

The Senate

Education and Employment
Legislation Committee

Building and Construction Industry
(Improving Productivity) Bill 2013
[Provisions]

Building and Construction Industry
(Consequential and Transitional Provisions)
Bill 2013 [Provisions]

Fair Work (Registered Organisations)
Amendment Bill 2014 [Provisions]

October 2016

© Commonwealth of Australia 2016

ISBN: 978-1-76010-472-6

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website: <http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

This document was produced by the Senate Standing Committee on Education and Employment and printed by the Senate Printing Unit, Parliament House, Canberra.

MEMBERSHIP OF THE COMMITTEE

Members

Senator Bridget McKenzie, Chair, NAT, VIC

Senator Gavin Marshall, Deputy Chair, ALP, VIC

Senator Sarah Hanson-Young, AG, SA (from 1 September to 10 October 2016)

Senator Deborah O'Neill, ALP, NSW

Senator James Paterson, LP, VIC

Senator John Williams, NAT, NSW

Senator Lee Rhiannon, AG, NSW (substitute member from 10 to 14 October 2016)

Participating Members

Senator Jacinta Collins, ALP, VIC

Senator the Hon Doug Cameron, ALP, NSW

Senator Sarah Hanson-Young, AG, SA (from 10 to 14 October 2016)

Senator Skye Kakoschke-Moore, NXT, SA

Senator Jacqui Lambie, JLN, TAS

Senator Lee Rhiannon, AG, NSW (from 1 September to 10 October 2016)

Secretariat

Mr Stephen Palethorpe, Secretary

Dr Patrick Hodder, Principal Research Officer

Ms Cathryn Cummins, Senior Research Officer

Ms Amy Walters, Research Officer

Mr Abe Williamson, Administrative Officer

PO Box 6100
Parliament House
Canberra ACT 2600

Ph: 02 6277 3521
Fax: 02 6277 5706
E-mail: eec.sen@aph.gov.au

TABLE OF CONTENTS

Chapter 1	1
Introduction and background	1
Referral	1
Scope and conduct of the inquiry	1
Overview of the bills	1
History of the bills	1
Responses to the bill	2
Committee view.....	3
Labor Senators' Dissenting Report	5
Introduction	5
A piece of poorly-targeted and unnecessary legislation.....	6
A sham attempt to combat corruption	7
The bill impedes work health and safety.....	8
Lack of regard for basic rights and liberties.....	8
Conclusion.....	9
Australian Greens' Dissenting Report	11
Overview	11
Conduct of the ABCC	11
The need for a national corruption body	12
Building code.....	12
The Registered Organisations Bill	13
Conclusion.....	14
Appendix 1	15
Appendix 2	19

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.

Labor Senators' Dissenting Report

Introduction

1.1 Labor Senators are astounded at the Government's continued attempts to re-establish the Australian Building and Construction Commission (the ABCC) and to enact the Registered Organisations bill. This is not based on a genuine need for the ABCC or to somehow improve union governance practices, but is rather an ideologically-based and politically motivated attempt to crack down on the ability of unions to advocate for workers' rights.

1.2 Moreover, after the superficial resolve shown by Prime Minister Turnbull in using this bill as part of his strategy for calling a double dissolution, the Government continues to waste the time of the Parliament and the resources of the Senate in holding a further inquiry and prompting more debate over provisions that have previously been revealed as unnecessary.

1.3 These bills are fundamentally misguided in that they will not promote greater workplace productivity. This was a key point of Labor Senator's previous dissenting report for the most recent ABCC inquiry.¹ These sentiments were echoed by Australian Council of Trade Unions' (ACTU) Secretary Dave Oliver in the public hearing for the current inquiry:

[t]his bill, despite its name, has very little or nothing to do with productivity. In fact, the government's own industry monitor has shown that construction sector labour productivity over the last five years has increased to 2.8 per cent, as opposed to multifactor productivity of 1.25 per cent. We are at a bit of a loss as to how people could think that you could get higher productivity through more regulation. We know that the current government is big on the notion of cutting red tape. It seems that if you are a bank, for example, we are looking at greater deregulation. But if you are a union, particularly in the construction sector, you want to have more regulation in place.²

1.4 Similarly, the Maritime Union of Australia contrasted the significant regulatory intervention of ABCC bill with the Government's previously stated intention of cutting red and green tape.³

1.5 The Government's claims to increase productivity are instead euphemism for the restriction of workers' rights. Furthermore, at a cost of \$35 million,⁴ the

1 Labor Senators' Dissenting Report, in 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. 9–18.

2 Mr Dave Oliver, *Committee Hansard*, 4 October 2016, p. 11.

3 Maritime Union of Australia, *Submission 24*, p. 6.

4 *Explanatory Memorandum*, p. 4.

re-establishment of the ABCC is not only bad policy but is also a bad deal for the tax payer.

