

Employers give cold shoulder to Australian government's anti-union inquiry

Terry Cook**27 June 2002**

After sitting for nine months in Brisbane, Perth, Hobart and Melbourne, the Australian government's Royal Commission into alleged union violence and corruption in the construction industry began hearings in Sydney at the beginning of this month.

Even as the proceedings grind on, it is increasingly apparent that no one, least of all the man at the helm, former NSW Supreme Court Justice Terrence Cole, has any clear idea of where the inquiry is headed or indeed where it will end up.

The multi-million dollar exercise was launched by Workplace Relations Minister Tony Abbott last August and empowered to investigate "fraud, corruption, collusion, anti-competitive behaviour, coercion, violence and inappropriate payments" in the construction industry. Since then it has staggered on across the country, extracting testimony from mostly reluctant and unwilling witnesses—building union officials and employers alike. Yet, despite its sweeping powers, to date it has failed to produce anything of substance.

Whereas in the past, Royal Commissions provided incumbent governments with a vehicle to prepare attacks on workers' rights and social conditions, or to cover up official abuse and corruption, the present inquiry has so far failed to fill the bill.

The reason is not difficult to understand. When calling it, Abbott forgot a well known rule-of-thumb—never begin a Royal Commission unless the outcome is known beforehand.

Rather than a means to advance a clear policy objective, Abbott's decision to push ahead with the inquiry was the desperate act of a government wracked with crisis and facing almost certain defeat in the federal election due last November.

In the months before announcing the Royal Commission, the Liberal-National Party coalition had suffered a string of devastating electoral setbacks in a series of state elections and by-elections. It was torn by internal divisions and confronted an increasingly hostile electorate infuriated by rising fuel prices, climbing unemployment and declining social conditions.

Anxious to find an issue on which to hang its election bid and to divert attention from the intractable social problems affecting millions of ordinary people, the Howard leadership turned to an old and time-tested ploy. It decided to beat the anti-union can.

The pretext used to justify the Royal Commission was a report commissioned by the government itself and conducted by its own appointee, Employment Advocate Jonathan Hamburger. The hastily assembled report contained sweeping, but unsubstantiated allegations, of widespread union intimidation and corruption

throughout the construction industry.

Abbott issued a number of inflammatory statements, including one he delivered in Perth in July 2001 claiming that there was an "outbreak of industrial anarchy" in Victoria, "encouraged by the CFMEU" (Construction Forestry Mining and Energy Union).

The Liberals were also able to seize on statements made by CFMEU construction division national secretary John Sutton in the course of a bitter inner-union factional brawl. Announcing the Royal Commission last August, Prime Minister John Howard declared: "Only last week the head of the construction division of the CFMEU, who has previously called for a National Crime Authority investigation into organised crime penetration of his union, referred to 'criminal elements, including stand-over men' in the industry."

However, the government's anti-union gambit ran into major problems even before it got off the ground. Whereas in the past the employers and their organisations had happily collaborated with government-led anti-union witchhunts, having most times instigated them in the first place, most major construction companies were hostile to Abbott's Royal Commission and made it known.

Far from being haunted by the spectre of union militancy, construction companies have in recent years developed an extremely close working relationship with the construction unions, in particular the CFMEU.

Bruno Grollo, the owner of the Grocon construction firm, dismissed the Royal Commission as "a waste of time," saying, "the industry has not worked so well" for many years. Just over 18 months ago, the construction unions struck a new enterprise work agreement with Grollo, earning fulsome praise in a *Sydney Morning Herald* editorial for giving the company "what it wants in assurances of a strike-free workforce". The unions used the deal as a template for agreements across the Victorian construction industry.

For well over a decade and a half—particularly since the Building Workers Industrial Union (now the CFMEU) joined with the Hawke Labor government to bust the Builders Labourers Federation in 1986—the construction unions have worked to suppress working class militancy in the industry and to more closely incorporate themselves into management structures.

