

Australian construction workers face huge fines for striking

Noel Holt
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Construction workers will rally on August 29 outside the Federal Court in Perth in Western Australia in support of 107 fellow workers facing crippling fines for striking for 12 days in February. A large turnout is expected despite the efforts of the Construction Forestry Mining and Energy Union (CFMEU) to undercut the protest by urging workers not to strike “illegally” and to seek pre-approved leave to attend.

The Howard government’s building industry watchdog, the Australian Building and Construction Commission (ABCC), served the 107 workers with writs on July 6 carrying individual fines of up to \$28,600.

The ABCC was set up last year following the Cole Royal Commission into the building industry. Described by former Workplace Relations Minister Tony Abbott as “a cop on the beat”, it has a small army of investigators and lawyers with far-reaching powers to enforce the anti-strike and other punitive provisions in the Building Industry and Construction Improvement Bill.

The workers, who are employed on the \$1.6 billion Perth to Mandurah rail line project, went on strike in February to defend sacked union delegate Peter Ballard. Construction contractor Leighton Kumagi dismissed Ballard after he raised concerns about poor health and safety conditions. Up to that point workers had complained of 80 serious health and safety violations and being required to work beyond the agreed 56 hours per week.

Ballard has since reached a “confidential settlement” in an unfair dismissal case lending weight to workers’ allegations that they were justified in defending the delegate. The strike was declared illegal and in breach of a total strike ban imposed on the rail project by the Industrial Relations Commission at the behest of the

ABCC and the project contractors.

From the outset, the CFMEU leadership has attempted to suppress any industrial action over Ballard’s sacking so as to avoid any adverse impact on productivity or the project’s costs. At stop-work meetings, the union repeatedly rejected calls for broader industrial action to defend the delegate declaring it was illegal and could lead to fines. When workers eventually took matters into the own hands, the union refused to endorse the strike and demanded a return to work.

Commenting on the role of the union, ABCC head John Lloyd declared during the dispute: “On the evidence before us, the union did not in anyway commit a contravention of the (Building and Construction Industry Improvement Act) legislation.... What is different about this case is it’s the first time we’ve used this particular legislation against individual employees.”

The response of workers to the ABCC writs is also at odds with that of the union. Many have stated they would rather go to jail than pay them. John Pes, a father of four, told the media he would not pay the fines declaring: “It’s the principle. If you don’t stand up for your conditions, you lose them.” Describing the legal action as “the thin edge of the wedge,” he added: “The moment we pay any of these fines I believe we are playing into the hands of the government.”

While nominally supporting the 107 workers, the CFMEU is opposed to any broad industrial and political campaign to challenge the anti-democratic legislation and the Howard government. One day after the writs were issued, CFMEU state secretary Kevin Reynolds assured the workers and their families that “people won’t be losing their homes and cars”. Reynolds told the media that the workers felt that they

had done nothing wrong and were “keen to fight on”.

The unions, however, are opposed to any industrial action to support the workers—a move that would inevitably provoke a political battle with the Howard government. Instead UnionsWA—the peak union body in Western Australia—and its affiliates launched a limited appeal on July 11 to the “public, the churches, and any interested groups” to contribute to a “community and union defence fund”.

The fund raising campaign is not motivated by concern for the 107 workers but is aimed at ultimately paying the fines to get the issue out of the public arena and bury the dispute. The CFMEU’s refusal to confront the ABCC and the Howard government will only encourage further attacks on construction workers.

Speaking on the ABC’s “7.30 Report” on July 12, ABCC head John Lloyd confirmed that the body had “initiated about 50 cases to date”. He added: “We have a number of investigations ongoing across the country and they are proceeding in a number of states.”

Like the unions, the Labor Party has not opposed the writs. Speaking in Perth, Labor opposition leader Kim Beazley promised that a federal Labor government would “scrap” the ABCC. But he supported punitive measures against workers, saying: “When they [workers] act collectively, frankly they should be dealt with collectively and if they breach a lawful order from a properly based Industrial Relations Commission then the unions should be fined.”

Put simply, Beazley, like his predecessors, would rely on the unions to enforce the edicts of the industrial courts. During its 13 years in office, the Hawke-Keating Labor government inflicted a series of defeats on the working class, including the deregistration of the Builders Labourers Federation (BLF) in 1986, with the assistance of the CFMEU’s forerunner. It was these attacks that paved the way for the Howard government’s savage industrial relations laws.



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