May 17, 2012

CONGRESSIONAL RECORD — HOUSE

H3017

First, it really prejudices the record of evidence and the standing of law in that case when we’re not necessarily competent to do that. That is a decision the prosecutors ought to make. Secondly, I think, although it’s not the intention of the authors, I’m sure, it belies a certain lack of confidence in our constitutional system of criminal justice.

We should be proud of our system. It’s one that operates on principles of fairness and, expeditiously determines guilt or innocence. I think to abandon that system in all cases and under all circumstances not only unwise prejudices the facts of these cases but also unwittingly undercuts confidence in our Constitution and in our Article III courts. For that reason, I would urge a “no” vote on this amendment.

Mr. ROONEY. Mr. Chairman, may I inquire as to the time remaining?

The Acting CHAIR. Mr. ROONEY. The gentleman from Florida has 1 minute remaining, and the gentleman from Washington has 1 minute remaining.

Mr. ROONEY. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Chairman, Mr. Rooney has the right to close it in that correct?

The Acting CHAIR. The gentleman from Washington has the right to close.

Mr. SMITH of Washington. Then I will reserve the balance of my time.

The Acting CHAIR. The gentleman from Florida is recognized for 1 minute.

Mr. ROONEY. Mr. Chairman, I would just say to some of the things that have been said that I don’t think that what this amendment is saying is in any way disparaging what Article III courts can do or would do for us doing. Certainly I would agree that they could be adequate in prosecuting criminals. They do do that for us in this country. What we are talking about are foreign enemy terrorist combatants, people that commit acts of war against this country in furtherance of the authorization that this Congress passed.

What we have done as a Congress is set up military commissions in ways that can protect evidence, ways that can protect witnesses and sources, and, in my opinion, in a way that the Article III courts might not be able to. I’m not saying that they couldn’t. I’m saying that it is a better venue. Just like when we talked about earlier the Ranking Member Smith and Amash amendment, which would preclude the use of military tribunals. As much as the ranking member is saying that options should be on the table, we’re saying the same thing.

With that, I hope my colleagues will vote for this amendment, and I yield back the balance of my time.

Mr. SMITH of Washington. Mr. Chairman, I yield myself the balance of my time.

Three quick points. I think the difference here and the reason that I drafted my amendment to say “just in the U.S….” I think is a legitimate point. Overseas we do not have the same control over the investigatory process that we have here domestically. There’s a clear difference between dealing with someone here domestically. That’s why in the last 10 years we haven’t done anything other than try people here in the U.S under Article III courts. We haven’t needed military commissions. That’s why I would take that power away from the President because it’s an extraordinary amount of power to give him that isn’t necessary. Overseas they are, in fact, taking away the options in this amendment and saying it has to be military tribunals. They are also saying that Article III courts are inadequate to do their thing. They’ve done it repeatedly. The people who committed the bombing against the World Trade Towers in 1993 were captured overseas, brought back, and tried here in domestic courts. Article III courts work sometimes in these incidents. Their amendment takes those options away completely. I also point out that Guantanamo Bay is not an enormous facility. They already have 40 people waiting in line for military tribunals. Many more will backlog that.

But I want to come back to my amendment that will come up later. Domestically, we’ve proven that Article III courts are adequate. Overseas, we’ve proven that we need multiple options. This amendment sort of is in reverse of what the facts bear out that we should be doing, and I urge opposition to it.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. Rooney).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. SMITH of Washington. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. BARTLETT

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in House Report 112–485.

Mr. BARTLETT. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of subtitle A of title XXVIII, add the following:

SEC. 28. USE OF PROJECT LABOR AGREEMENTS IN MILITARY CONSTRUCTION PROGRAMS. In the case of any construction program for military facilities, the Department of Defense shall use project labor agreements. (a) REQUIREMENTS.—Section 2852 of title 10, United States Code, is amended by inserting after the end of the section:

“(d)(1) The Secretary of Defense and the Secretary of Labor shall ensure that project labor agreements are used in the case of any construction program for military facilities.”

Presently the status quo allows the Department of Defense to have two choices: yes, they can use a project-labor commitment or a pre-arranging-labor agreement that establishes terms and conditions of employment and now they can elect not to enter into a PLA. The effect of this amendment would, in fact, remove the Department’s ability...
to have a PLA requirement in terms of hiring terms and conditions.

