

Submission

to

Senate Employment, Workplace Relations and Education
References Committee

Building and Construction Industry Inquiry

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Senate Employment, Workplace Relations and Education References Committee

Building and Construction Industry Inquiry

Submission of Bill Shorten
National Secretary
The Australian Workers' Union

May 2004

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1. Introduction

- 1.1 The Australian Workers' Union (AWU) welcomes the opportunity to make a submission to this inquiry.
- 1.2 The AWU, Australia's oldest general union, was formed in 1886 as the Amalgamated Shearers Union. Today, the AWU represents more than 130,000 members across Australia in a diverse range of industries.
- 1.3 The AWU has a diverse membership in the civil and mechanical construction industry.
- 1.4 The AWU supports the submissions made by the Australian Council of Trades Unions (ACTU) in Submission Number 17 received by the Committee on 2 December 2003.

2. Building & Construction Industry Improvement Bill

- 2.1 It is the opinion of the AWU that the establishment of the Royal Commission into the Building and Construction Industry was an attempt by the Commonwealth Government to undermine the role of registered trade unions in the construction industry and to weaken the bargaining position of employees in the industry.
- 2.2 The AWU has reviewed Building & Construction Industry Improvement Bill (BCII) and it is our opinion that the Bill represents the next stage in the Federal Government's continuing strategy to intervene in industrial relations in the Industry to strengthen the bargaining power of employers.
- 2.3 The Federal Government's stated policy on workplace relations is one of non-intervention. Correspondence from the Minister for Employment and Workplace Relations, The Hon Kevin Andrews MP (*attachment A*), to the AWU on an un-related matter summed up the Federal Government's general approach to

Workplace Relations by stating *"It is not the Government's policy to intervene in bargaining that occurs between employers and employees. One of the principal objects of the Workplace Relations Act 1996 is "ensuring that the primary responsibility for determining matters directly affecting the relationship between employers and employees rests with the employer and employees at the workplace or enterprise level."*

- 2.4 Whilst this philosophy is not shared by the AWU it is our view that the BCII will result in increased levels of third-party intervention particularly by the Australian Building & Construction Commission (ABCC).
- 2.5 The AWU generally supports the submission of the ACTU and the testimony of ACTU President Sharan Burrow and ACTU Secretary Greg Combet before the Committee on 11 December 2003 in relation to the BCII and we will not repeat those points here.
- 2.6 The provisions of Chapter 9 of the BCII create particular concern for the AWU. Chapter 9 of the Bill severely restricts the ability of a union to represent their members in the construction industry and will create a "second-class" layer of workers across the nation due to their inability to be represented by a union. Further, the requirement that union representatives notify the ABCC every time they wish to enter a workplace, even if the employer is not concerned about the conduct of the union or its representatives, seems to encourage unnecessary Government intervention in workplace relations at an enterprise level.

3. Is the Building & Construction Industry Unique?

- 3.1 The AWU has members in industries as varied as Metaliferous Mining to Health. We are a general union and have covered workers in the construction industry since our amalgamation with the General Labourers' Union in 1894. In the 1990s we amalgamated with the Federated Ironworkers Association, the Australasian Society of Engineers and the Amalgamated Society of Carpenters and Joiners of Australia which increased our ability to recruit and represent workers in the Building and Construction Industry.
- 3.2 There are many aspects of the Construction Industry which make it unique in Australia. However the same can be said for other sectors of our coverage, for example the Mining Industry, the Offshore Hydrocarbons Industry, the Aviation Industry and the Aluminum Industry which all have very unique and complex industrial environments.
- 3.3 However, the sensationalism and political attention the Construction Industry attracts does make the Industry seem

unique to the general public. It is the belief of the AWU that the attention the Industry receives has been in large "drummed up" by the Federal Government with the intention of winning public support for a series of legislative reforms aimed at weakening the role of trade unions in the workplace. We believe that the Federal Government is using the construction industry as a testing ground for these reforms and has an ultimate goal of weakening the role of unions in all workplaces.

- 3.4 It is the submission of the AWU that the unique features of the industry do not warrant the creation of new jurisdictions and enactment of legislation specific to the Building and Construction Industry.
- 3.5 The AWU believes and perceived problems in the Industry could be more easily resolved by reviewing the powers of the Australian Industrial Relations Commission and enabling the AIRC to arbitrate during disputes.

4. Occupational Health & Safety

- 4.1 The AWU notes with concern that the ABS reported in 2001 that 64,700 workers were injured in the construction industry.
- 4.2 The AWU also notes that the Federal Government cut the budget for the National Occupational Health & Safety Commission (NOHSC) by one-third in 1996. The appropriation for the NOHSC in 2003/04 is only \$14.3 million, an increase of only \$300,000 since 1996/97.
- 4.3 The AWU supports the recommendation of the ACTU that the NOHSC be properly resourced for its work on construction standards and other work.
- 4.4 The AWU does not support the latest moves by the Federal Government to turn NOHSC into a marketing company for the Australian Insurance Industry.

5. Conclusion

- 5.1 The AWU believes that the approach of the Federal Government to reforming the Building & Construction industry has been tainted by a clear agenda of the Government to reduce the bargaining power of employees in the industry. The AWU recommends that the Committee reject the Government's approach to reforming the industry.

5.2 The ACTU supports the recommendations of the ACTU as an alternative way forward for ensuring sound and productive workplace relations in the Building and Construction industry.



The Hon Kevin Andrews MP

Minister for Employment and Workplace Relations
Minister Assisting the Prime Minister for the Public Service

Mr Bill Shorten
National Secretary
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14 MAY 2004

Dear Mr Shorten

I refer to your letter of 1 April 2004 to Senator the Hon Christopher Ellison MP, Minister for Justice and Customs, regarding Esso Australia. Senator Ellison has referred your letter to me and asked that I respond to you directly.

I acknowledge your concern about the potential effect this roster change may have on the work and family balance for some of these workers. Balancing work and family is a priority area for the Government, and it supports and encourages increased flexibility at the workplace level to accommodate this. However, the Government also recognises the potential cost impacts to employers by implementing these flexibilities, and the need to defray those costs through mutually beneficial workplace agreements.

It is not the Government's policy to intervene in bargaining that occurs between employers and employees. One of the principal objects of the *Workplace Relations Act 1996* is "ensuring that the primary responsibility for determining matters directly affecting the relationship between employers and employees rests with the employer and employees at the workplace or enterprise level".

I understand that the change to rostering arrangements is being proposed by contracting companies engaged by Esso as part of ongoing negotiations over a new certified agreement. As such, these issues are a matter for the negotiation between the parties directly involved. Esso will not be negotiating roster changes with its direct employees until the expiry of their certified agreement at the end of 2005.

Thank you for bringing your concerns to the Government's attention.

Yours sincerely


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cc: Phyllis