

The Senate

Employment, Workplace Relations
and Education References Committee

Beyond Cole

The future of the construction industry:
confrontation or co-operation?

June 2004

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Membership of Committee

Members

Senator George Campbell	ALP, New South Wales	Chair
Senator John Tierney	LP, New South Wales	Deputy Chair
Senator Guy Barnett	LP, Tasmania	
Senator Kim Carr	ALP, Victoria	
Senator Trish Crossin	ALP, Northern Territory	
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Terms of Reference

- 1 That the Senate notes the Government's release of the draft Building and Construction Industry Improvement Bill 2003, the recommendations and findings from the Cole Royal Commission into the building and construction industry in Australia, and other relevant and related matters pertinent to equity, effectiveness, efficiency and productivity in the building and construction industry.
- 2 That the following matters be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by the second sitting week of 2004:
 - (a) the provisions of the draft Building and Construction Industry Improvement Bill 2003 or any version thereof that the Government might subsequently introduce into Parliament;
 - (b) whether the draft bill or any subsequent bill is consistent with Australia's obligations under international labour law;
 - (c) the findings and recommendations of the Cole Royal Commission into the Building and Construction Commission, including an assessment of:
 - (i) whether the building and construction industry is so unique that it requires industry-specific legislation, processes and procedures,
 - (ii) the Government's response to the Cole Royal Commission, particularly with respect to occupational health and safety and the National Industry Building Code of Practice, and
 - (iii) other relevant and related matters, including measures that would address:
 - (A) the use of sham corporate structures to avoid legal obligations,
 - (B) underpayment or non-payment of workers' entitlements, including superannuation,
 - (C) security of payments issues, particularly for subcontractors,
 - (D) evasion or underpayment of workers' compensation premiums, and
 - (E) the evasion or underpayment of taxation;
 - (d) regulatory needs in workplace relations in Australia, including:

- (i) whether there is regulatory failure and is therefore a need for a new regulatory body, either industry-specific such as the proposed Australian Building and Construction Commissioner, or covering all industries,
 - (ii) whether the function of any regulator could be added as a division to the Australian Industrial Relations Commission (AIRC), or should be a separate independent regulator along the lines of the Australian Competition and Consumer Commission or Australian Securities and Investments Commission, and
 - (iii) whether workplace relations regulatory needs should be supported by additional AIRC conciliation and arbitration powers;
- (e) the potential consequences and influence of political donations from registered organisations, corporations and individuals within the building and construction industry;
- (f) mechanisms to address any organised or individual lawlessness or criminality in the building and construction industry, including any need for public disclosure (whistleblowing) provisions and enhanced criminal conspiracy provisions; and
- (g) employment-related matters in the building and construction industry, including:
 - (i) skill shortages and the adequacy of support for the apprenticeship system,
 - (ii) the relevance, if any, of differences between wages and conditions of awards, individual agreements and enterprise bargaining agreements and their impact on labour practices, bargaining and labour relations in the industry, and
- (iii) the nature of independent contractors and labour hire in the industry and whether the definition of employee in workplace relations legislation is adequate to address reported illegal labour practices.

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