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Making Full Employment Legal

John Hyde

During an election campaign even more beset by waffle, issue avoidance and me-tooism than most, one issue did, in fact, clearly divide the parties. It was industrial relations (IR).

Australia's industrial relations system is almost unique in that the government, through the Federal Industrial Commission and equivalent bodies with State Jurisdiction, actually makes full employment illegal. The system of tribunals and awards stops people from accepting employment except on conditions laid down by industrial commissioners and approved by union officials. The process denies workers' rights to dispose of their own labour as they please. If there are such things as inalienable human rights, surely property in one's own labour is one of them. If not, then it is a right that a civilised society ought to concede.

Even if we leave to one side the breathtaking arrogance of men and women who purport to tell other men and women how to conduct their working lives, we must conclude that the IR system has been badly corrupted---even judged on its own terms. Mr Justice Higgins, the founder of the Australian system supposed it would bring about 'a new province of law and order'. It plainly has not brought about either. The pilots are currently anything-but-mute testimony to the failure of order. And, as for law, industrial awards are a travesty of it.

In the new province, what Higgins was later to call the 'higgling' of the market, was to be replaced with enforceable rules which applied equally to all. In fact, however, far from instituting a new province for law, the Australian IR system has instituted a province in which the law is obeyed selectively. Employers are prosecuted if they break award rules, while unions play a game of 'heads I win; tails we toss again'. Don't take my word for it: the Hancock Report, in opposing sanctions for union breaches of awards, was quite explicit on the point. Hancock and Co. accepted as fact that industrial power is above the law. In so doing, they invited comparison with societies like Colombia where the cocaine barons obey only as much of the law as suits them.

Modern defenders of 'the system' often claim that it protects the weak. Indeed, Higgins probably intended that it should. What is more, if the centralised system were, in fact, better than the higgling of the market at protecting the weakest employees, then the system would have at least one strong defence. But, the Australian IR system is a conspiracy of the strong against the weak---of those in secure jobs and the union bosses against the unemployed. Is the unemployed youth helped by laws which make it more difficult to offer him/her a job? Has the unskilled man in middle age had his life improved by being prevented from getting a foot on the employment ladder? Were aboriginal stockmen helped by being transferred from low-paid employment to the dole? Is the average Australian helped by awards that, by setting some of the world's craziest work practices in cement, reduce total output? As Bernard Shaw said: "Not bloody likely!".

Labor has neither the ability nor the wish to curb union power. It, therefore, designed 'The Accord'---a corporatist power-sharing arrangement---to control the tendency for unions to drive wages up to unemployment levels. By giving the union bosses semi-formal veto rights over government policy and increasing government benefits, union power was (temporarily) bought off. Employment has improved and there has even been talk about improving work practices, if little action. The Accord however, has failed elsewhere. We have done much worse than other countries: our inflation is double that of our trading competitors and we have a balance of payments problem that ranks with the Western World's worst. The Accord is unsustainable---appeasement usually is.

In contrast, the Coalition promised to legislate so that it will no longer be illegal for people to sell their own labour as they wish. That change will change nothing else overnight, but gradually employees and employers will strike deals which suit both parties and which produce the additional wherewithal to service our foreign creditors and improve our living standards. What is more, people will no longer be just carpenters or boilermakers (like bushels of wheat or cabbages) but individuals with individual skills. There is nothing in Australian society more dehumanising than our award system.

Most of the Coalition's policies, like the Government's, failed to face up to Australia's real problems. Their IR policy was, however, of a different and better stamp. Should the Coalition win and Labor and the Democrats block it in the Senate, they should be taken to a double dissolution as smartly as the Constitution allows.

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