



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

BILLS

**Building and Construction Industry
(Improving Productivity) Amendment Bill 2017**

In Committee

SPEECH

Wednesday, 15 February 2017

BY AUTHORITY OF THE SENATE

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Questioner
Speaker Xenophon, Sen Nick

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Senator XENOPHON (South Australia) (20:58): I will make a brief contribution. My colleagues and I will not be supporting these amendments. Out of respect for Senator Cameron, I will outline why not. I do have some questions of the minister, relating to issues of safety. I will reflect on Senator Rhiannon's contribution and also on the issue of Australian-made goods in the context of procurement.

Firstly, on the issue of apprentices, previously as a result of negotiations with the government when this bill was last before this place there was a commitment to include specific reference to there being no prohibition in the Building Code on negotiating or encouraging apprentices in an agreement. That is something that the ABCC cannot in any way fetter. If an agreement is reached apprentices must be taken into account. I think that you do need a situation where businesses large and small in the contracting chain should be encouraged to have as many apprentices as possible.

This is not the best vehicle. The best vehicle is appropriate apprenticeship programs, and I would like to hear from the minister about what the government is doing in respect of apprenticeship programs and whether and how it can expand the number of apprentices in industries such as the construction industry. That is first.

Second, in relation to the Migration Act amendments, the code already deals in quite significant terms with the issue of employment of foreign workers and the like. I had reservations about that amendment and its workability. I note that Professor Andrew Stewart, someone who gave advice to the Gillard government and a very respected academic, expressed concerns about the amendment. But the amendment is in the code now. I welcome it and it is an amendment that will effectively make it very difficult for there not to be priority for Australian workers, as there should be. That is why I think that this amendment is not necessary, because we already have a strong amendment in respect of the code.

In relation to the issue of safety, and I do want to comment on the other aspects of the amendment, Senator Rhiannon made a number of points. I know that Senator Roberts thought that they were unnecessary. I think they were important points to be made about the issue of workplace safety. It is on the record that, as a member of the South Australian parliament, I introduced industrial manslaughter laws back in 2004. It was something that the Labor government and the Liberal opposition did not support. I strongly maintain that industrial manslaughter laws should be there as a last resort, to send a very strong signal up the chain of command in large corporations that the board of directors and ultimately the managing director could well be liable if they have failed to put in place a safe system of work and appropriate procedures to manage the risk to ensure that everything reasonable that can be done is done to ensure safety in the workplace.

It seems to me that trying to bring this in within the code is not the issue, if we are fair dinkum about industrial safety in this country, if we are fair dinkum about having appropriate penalties in those egregious cases—and there are many that I have dealt with. Back in the state parliament I helped set up the group VOID, Voice of Industrial Death, for victims. I pay absolute tribute to Andrea Madeley, who lost her beloved son Danny, an 18-year-old apprentice, who was killed as a result of an unguarded horizontal borer. Andrea Madeley is a champion for those who have lost loved ones in industrial deaths. She is not only a great advocate but a wonderful person who has always been strong for victims who have lost loved ones. She is a tremendous advocate.

I think the best way to deal with this is through having stronger state occupational health and safety laws, to have industrial manslaughter laws as the ultimate deterrent, so that directors actually go to jail if they do not do the right thing. The penalty for the death of her beloved son, Danny, was woeful. That process just compounded the trauma for Andrea, it compounded the trauma for her family, and the penalty in the end was insulting. Those directors, in my view, should have gone to jail. But instead they got a measly fine, in the scheme of things.

So I ask the minister, in a constructive manner: does the minister consider there ought to be a review of occupational health and safety laws, given that it is a matter for state jurisdictions as well? I have had this

discussion with the minister in the last 24 hours, but will there be a commitment from the minister that there will be a wholesale, thorough review of occupational health and safety laws and their effectiveness so that there is something that we can consider at both the state and federal levels so that we can deal with this in a way that will be effective in the long term?