The reason why those models work right now and have worked for decades is it gives the Department of Defense the opportunity to set conditions regarding security screening, apprenticeship programs, veteran hiring programs. The Helmets to Hardhats program—which is one of the most successful programs of integrating veterans returning from Iraq and Afghanistan into the building trades—is done under a PLA arrangement. It also allows local job markets to be incorporated into military construction projects. Again, the Department now presently has the option not to use PLAs. This amendment would, in fact, rob the Department of that opportunity.

With that, I reserve the balance of my time.

Mr. BARTLETT. Mr. Chairman, I yield 2 minutes to my friend from Arizona, Mr. Flake.

Mr. FLAKE. I thank the gentleman for yielding, and I rise in support of the Bartlett-Flake amendment.

Let me just clear something up if I can. What has happened is the President or the Federal Agencies from whom we buy something have a choice. They can purchase a cheaper product from a non-union source or a more expensive union-favoring project labor arrangement where he encouraged the Federal Agencies to—to where they can and where appropriate—employ PLAs. That might seem fine. The problem is some of the Federal Agencies have taken that to mean that they should require PLAs, and some of them have issued guidance to that effect. So they’ve taken what the President said and taken it one step further.

What we’re trying to do here is simply say that you cannot favor PLAs, nor can you prohibit them, and that the Federal Agencies will be neutral in this regard. To say that it would prohibit the use of PLAs is simply not true. We’re simply trying to keep the President or the Federal Agencies from putting their finger on the scale in favor of PLAs or against them. That’s what this amendment does, and I’m proud to support it.

Let me just say that this amendment was offered in the Appropriations Committee yesterday in the Military Construction bill, and it was passed by a voice vote. There is a recognition that the President has—unwittingly or not—put his finger on the scale in favor of PLAs or union shops, and that’s wrong. The President and the Agencies ought to be neutral in this regard.

PLAs might make sense; they might not. What we ought to do is ensure that the taxpayer gets the biggest bang for the buck. That’s the purpose of this amendment, and that’s why I support it.

Mr. COURTNEY. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts, Mr. Lynch.

Mr. LYNCH. I thank the gentleman for yielding, and I rise in strong opposition to the Bartlett-Flake amendment. This amendment would indeed seek to prohibit Agencies from using a PLA. It is not as the gentleman from Arizona has just stated.

Let me clear something up. Large-scale construction projects—look, I was an ironworker for 18 years. I’ve run a construction company. It allows an ironworker general foreman. PLAs are a great advantage to have in a complex construction project.

This amendment and the PLA provision that’s already in the President’s executive order on projects that are $25 million and over. All of those projects below $25 million don’t get affected by the PLA executive order. What the PLA does require, as Mr. Courtney has pointed out, is it does require compliance with statutory compliance with workers’ comp law, statutory compliance with anti-discrimination laws, with proper classification of workers, and with health and safety laws on some very dangerous job sites. It is good to have the Bartlett-Flake amendment and allow the PLAs to be used when appropriate.

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Mr. BARTLETT. Mr. Chairman, I yield 1 minute to the gentleman from Michigan, Mr. Walberg.

Mr. WALBERG. I thank the gentleman for yielding.

Mr. Chairman, I stand in strong support of this amendment, an amendment that I think speaks to a rationality in our contracting, and especially when we think of what we’re talking about here in the defense world.

It’s one thing for us to require PLAs that virtually make unfair competition for 86 percent of all of our construction contractors, because 86 percent, nationwide, don’t have PLA agreements, they’re nonunion, and yet have skilled workers doing the jobs they are expected.

For defense contracting to have a mandate that there must be a PLA agreement in place oftentimes will put our defense industry in the position of accepting a product that is more expensive and potentially of a lesser quality in the process.

This is not a mandate. This says choice can be made either way. And I think it needs to be made very clear that it’s all we’re saying. It is neutral. It is not, as was described by others, that this would take PLAs out of the mix.

I stand in strong support for this, and I ask that this amendment be applied to ultimately make a stronger defense capability for our country.

Mr. COURTNEY. Mr. Chairman, I yield 1 minute to the gentlelady from Hawaii, Ms. Hanabusa, who is a member of the Armed Services Committee.

Ms. HANABUSA. I thank the gentleman from Connecticut.