A piece of poorly-targeted and unnecessary legislation

1.6 In addition to negatively affecting productivity, the bill "treats construction workers as second-class citizens in their own country"⁵ by singling out the industry for particular oversight and regulation. As discussed in the Education and Employment References Committee's 2014 report into the government's attempts to re-establish the ABCC, many industries outside the construction industry are also vulnerable to economic loss through industrial action.⁶ The construction industry is therefore not unique, and it is clearly ideological and political motivations that are driving the Government's dogged pursuit of this bill's passage through Parliament.

1.7 In addition, the bill "does not deal with the big issues of the industry."⁷ As outlined by Mr Noonan from the Construction, Forestry, Mining and Energy Union (CFMEU), the big issues include poor safety and deaths on construction sites, the rip-off of workers, the use of temporary visa workers to undermine Australian job security and conditions, the use of nonconforming building products, insolvency and phoenixing,⁸ none of which will be addressed by these punitive reforms.

1.8 Labor Senators also reiterate the comments made in our previous dissenting report about the powers of the Fair Work Building Industry Inspectorate. The Inspectorate has a full suite of appropriate investigative and prosecutorial powers to deal with any unlawful behaviour in the building and construction industry—whether by employers, employees, unions or contractors. The existing *Fair Work (Building Industry) Act 2012* is a secure, fair and adequate regulatory framework of industrial relations in Australia that provides enforcement based on education rather than prosecution, retains the important safeguards on the exercise of coercive powers of workers, and provides the capacity for a genuinely independent compliance unit.⁹

1.9 Furthermore, as Mr Noonan pointed out, prosecutorial action is better directed right at the top, to the big construction companies who commit egregious breaches of

5 Mr Dave Noonan, National Secretary, Construction, Forestry, Mining and Energy Union, *Committee Hansard*, 4 October 2016, p. 13.

6 Education and Employment References Committee, *Government's approach to re-establishing the Australian Building and Construction Commission*, March 2014, p. 56.

7 Mr Dave Noonan, National Secretary, Construction, Forestry, Mining and Energy Union, *Committee Hansard*, 4 October 2016, p. 13.

8 Mr Dave Noonan, National Secretary, Construction, Forestry, Mining and Energy Union, *Committee Hansard*, 4 October 2016, p. 13.

9 Labor Senators' Dissenting Report, in 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, p. 11.

law and abandon the undertakings they have given to improve compliance,¹⁰ rather than at construction workers who are trying to pay their bills and feed their families.

A sham attempt to combat corruption

1.10 Regrettably, some isolated instances of corruption has been found in the construction industry. However, as Mr Oliver stated:

...the trade union movement does not support corruption in any shape or form. Unfortunately, corruption does reside in all sectors of our society. We see it in the sporting arena, the corporate arena and the political arena. That is why we have consistently called for the establishment of a national ICAC to be able to root out where there are problems in regard to corruption across any sector of this country.¹¹

1.11 Furthermore, where corruption has been found, adequate steps have been taken to eliminate it. Labor Senators draw the Senate's attention to the comments made by Mr Noonan at a public hearing conducted during the previous inquiry into this bill:

In terms of people who behave badly, our union has acted in the past. We have no tolerance for corruption. The word 'corruption' is thrown around freely by those who support this bill—notwithstanding the fact that the bill itself does not address corruption or the criminal law. We have had junior, medium-level and indeed one very senior official who we have sacked and expelled from the union because their conduct did not meet the standards we expected. Some of those matters are now in front of the courts, so I do not want to name them. We do not have any time for corruption in the industry. Any official of the union, or any delegate of the union, who engages in corruption is not working for the members, they are not working for the union; they are working for the employer who has corrupted them, and we find it disgraceful. Where credible and supported allegations are brought, we deal with them.¹²

10 Mr Dave Noonan, National Secretary, Construction, Forestry, Mining and Energy Union, *Committee Hansard*, 4 October 2016, p. 13.

11 Mr Dave Oliver, Secretary, Australian Council of Trade Unions, *Committee Hansard*, 4 October 2016, p. 16.

12 Labor Senators' Dissenting Report, in 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. 11–12.

The bill impedes work health and safety

1.12 In our previous dissenting report we argued that the narrow definition of protected action could actually result in poorer workplace safety.¹³ This situation remains unchanged.

