

Chapter 1

Introduction and background

Referral

1.1 On 31 August 2016 the Prime Minister the Hon. Malcolm Turnbull MP introduced the Building and Construction Industry (Improving Productivity) Bill 2013 (the ABCC bill); a related consequential amendment bill; and the Fair Work Amendment (Registered Organisations) Amendment Bill 2014 (registered organisations bill) in the House of Representatives.¹ The bills were referred to the Education and Employment Legislation Committee (the committee) on 1 September for report on 14 October 2016. Although these bills were referred separately, the committee decided to inquire into the bills concurrently.

1.2 The bills are identical to bills introduced and considered by this committee and other parliamentary committees on several occasions during the 44th Parliament. As a result, much of this report draws from previous committee reports.

Scope and conduct of the inquiry

1.3 Details of the inquiry were made available on the committee's website. The committee also invited a number of organisations to make a submission. The committee received 25 submissions in relation to the ABCC bill and 17 in relation to the registered organisations bill as listed in Appendix 1. A public hearing into both bills was held on 4 October 2016 in Melbourne. The witness list is at Appendix 2. The committee thanks submitters and witnesses who contributed to this inquiry.

Overview of the bills

1.4 Details of the bills' provisions, financial impact statements and human rights impact statements can be found in previous reports.²

History of the bills

1.5 During the 44th Parliament a total of six separate Senate Committee inquiries were held into the two bills. On two separate occasions, both bills were previously inquired into and reported on by this committee.³ On both occasions, the committee recommended that the Senate pass the bills.

1 *Votes and Proceedings*, No. 2, 31 August 2016, p. 30.

2 Senate Education and Employment Legislation Committee, *Building and Construction Industry (Improving Productivity) Bill 2013 [No. 2] and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 [No. 2]*, March 2016, pp. 1–3; Senate Education and Employment Legislation Committee, *Fair Work (Registered Organisations) Amendment Bill 2014 [No.2]*, August 2015, pp. 1–3.

3 Inquiry reports were tabled by the committee on the ABCC bill in December 2013 and March 2016; and on the registered organisations bill in December 2013 and August 2015.

1.6 In addition, the Education and Employment References Committee has considered both bills in depth.⁴ Aspects of the bills have also been considered by the Senate Standing Committee on the Scrutiny of Bills and the Parliamentary Joint Committee on Human Rights.⁵

1.7 Over the course of the current and previous inquiries, there have been no fewer than six public hearings in relation to the ABCC bill and three in relation to the registered organisations bill.

1.8 Notably, it was the failure of the Senate to pass these bills that led the Prime Minister in May 2016 to request the dissolution of both Houses of Parliament prior to the 2 July Federal election.

Responses to the bill

1.9 Many submitters made detailed references to their submissions from earlier inquiries. Some even reproduced their previous submissions in their entirety.⁶ Responses to the bills remain divided, with no new arguments put forward by either side. This demonstrates that re-referral of the bills to the committee for yet another inquiry is unnecessarily blocking the Senate from voting on the bills.

1.10 Submissions in favour of the bills have again outlined the need for them to be passed, citing numerous examples of supply chain hold-ups because of disruptive industrial behaviour, intimidation of workers by union officials and union corruption.⁷

1.11 The bills' critics have rehashed the same old arguments regarding the perceived negative impact on civil liberties and unfair targeting of the construction industry for onerous oversight.⁸ These same critics disregard the flagrant contempt for the rule of law and the impact of workplace disputation on the national economy caused by the behaviour that the bill seeks to address.

4 Senate Education and Employment References Committee, *Government's approach to re-establishing the Australian Building and Construction Commission*, March 2014; and Senate Education and Employment References Committee, *Fair Work (Registered Organisations) Amendment Bill 2013*, March 2014.

5 The history of their consideration by this committee is outlined in Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 6 of 2016*, pp. 13, 19.

6 See the following submissions in relation to the ABCC bill see Law Council of Australia, *Submission 2*; Housing Industry Association, *Submission 13*.

7 With regard to the ABCC bill see Australian Mines and Metals Association, *Submission 16*; Master Builders Australia, *Submission 23*; Australian Government Department of Employment, *Submission 3*; Australian Industry Group, *Submission 8*; in relation to the registered organisations bill see Australian Industry Group, *Submission 8*; Australian Chamber of Commerce and Industry, *Submission 10*; Master Builders Australia, *Submission 14*.

8 With regard to the ABCC bill, see Maritime Union of Australia, *Submission 24*; Australian Council of Trade Unions, *Submission 11*; Electrical Trades Union, *Submission 21*; Plumbing Trades Employees Union *Submission 6*; Queensland Council of Unions, *Submission 15*; in relation to the registered organisations bill see Maritime Union of Australia, *Submission 16*; Australian Council of Trade Unions, *Submission 7*; Australian Services Union, *Submission 11*.

1.12 The committee draws the Senate's attention to its previous reports for more in depth discussion of issues previously dealt with.

Committee view

1.13 The committee remains of the view that the necessity of these bills is demonstrated by the weight of evidence supporting the bills in this current inquiry and the numerous previous inquiries. As Mr Harnisch from the Master Builders Association stated in evidence in relation to the re-establishment of the Australian Building and Construction Commission:

After three royal commissions, countless other inquiries, reports and examinations, and a continuing barrage of judicial commentary damning building unions and the culture they have generated, it continues to astound us that some still question the need for the ABCC.

The need for the ABCC is a simple proposition: everyone knows there is a problem and the ABCC is a solution that has been proven to work; it has worked before and it will work again.⁹

1.14 Similar sentiments abound in relation to the need for the provisions of the registered organisations bill, as demonstrated by Dr Alison Morehead from the Department of Employment:

The final report of the Royal Commission into Trade Union Governance and Corruption identified evidence of widespread and some deep-seated misconduct in the union movement, and the report's findings and recommendations demonstrate the need for reform.¹⁰

1.15 The committee considers that an inordinate amount of time has been spent on debating and inquiring into these bills. The fact that there have been no changes to the bills demonstrates that their re-referral for yet another inquiry is unnecessarily blocking the Senate from voting on the bills.

Recommendation 1

1.16 The committee recommends that the Senate pass the bills.

Senator Bridget McKenzie

Chair

9 Mr Harnisch, Chief Executive Officer, Master Builders Association, *Committee Hansard*, 4 October 2016, p. 1.

10 Dr Alison Morehead, Group Manager, Department of Employment, *Committee Hansard*, 4 October 2016, p. 22.