I rise in opposition to the Bartlett amendment because I think the Bartlett amendment doesn’t quite understand the difference between a project labor agreement and a collective bargaining agreement.

This amendment targets Executive Order 13502, which encourages the use of PLAs in construction contracts of $25 million or more. And the reason is that it’s historically something that we have supported.

Ironically, in 1992, there was a Supreme Court decision that defined PLA agreement as the Board’s agreement, which was under President Bush, who had a similar executive order that prohibited the use of PLAs. It was Bush’s solicitor Kenneth Starr that argued for the PLAs. And he said the reason why you would use them is because it’s good for the economy, for quality in the process.

Mr. BARTLETT. Mr. Chairman, may I inquire how much time remains?

The Acting Chair. The gentleman from Maryland has 1 1/2 minutes remaining.

Mr. BARTLETT. I yield 1 minute to my good friend from Georgia, Mr. Gingrey.

Mr. GINGREY. Mr. Chairman, I rise today in support of amendment No. 8, the Bartlett-Flake amendment, to H.R. 4310.

The amendment will prevent the Department of Defense from requiring contractors to sign expensive union-favoring project labor agreements as a condition of winning Federal construction contracts for projects authorized by the bill.

Under a PLA, the construction firm must agree to sign a union collective bargaining agreement, whether it’s unionized or not, before it can bid on a government project. PLAs can result in increased costs for contractors and taxpayers by as much as 18 percent and can cause procurement delays and political favoritism in the Federal procurement process.

At a time when the Department of Defense is facing devastating across-the-board cuts, it simply does not make sense to encourage PLAs. I urge my colleagues to support the amendment.

Mr. COURTNEY. Mr. Chairman, I yield 1 minute to the gentleman from Ohio, Mr. LaTourette.

Mr. LATOURETTE. I thank the gentleman very much for yielding.

We’ve seen this amendment a number of times in the 112th Congress, and, sadly, it doesn’t get any better. It’s based upon the misconception that somehow PLAs are costing the taxpayers more. In fact, they don’t.

Definitive research was done by the Department of Veterans Affairs that conclusively showed that it really depends on what part of the country you are in and whether you have a heavily unionized workforce in your area or you don’t. They concluded that PLAs are productive and actually come in on time and under budget in areas where you have
heavy unionized workforce and not so much in areas where you don’t. And that makes sense because you have to bring people in to do the work.

The amendment, I think, is being billed as “we just want people given a choice,” but come on, the people that are advocating this hate PLAs. They don’t want PLAs. They want to kill project labor agreements. So this was craftily drafted by the Associated Builders and Contractors to pretend that they want to give people choice when they really don’t want people to have a choice.

Please reject this. We don’t have to go out. And the President’s executive order is clear. It is. It is to consider PLAs in the mix. And I urge us to reject the amendment.

Mr. BARTLETT. Mr. Chairman, maybe it’s because I am a scientist, but I’m having some trouble understanding how an amendment that specifically says that it is nondiscriminatory, that it’s going to be totally agnostic to whether an organization is PLA or not PLA, somehow excludes PLAs in contention. That is certainly not what the amendment does.

I think this is a very commonsense amendment. I think that very few Americans would like to exclude nearly 90 percent of American workers in contention for Federal contracts. This is a fair, commonsense amendment, and I urge it’s acceptance by both sides.

I yield back the balance of my time.

Mr. COURTNEY. Mr. Chairman, to conclude again, there is a myth that somehow President Obama’s executive order has swept through all the Federal agencies, and PLAs are now a mandated requirement. The fact of the matter is that is not the way the executive order was issued. The Department of Defense has, in fact, granted only one PLA since President Obama’s executive order was issued in January of 2009. As Mr. LYNCH said, that executive order exempts projects $25 million or less. I want to invite Members to my district to a military base where there has not been one PLA contract; although, we’ve done a number of projects on our Navy base.

So the fact is that the option exists today. This amendment would remove that option to the Department of Defense, which, again, has obviously exercised it very judiciously because they’ve only done one PLA since January of 2009.

Again, I urge Members to reject this amendment which handcuffs the Department of Defense to set up preliminary agreements that can help veterans, the local workforce, and apprenticeship programs for young Americans who want to get an opportunity to learn a building trade.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Maryland (Mr. BARTLETT).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.