1.13 In the Senate Education and Employment Reference Committee's report, Unions NSW voiced concerns over the power the ABCC will have in relation to health and safety issues raised on site. Because the health and safety issue must relate to the individual, and he or she is the only person who can raise it, there is a real risk that individual workers could feel intimidated. The Maritime Union of Australia was also concerned about the onus being on the individual to prove there is a legitimate occupational health and safety concern.¹⁴ For further discussion on this matter, we refer the Senate to that report.¹⁵

1.14 Despite these insights, the bill's Explanatory Memorandum again states that its provisions won't affect an employee raising concerns about occupational health and safety.¹⁶

Lack of regard for basic rights and liberties

1.15 Should these bills pass the Senate, the ABCC would be able to use coercive powers stronger than those provided to even the state or federal police to compel workers to give evidence and be interviewed, with no right to silence or representation by a lawyer of their choice.¹⁷

1.16 In our previous dissenting report, we noted that the Law Council of Australia held grave concerns about the encroachment of these provisions into territory that is not consistent with the principles of the rule of law and traditional common law rights.¹⁸ Given the bill has not changed since it was last considered, the Law Council has reiterated these concerns and Labor Senators also wish to highlight our continued

13 Labor Senators' Dissenting Report, in 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, p. 16.

14 Education and Employment References Committee, *Government's approach to re-establishing the Australian Building and Construction Commission*, March 2014, p. 70.

15 Education and Employment References Committee, *Government's approach to re-establishing the Australian Building and Construction Commission*, March 2014, pp. 70–72.

16 *Explanatory Memorandum*, p. 7.

17 Labor Senators' Dissenting Report, in 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, p. 13.

18 Labor Senators' Dissenting Report, in 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, p. 13.

opposition to such powers.¹⁹ We direct the Senate to our previous dissenting report for a full discussion of this issue.²⁰

1.17 Furthermore, as detailed in the Education and Employment References Report, the perceived need for coercive powers can be traced back to the Cole Royal Commission, in which Commissioner Cole's remarks about the possibility of productivity being increased through radical industrial relations "reform" involving punitive industrial relations laws sparked a mythology about the uniqueness of the construction industry which continues today.²¹

Conclusion

1.18 The legislation proposed is poorly targeted, unnecessary and will not achieve what it sets out to do. As stated by the CFMEU, the government "should act in the interests of all of the community not just in the interests of the big construction companies, big building-products manufacturers and property developers."²² The coercive powers and limitations on workers' rights are not in line with the values of Australian society and are not justified in terms of productivity gain.

1.19 For these reasons Labor Senators do not see merit in either the Building and Construction Industry (Improving Productivity) Bill 2013 nor the Fair Work Amendment (Registered Organisations) Amendment Bill 2014 and oppose both in their entirety.

Recommendation 1

1.20 Labor Senators recommend that the Senate reject the Building and Construction Industry (Improving Productivity) Bill 2013 and the Fair Work Amendment (Registered Organisations) Amendment Bill 2014.

Senator Gavin Marshall
Deputy Chair

Senator Doug Cameron
Participating Member

19 Law Council of Australia, *Submission 2*, p. 5.

20 Labor Senators' Dissenting Report, in 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. 13–14.

21 Education and Employment References Committee, *Government's approach to re-establishing the Australian Building and Construction Commission*, March 2014, pp. 13–14.

22 Mr Dave Noonan, National Secretary, Construction, Forestry, Mining and Energy Union, *Committee Hansard*, 4 October 2016, p. 14.

Australian Greens' Dissenting Report

Overview

1.1 The Senate Education and Employment Committee inquiry examined the Building and Construction Industry (Improving Productivity) Bill 2013 (the ABCC bill), the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 (the related bill), and the Fair Work (Registered Organisations) Amendment Bill 2014 (registered organisations bill).

1.2 All three bills have been considered by the Committee twice before and have previously been rejected by the Senate.

1.3 In the Committee's previous reports on these bills, the Australian Greens have recommended that the Bills not be passed and have voted against them.

1.4 There was no evidence before the committee that was persuasive or compelling enough to change that view. On the contrary, the evidence received reinforced the view of the Australian Greens that the bills should be rejected by the Senate.

Conduct of the ABCC

1.5 An examination of the previous conduct of the Australian Building and Construction Commission (ABCC) highlights the problem of reinstating the Commission via the ABCC bill.

1.6 The ABCC failed to act as independent regulator committed to the best interests of the industry, the conditions of the workers and the legitimate needs of employers.

