliament. Apparently not. They are going to talk about the workers on industrial sites, the riggers, the electricians, the carpenters and people like my sons. Both of them are construction workers. We are getting lectures about how these people operate on their sites, but as far as I know I have instilled values in my sons of fairness and decency, and I take umbrage at the fact that, simply because they are construction workers, those opposite are giving them less of a standard of decency than anybody else.

As for coming along and making the argument, 'We want a strong cop on the beat,' well, if you were going in that direction, I would actually support that. If we are talking about criminality, why aren't the police involved? Why are we going to give such powers to this construction industry body? The only powers you can equate with these would be those exercised by the Australian Crime Commission—coercive powers, where they can force witnesses to answer, and if you do not answer the questions you are then incarcerated. That is what we are talking about. By the way—and I cannot speak for my colleagues—I was one of those that supported those coercive powers for the Australian Crime Commission, because it was fighting serious and organised crime. That is not what you use for a construction site. But that is what those opposite want to do.

This is a diversion. This is how they are going to suck up to those people who contribute to Liberal Party fundraising, to show how they are tough against unions without using Work Choices. That is what this is about—nothing more, nothing less.

As I said, I have two boys who work in this industry. People can talk about the construction industry, but I have been through one of my sons working on a construction site in Western Australia when the fellow he was working with died. He was crushed to death. It is okay to point out that accidents happen, but it would have been nice to know that there were a few other people on that site, even a union safety inspector—someone else out there also having a look. This bill is designed to put a line through all that. I do not mind having a union official who is tough when it comes to safety. I do not mind somebody stopping a job to protect someone's welfare—in this case, it may have saved someone's life—because I know how much this impacted on my boy.

The bill is going to put fines for unlawful actions of \$34,000 on individuals and \$170,000 on organisations, and the ability to take criminal action. It sounds really tough, except that when you look at the previous incarnation of the Building Industry Construction Commission and where it came from—which was the Cole royal commission, conducted to the tune of \$70 million—you realise that not one criminal charge emanated from it. It was okay to have the 'wheat for weapons' scandal going on, everything else going on, but the Cole royal commission looked at the construction industry for \$70 million. I do not accept the argument that there has been an improvement in productivity. I do accept that wages have been suppressed. I do accept that safety has been jeopardised. I do accept that union officials have been kept off site. If that is what the productivity argument is, I will have to accept that it achieved what it was designed to do.

I would have thought that we support fairness in this country, that we support decency, regardless of what side of the House we stand on. The other thing I think we should all stand for in this place is supporting the rule of law, where everyone is treated equally before the law. That is not the case when it comes to the building and construction industry, apparently. As I said at the outset, I am more than happy to have a strong cop on the beat. I know after talking to the Police Federation of Australia and to each of the state branches of the police association that they would be happy to have police called upon to investigate areas of illegality occurring on building sites. They have not been. They will do their jobs, they will investigate criminal activity, they will arrest and prosecute people, but they are not being called upon to do anything here because no-one is making the allegation of criminality. Why is it that they have not called the police to engage in that? And do not give us the line of the code of silence, that no-one talks. That is ridiculous. The police are out there doing things day in and day out, fighting a battle with outlawed motorcycle gangs, dealing with the legacy of silence they put over that, but we are going to treat this differently. There has to be another motive in it. This is more political than not.

It was not that long ago that I was standing in this place when former Prime Minister John Howard brought in Work Choices. I remember it because one of the disputes I raised was called the Esselte dispute. A company in Minto had a young literacy challenged bloke called Warren Small working for them—he still is, as far as I know. Warren came to me because they wanted him to sign an individual contract and he said, 'I don't know what's in it.' This led to a 36-day strike. I really felt for these people because they were very low income workers on minimum rates of pay, and they stood up. I drove past that community for 36 days. I took them meat pies in the morning. I supported their stoppage. When I got a chance to talk to one of their directors, a quite prominent person who was involved in other boards, not just this company, I asked him, 'Why the hell are you guys doing this?' I still remember to this day that the view was: 'We don't make the laws. If you fellas in parliament decide that we can put people on wages lower than the award, why shouldn't we?' So they abrogated their responsibility by simply saying, 'The law allows us to do this and we don't feel any regret by doing it.' These workers were on minimum rates of pay, being squashed like that, with no negotiating ability and no industrial clout, and that is what they got.

We are talking about the building and construction industry, but don't for a minute think that we are only talking about the high-rise sites. Do not for a minute think that it is only fully organised sites, where organisers get out and knock on employers' doors wanting to negotiate. We are also talking about those many other areas of the industry where workers have little bargaining power. Most workers in this industry are price takers, whether they be apprentices or semiskilled workers. They have been offered a job and they take it at a particular price. They do not have the ability to negotiate individually with an employer.

If we are going to simply have laws that make it difficult for unions to do what they do, to represent workers honestly and decently, we need to have a good close look at ourselves because in this parliament we are not much different from union officials—except that we are not representing someone in the CFMEU or someone in the Police Federation or organisations like that; we are representing the community. If we are going to say that anyone who is of a particular class—in this case, a building worker—is going to get treated differently, how can we stand here and say that we genuinely, without fear or favour, represent members of our own communities?

I think a lot of this has to be put into perspective. These bills have only been pushed forward and are only being debated tonight to ensure that this government looks tough when it comes to industrial relations—because they cannot do what they really want to do. They really want to re-introduce Work Choices and to make it possible, once more, to frustrate normal industrial relations processes and to give the whip hand to employers. If they are saying there might be corrupt union officials out there, they should not come in here and assert that there are no corrupt employers. Not long ago, we looked at construction companies running freely around out there with their chequebooks. If those companies are prepared to buy contracts and influence contractual negotiations with a chequebook, what might they be doing with union officials? If there are union officials on the take, I imagine

that it is those companies that are paying them. So those opposite should not come in here and tell us that this is a one-sided thing and that this is what we have to do to stop these officials from the Construction Forestry Mining and Energy Union.

I know only a few people in the CFMEU, but I certainly know Brian and Brad Parker from New South Wales. They are good friends of mine, as is their mother. I would not say for a minute that they are not tough people, but they do put in huge efforts to look after workers in their industry. If that is what we expect of union officials—to look after workers in their industry—and if what we expect of members of this parliament is to look after people in their communities, then let us not start treating people differently. Let us not say, 'Just because you happen to work in building construction, you are going to be treated differently.' If we say, 'We are going to treat you no differently than a serious and organised criminal,' I think that will put us in jeopardy of transgressing a number of international human rights conventions we are signatories to. There has to be some balance in this argument and there has to be some transparency from those putting forward this argument.