Management-union agreements are now in place throughout the industry to guarantee industrial peace on building sites. The construction union itself has a direct financial incentive to enforce

them. The CFMEU has invested millions of dollars from the unions' C+BUS superannuation fund in construction projects and is as interested as management in preventing any industrial action that may disrupt building schedules.

With its anti-union electoral strategy looking increasingly shaky, the government changed tack when the so-called *Tampa* issue came to centre stage at the end of August. Howard ordered the navy to turn back the Norwegian vessel that had rescued hundreds of asylum seekers from a sinking boat. The Liberals rapidly switched from union bashing to vilifying and blaming so-called "illegal" immigrants for the economic and social crisis.

Significantly, the Royal Commission, billed only a few months earlier by Howard as an absolutely essential "public inquiry necessary to tackle a culture of intimidation," was relegated to the backburner and hardly rated a mention during the November election campaign.

Since the Royal Commission began, Howard and Abbott have hardly made a reference to its work or deliberations. Without employer support and lacking a clear brief from the government, those who head the inquiry have been left wallowing without a compass.

Despite this, the unions continue to give the proceedings legitimacy by complying with its demands and by appealing to Cole to investigate other issues in the construction industry such as safety and the non-payment of insurance premiums by some contractors and construction companies.

At the opening sessions in Sydney, on the request of the CFMEU, Commissioner Cole allowed witnesses to speak on fatalities in the industry, including the mother of a building worker killed on a construction site. On June 20, the CFMEU demonstrated outside the Royal Commission to protest against the high rate of death and injury.

While it makes such noises about safety breaches from time to time, the CFMEU itself bears the central responsibility for the reduction in safety levels.

Progressively over the past decade, as the CFMEU has consolidated its relationship with the employers, it has negotiated away a series of safety-related work practices, such as refusing to work in wet weather. It has assisted in establishing speed-up conditions on building sites by tying benefits directly to deadlines and completion schedules.

On the Federation Square site in Melbourne, for example, workers received an extra 13 days off a year, but only if the project was kept on schedule. A joint union-management "Project Monitoring Committee" was established to oversee production progress.

The rising death toll on sites, the outcome of years of undermining the culture of resistance among building workers, is a situation that even CFMEU state secretary Andrew Ferguson was forced to describe as "just unacceptable".

At the time Ferguson made his comment, survey results released by the Australian Council of Trade Unions showed that an average of 450 people were being killed and 160,000 seriously injured in work-related accidents each year. Construction continued to rate among the top industries for industrial accidents, along with agriculture and transport/storage.

A number of submissions to the Royal Commission inquiry, including one from a former union official, have alleged that construction unions receive illegal payments from employers, including payments to secure site work agreements favorable to the management, and that many union funds have irregular financial arrangements.

These accusations have certainly not been dug up out of any concern for the rights of construction workers. If there is any substance to them at all, they should be dealt with by the union membership itself, not through the intervention of the capitalist state via the government's Royal Commission.

All but abandoned, the government's anti-union project continues to flounder. Had it been able to gather a full head of steam, major sections of big business may have been tempted to use it to push for further workplace "reform" and attacks on workers' rights. Most employers, however, seem to have concluded that Abbott's ill-conceived foray into the construction industry is not the mechanism to carry forward this agenda.

Given this, overt pressure is already beginning to be applied to bring the debacle to a close. Media articles now report the Commission's proceedings in cursory articles, or refer to the inquiry's massive cost and the substantial personal benefits being raked in by Cole and other legal entities.

The government has committed \$60 million to fund the Commission's work, with nearly \$19.1 million paid out to lawyers so far. Cole himself is drawing a tidy \$660,000 annual salary and a hefty expense account. This includes a \$300 per week living allowance, a \$230 per day travel allowance and 52 first class air tickets to Sydney to visit his family on weekends. While the Royal Commission sat in Melbourne, Cole's accommodation cost \$3,250 a month.

With such lucrative pickings on hand, winding up the Royal Commission roadshow may prove to be a far more daunting task than launching it.



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