

COALITION SENATORS' DISSENTING REPORT

Introduction

1.1 Coalition Senators reject the need for this inquiry particularly given the Senate Education and Employment Legislation Committee's recent inquiry into this very legislation. The Green Labor Alliance's decision to re-refer this legislation appears politically motivated and diminishes the standing of the Senate committee process.

1.2 Indeed, contrary to the national roadshow that was being suggested as the need for this Committee to consider the legislation, there was just one hearing which heard from 3 unions and 1 employer organisation.

1.3 Coalition Senators also note that the Senate Committee charged with looking at Labor's amendments to the Registered Organisations regime in 2012 only had 5 days to examine the Bill – that's compared to the almost four weeks that the Committee took to consider this Bill. There was no need for another Committee hearing to consider this question.

1.4 Coalition Senators stand by the findings and recommendations of the Senate Education and Employment Legislation Committee's report following the Inquiry into this legislation.

The Legislation

1.5 Coalition Senators strongly support the Government taking strong action to ensure registered organisations are more transparent and accountable.

1.6 There can no longer be any doubt that serious governance issues now exist in certain unions, especially in the construction industry. In recent weeks we have seen very serious allegations of bribery, intimidation and shady financial practices.

1.7 It is a pity that the Opposition senators, in their petulant desire to re prosecute old arguments rather than adding new evidence to the debate, did not take up the opportunity to examine these issues more fully in the inquiry process. This simply highlights their obstructionist strategy to legislation for which there is a clear mandate from the Australian people.

1.8 Existing regulation does not sufficiently protect members' interests. Members of registered organisations, mainly workers and small businesses, deserve better. They are entitled to the same protections as shareholders of companies.

1.9 Many officials do the right thing. This Bill specifically targets those who do the wrong thing and will restore confidence in the system for honest members.

1.10 Coalition Senators firmly agree with Australian Workers Union National Secretary Paul Howes who recently said, in relation to union corruption: 'If we ignore any pocket of dishonesty – it will grow like a cancer'. He spoke further about the need for 'developing corruption resistance at every level'.

1.11 Contrary to the views put by the Majority in its report, this legislation is not just in response to the Health Services Union saga.

1.12 The Fair Work Commission has recently launched proceedings against the Musicians Union of Australia and currently has inquiries or investigations into the Australian Rail, Tram and Bus Industry Union, Australian Salaried Medical Officers Federation, Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, Flight Attendants' Association of Australia, Textile, Clothing and Footwear Union of Australia, Australian Nursing Federation and the Australian Childcare Centres Association.

1.13 Further, the need for a separate Registered Organisations Commission was demonstrated by Fair Work Australia's investigation into the Health Services Union which took four years.

Concerns raised by the Majority

1.14 The Majority in its report expressed a number of key concerns about this Bill, specifically:

- The disclosure requirements for officers of registered organisations are too invasive and go further than the Corporations Act;
- The disclosure requirements for officers of registered organisations include the reporting of family members' income and assets;
- The disclosure requirements for officers of registered organisations capture the whole governing body and need to be reported to the entire membership; and
- That there is no discretion in relation to the requirements for financial accountability training for officers.

1.15 Coalition Senators note that each of these issues arise courtesy of the Fair Work (Registered Organisations) Amendment Bill 2012 introduced by the now Leader of the Opposition, the Hon. Bill Shorten MP.

1.16 Coalition Senators point to the following from the previous government's Minister for Employment's submission:

An analysis of Labor's concerns and Mr Shorten's comments is presented below:

Having voted for the legislation, Opposition Members' are now expressing concern that: Disclosure goes above and beyond the Corporations Act

Then-Minister Shorten said in 2012 when introducing the Bill:

"This bill will require the rules of registered organisations to provide for the disclosure of remuneration, including board fees, of the five highest paid officials of the organisation as well as the two highest paid in each branch, to the members of the organisation. Determining the five highest paid officials will be based upon monetary remuneration rather than non-cash benefits. However, where an official's remuneration is required to be disclosed, that disclosure will require non-cash benefits paid to the official to be identified."

Having voted for the legislation, Opposition Members' are now expressing concern that: Disclosure is too invasive and covers family members

1.17 Then-Minister Shorten said in 2012 when introducing the Bill:

“Under the amendments proposed by the government, registered organisations will be required to amend their rules to provide for the disclosure of transactions between the organisation and related parties, which may include the family members of officials.”

Having voted for the legislation, Opposition Members' are now expressing concern that: Even those with substantial experience will require the training

Then-Minister Shorten said in 2012 when introducing the Bill:

“To improve financial literacy within registered organisations, the rules of organisations will require each officer whose duties relate to the financial management of the organisation or the branch as the case may be to undertake approved training relating to the officials' financial management obligations.”

1.18 Coalition Senators note that the Fair Work (Registered Organisations) Amendment Bill 2013 was drafted in such a way as to build on the existing framework and that the Minister is giving active consideration to the issues that have been raised by the Senate Education and Employment Legislation Committee and stakeholders.

Conclusion

1.19 Coalition Senators are not surprised that union and employer organisation bosses aren't emphatically in support of this legislation. That said, it is very clear that this reform is in the national interest and in the interests of honest union members who want to ensure that their money is being spent properly.

1.20 The only people that have anything to fear from this legislation are dodgy union bosses who do the wrong thing.

Recommendation 1

1.21 Recommendation: that the Majority Report be ignored and the Senate Legislation Committee's recommendations be adopted.

Senator Chris Back
Deputy Chair

Senator Bridget McKenzie