



Paddy Crumlin - National Secretary | Will Tracey - Deputy National Secretary
Ian Bray and Warren Smith - Assistant National Secretaries

19 February 2016
Committee Secretary
Senate Education and Employment Legislation Committee
Parliament House Canberra
By email eec.sen@aph.gov.au

Dear Committee Secretary,

Re: Building and Construction Industry (Improving Productivity) Bill 2013 [No.2] and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 [No.2].

Please accept the following correspondence as the Maritime Union of Australia's (MUA) submission regarding the above Bills.

The Maritime Union of Australia is strongly opposed to these Bills.

We endorse the ACTU submission and in particular the CFMEU submission regarding these Bills.

From the outset, the MUA is aware that the contents of the above Bills have already been examined when they were first presented to the Parliament by the Senate Education and Employment Legislation Committee that reported on 02/12/2013 and the Senate Education and Employment References Committee that reported 27/03/2014.

The MUA submission to the then Senate Education and Employment Legislation Committee was in opposition to those Bills. Just like the unchanged content of these Bills, the MUA's opposition to them is also unchanged. If anything it has further solidified.

Arguments in support of these Bills are politically motivated and spurious.

Supporters of these Bills will inevitably make lazy slurs upon Unions, their officials, staff and broader membership. They will also raise the recent Trade Union Royal Commission as a justification for supporting the reestablishment of the Australian Building and Construction Commission.

If the conservative and reactionary side of Parliament is to be believed Australian industry is on the brink of chaos and the recent Royal Commission is proof. What is neglected by proponents of these Bills are the serious safety and underpayment and Award and Agreement avoidance that are the cause of so much injustice and conflict in the construction industry. These frequently life taking issues were not seriously investigated by the Government or its politically motivated Royal Commission.

Instead the Royal Commission was and can only realistically be perceived as a politically motivated side show that was overseen by a politically biased Commissioner who was more than willing to accept an invitation to speak at a Liberal party fundraiser. Accordingly, justification for these Bills continue to be found wanting upon the most cursory examination.

The Bills unnecessarily includes maritime workers and tramples Civil liberties

In terms of specifics the MUA is concerned that there is no justification for including the Maritime sector within the ambit of the Building and Construction Commission. The MUA has not had any allegations of criminality nor unlawfulness levelled against it. However section 6 of the ABCC Bill provides: 'Building Work includes and is not limited to':

"(e) transporting or supplying goods ... directly to building sites (including any resources platform) where that work is being or may be performed;"

We are concerned that Maritime Workers may be touched by the ambit of this Bill in work involving the transport of goods to the offshore oil and gas industry. When there is no proper justification for maritime workers to be included in the ambit of these Bills and consequentially the punitive reach of the Australian Building and Construction Commissioner (ABCC).

More broadly the ABCC Bills seek to treat Australians differently depending on what they work do. The provisions of s62 of the *Building and Construction Industry (Improving Productivity) Bill 2013* [No. 2] is a clear case of legislative overreach. This section provides a penalty of 6 months imprisonment for failing to comply with an examination notice. Failure to comply can be enlivened by not answering a question to the satisfaction of an examiner. This wholly repugnant section is reproduced below:

62 Offence for failing to comply with examination notice

A person commits an offence if:

- (a) the person has been given an examination notice; and
- (b) the person fails:
 - (i) to give information or produce a document in accordance with the notice; or
 - (ii) to attend to answer questions in accordance with the notice; or
 - (iii) to take an oath or make an affirmation, when required to do so under subsection 61(5);
or
 - (iv) to answer questions relevant to the investigation while attending as required by the examination notice.

Penalty: Imprisonment for 6 months.

Restrictions to civil liberties on this basis and of this scale are neither appropriate nor necessary in an industrial relations context involving employment law.

Accordingly and for all these reasons the MUA recommends these Bills be rejected by the Australian Senate.

In closing, I would welcome the opportunity to appear before the Senate to provide further evidence. For further information please contact Senior National Legal Officer Mr Kristian Bolwell in my absence at the MUA's National Office.

Yours sincerely,

Paddy Crumlin
National Secretary