

Australian royal commissioner refuses to quit

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After more than two weeks of turmoil, the Abbott government's royal commission into alleged trade union corruption remains mired in political and legal uncertainty following yesterday's strident refusal by the former judge heading the inquiry to disqualify himself over allegations of perceived bias.

The Liberal-National government vehemently backed ex-High Court justice Dyson Heydon's rejection of a trade union application for him to stand aside over a planned speaking engagement at a Liberal Party fundraiser last month. Attorney-General George Brandis went into overdrive, hailing Heydon's decision as a "tour de force" that demolished attempts by "the criminal elements of organised labour" to smear him.

In response, Australian Council of Trade Unions (ACTU) secretary Dave Oliver said the inquiry was "terminally tarnished" and the unions were considering an appeal to the courts to overturn Heydon's ruling. Any such appeal, which would go to the Federal Court or the High Court, could take weeks, or even months, to decide—potentially halting the royal commission in the meantime.

Opposition Labor Party leader Bill Shorten declared that the royal commission had "descended into high farce, riddled with political bias." At the same time, Shorten restated Labor's position that the inquiry could continue under a different commissioner.

Under conditions of a rapidly deteriorating economic situation, the royal commission is a crucial component of the Abbott government's efforts to satisfy the mounting demands of the corporate elite for a far deeper offensive against the wages and conditions of workers, as well as social spending.

That pressure was further ramped up at last week's "National Reform Summit" called by the country's two biggest media conglomerates—Fairfax Media and Murdoch's News Limited. The 90 assembled representatives of Australia's corporate, media, trade

union and welfare elites vented their frustration at the failure of the Abbott government, and the parliamentary establishment as a whole, to fully impose the burden of the worsening economic crisis, globally and in Australia, on working people.

Although nominally directed against the alleged "criminality and corruption" of union leaders, the royal commission's real target is the working class itself. Heydon's draft recommendations so far include imposing massive fines on workers for taking "unlawful" industrial action and giving police extra powers to break up picket lines.

Heydon, with a long record as one of the most openly right-wing judges on the High Court, was handpicked by the Abbott government for this task. Significantly, in his ruling, he emphasised that his inquiry was not "hostile to the union movement," reflecting the understanding in ruling circles that the unions have been critical in suppressing the resistance of workers to the relentless destruction of jobs and conditions.

The trade union objections to the royal commission have nothing to do with defending workers. The only concern of the ACTU and other union bureaucrats is to preserve their privileged positions as the enforcers of the dictates of big business, whether it be for hundreds more jobs to be destroyed in the steel plants or for further smashing up workers' conditions on the waterfront.

Powerful sections of business, however, now regard the union apparatus, which has its own commercial and political interests, as an unnecessary limit on employers' capacity to destroy jobs and conditions. Other corporate elements, while still relying on the unions to police the workforce, are intent on exploiting Heydon's accusations of "union corruption" to extract even greater betrayals from them.

Heydon's inquiry has also provided a vehicle for pushing for the Labor Party to reduce the power of

union-based powerbrokers within the party's structures. While Labor has been pivotal in enforcing ruthless corporate "restructuring" and free-market "reform" against the working class, the financial elite is pressing for Labor to become an even more pliable instrument, freed from factional interests rooted in the unions.

For that reason, the "case studies" selected by Heydon to probe, accompanied by glaring media coverage, have included accusations against Shorten, an ex-union boss, and former Prime Minister Julia Gillard, of benefitting from union slush funds.

Reflecting the high-level political stakes involved in the commission, Heydon delayed his decision twice and took more than a week to issue his response to the trade union submission. He is now known to have consulted Brandis by phone on August 13 before deciding to withdraw from his initial acceptance of an invitation to address a prominent Liberal Party fundraising dinner on August 26.

When parliament resumes next Monday, Labor will move an almost unprecedented Senate resolution "respectfully" petitioning the governor-general, the vice-regal head of state, to terminate Heydon's appointment. That means asking Governor-General Sir Peter Cosgrove, who formally represents the British monarchy, to breach the supposed constitutional convention that he acts only on the advice of the elected government of the day.

Heydon's position was challenged more than two weeks ago on the legal grounds of "apprehended bias" after media revelations that he was listed as the speaker at the Sir Garfield Barwick Address. Those attending the dinner, or unable to attend, could donate up to \$5,000. Late last week, belatedly-released email records and other notes indicated that Heydon withdrew from the event after being tipped off that his participation was about to be reported.

"Apprehended bias" does not require proof of actual bias. The union applications relied on a legal test, set out in a 2000 High Court case, that "a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial mind" to his task. Yesterday, Heydon insisted that his conduct did not violate that test.

Heydon claimed that his dinner address was intended to be a purely legal one, not related to party politics,

paying tribute the country's longest-serving chief justice of the High Court. Barwick, however, was also a senior Liberal politician, who was attorney-general then foreign minister under the Menzies government for six years before the government appointed him chief justice.

Today's editorial in Murdoch's *Australian* endorsed Heydon's refusal to stand aside and declared that, whatever the result of any further legal challenge to Heydon, "it is vital that the work of his commission be protected and continued." The newspaper underscored the central target of the inquiry, referring to "systematic abuses and inefficiencies" that "hamper productivity growth and weaken competition."

These are code words for dismantling workers' basic conditions in order to boost profits and impose "competitive" wages and living standards to match those already inflicted on workers in Europe and America. The editorial reiterated its call of last month for the Abbott government to go on the offensive and "declare the next election as a plebiscite on trade union power."

In other words, the royal commission should be exploited as a platform to turn next year's scheduled federal election into the launching pad for a full-scale assault directed primarily against the social position of the working class, while whipping the union bureaucrats and Labor leaders further into line.



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