1.7 It was unwilling or unable to address construction industry employers engaging in illegal activities including the widespread use of misleading contracts. Construction companies signing up workers as independent contractors instead of hiring them as employees remains a serious issue that reduces industry standards. For employees it means they lose basic work and safety rights.

1.8 The construction industry is one of this country's top four most dangerous industries. The ABCC never took an employer to court over breaches of occupational health and safety laws. Instead, the number of deaths in the construction industry increased during the period that the ABCC was in operation. In 2004 the number of deaths was 3.14 per 100,000 workers. In 2007 it stood at 4.8 and in 2008 at 4.27, per 100,000 workers.¹

1 CFMEU, *Simple as ABCC: Bad Laws Cost Lives*, www.cfmeunsw.asn.au/campaigns/stop-the-abcc, (accessed 13 October 2016).

1.9 The coercive powers of the ABCC, which could subject construction industry workers to secret interrogations and force them to answer questions under oath, resulted in construction workers having fewer rights than other workers.

1.10 The Greens believe a person should not have fewer rights than an accused criminal simply because they work in the building industry. People shouldn't fear being hauled into secret inquisitions and forced to 'name names' under threat of imprisonment. We do not want or need McCarthyism in the building industry.

Recommendation 1

1.11 The Australian Greens recommend that the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 not be passed.

The need for a national corruption body

1.12 Evidence to the committee supported the need for a broad-based corruption watchdog, rather than establishing a body whose focus is to attack unions. A broad-based federal anti-corruption body would be able to investigate and pursue corruption at all levels in society.

1.13 The experience of ICAC in New South Wales shows that corruption is not limited to one industry or arena, including parliamentarians. If the government was serious about tackling corruption it would establish such a body at the Commonwealth level.

Recommendation 2

1.14 The Australian Greens recommend that the government establish a broad-based federal anti-corruption body.

Building code

1.15 The *Building and Construction Industry (Improving Productivity) Bill 2015* also contains provisions in relation to the Building Code that are very concerning. The provisions will enable a new Building Code that, estimates suggest, will impact on more than 1 million Australian workers.² Significant existing employment conditions for construction workers will be prohibited.

1.16 The Building Code will apply not only to employers tendering for government construction projects, but also all employees working for those employers in the private sector; all entities that supply transport or prefabrication manufacturing to government jobs; and other entities that include contracting or transport suppliers.

2 Electrical Trades Union, *Submission 21*, p. [5].

1.17 Evidence to the committee showed that the Building Code provision will enable the Commonwealth government to prevent local agreements having clauses for a range of matters including guarantees on the numbers of apprentices.

1.18 For example, 76 clauses in current Electrical Trades Union construction agreements could be prohibited, including clauses that:

- prevent unlimited ordinary hours worked per day;
- guarantee the employee's ability to have a day off on Christmas Day and Easter Sunday and other public holidays;
- encourage employment of apprentices;
- discourage discrimination against mature workers;
- include agreed stable and secure shift arrangements or rosters;
- ensures construction workers' conditions and entitlements cannot be eroded;
- provide for equality and fairness onsite for construction workers; and
- impact on the rights of construction workers to have a safe workplace.³

Recommendation 3

1.19 The Australian Greens recommend that the provisions in relation to the Building Code be removed from the Bill.

The Registered Organisations Bill

1.20 The Fair Work (Registered Organisations) Amendment Bill 2014 is also fatally flawed.

1.21 The government claims that the bill just puts corporations and registered organisations on an even footing, implying that unions and other registered organisations ought to be treated in the same way as corporations because they are fundamentally the same. This is not the case.

1.22 Unions are required under the *Fair Work (Registered Organisations) Act 2009* and other legislation to be democratic organisations, while corporations are not. Unions are required to publish their accounts and financial returns every year online, but proprietary limited companies are not.

1.23 The government fails – or refuses – to understand that employee organisations do not exist for the same reason as businesses. Businesses exist to make profit: that is their sole purpose and the measure of their success. Company directors are legally required to act in the best interests of their shareholders and to continue to make a profit.

1.24 Unions exist to advance the interests of their members, and in doing so, help all workers. Unions advise people of their rights and entitlements at work and ensure

3 Electrical Trades Union, *Submission 21*, pp. [4 and 30].

those entitlements are honoured. They ensure that the lowest paid workers enjoy something approaching what others take for granted: a decent income and quality of life.

1.25 Unions fought for shorter working weeks. Unions are responsible for the existence of the weekend. It is thanks to unions that workers are entitled to annual leave and penalty rates. These things were not granted to workers by benevolent corporations; unions fought for every single one.

1.26 Unions drive changes to our workplace laws not for their own benefit, but for the benefit of their members and all Australian workers. They receive no direct financial advantage from their work. Registered organisations are fundamentally different to profit-making corporations and they must be treated differently.

1.27 Evidence to the Committee reinforced the Australian Greens' view that the Bill is unnecessary. Current laws prevent officers of registered organisations from using their positions for their own personal benefit and those that do are prosecuted. Rather than extending the current requirements demanded of unions to corporations, the bill allows the government to micromanage unions in a way that would be unthinkable of private companies, while still imposing the same penalties on unions that apply to publicly listed companies.

Recommendation 4

1.28 The Australian Greens recommend that the Fair Work (Registered Organisations) Amendment Bill 2014 not be passed.

Conclusion

1.29 The Australian Greens will always stand up for people's rights at work. We urge Senators not to support these bills.

Senator Lee Rhiannon

Australian Greens

Appendix 1

Submissions and additional information

Submissions – Building and Construction Industry (Improving Productivity) Bill 2013 and related bill

Number	Submitter
1	Australian Youth Climate Coalition
2	Law Council of Australia
3	Australian Government Department of Employment
4	Commonwealth Ombudsman
5	Chamber of Commerce and Industry of Western Australia
6	Plumbing Trades Employees Union
7	National Electrical and Communications Association
8	Australian Services Union
9	UnionsWA
10	Australian Industry Group
11	Australian Council of Trade Unions
12	Australian Constructors Association
13	Housing Industry Association
14	Australian Chamber of Commerce and Industry
15	Queensland Council of Unions
16	Australian Mines and Metals Association
17	Master Electricians Australia
18	Textile Clothing and Footwear Union of Australia
19	Construction, Forestry, Mining and Energy Union
20	Australian Manufacturing Workers' Union
21	Electrical Trades Union of Australia

22	Civil Contractors Federation
23	Master Builders Australia
24	Maritime Union of Australia
25	Queensland Government

Submissions – Fair Work (Registered Organisations) Amendment Bill 2014

1	Police Federation of Australia
2	Australian Youth Climate Coalition
3	Queensland Nurses' Union
4	Mr Andrew Oliver
5	Finance Sector Union of Australia
6	Electrical Trades Union of Australia
7	Australian Council of Trade Unions
8	Australian Industry Group
9	Australian Mines and Metals Association
10	Australian Chamber of Commerce and Industry
11	Australian Services Union
12	Victorian Farmers Federation
13	National Electrical and Communications Association
14	Master Builders Australia
15	Australian Government Department of Employment
16	Maritime Union of Australia
17	Queensland Government

Answers to questions taken on notice

Public hearing Melbourne, 4 October 2016

- 1 Answer to question on notice from Senator Paterson to Mr Dave Noonan of the CFMEU, Melbourne, Victoria, 4 October 2016.
- 2 Answer to question on notice from Senator Cameron to Mr Steve Kibble of the Department of Employment, Melbourne, Victoria, 4 October 2016.
- 3 Answer to question on notice from Senator Kakoschke-Moore to Mr David Humphrey of the Housing Industry Association, Melbourne, Victoria, 4 October 2016.
- 4 Answer to question on notice from Senator Cameron to Mr Wilhelm Harnisch of Master Builders Australia, Melbourne, Victoria, 4 October 2016.
- 5 Answer to question on notice from Senator Lambie to Mr Wilhelm Harnisch of Master Builders Australia, Melbourne, Victoria, 4 October 2016.

Appendix 2

Public Hearing

Melbourne, 4 October 2016

Committee Members in attendance: Senators McKenzie (Chair), Collins, Hanson-Young, Kakoschke-Moore, Lambie and Paterson.

Witnesses

Housing Industry Association

Ms Melissa Adler, Executive Director, Workplace Relations

Master Builders Australia Limited

Mr Wilhelm Harnisch, Chief Executive Officer

Housing Industry Association

Mr David Humphrey, Senior Executive Director, Business, Compliance and Contracting

Master Builders Australia Limited

Mr Shaun Schmitke, National Director, Industrial Relations

Australian Council of Trade Unions

Mr Dave Oliver, Secretary

Mr Tallis Richmond, Political Coordinator

Construction, Forestry, Mining and Energy Union

Mr Dave Noonan, National Secretary, Construction and General Division

Mr Tom Roberts, Senior National Legal Officer

Department of Employment

Ms Rebecca Quill, Principal Government Lawyer

Mr Jeremy O'Sullivan, Chief Counsel

Mr Steve Kibble, Group Manager, Work Health and Safety Policy Group

Dr Alison Morehead, Group Manager, Workplace Relations Policy Group

