

## What Right to Strike?

*John Hyde*

Unproductive work practices, backed by trade union muscle, are one important reason why Australian living standards are slipping relative to those of most other countries. Union power depends upon the unionists' ability to frustrate production by withdrawing all, or nearly all, the available labour. Unionists, therefore, vigourously defend the, so called, 'right to strike'. There is, however, no such right in law, although there is freedom to stop working.

Workers who stop working, but who do not expect to return to their old jobs, are not in the normal sense of the term 'on strike'---they have quit. To be on strike they must not only have ceased work but expect eventually to resume their old jobs. The confusion between people's freedom, in the absence of a freely-entered obligation to the contrary, to withdraw their labour, and a presumed right of workers to return to their old jobs when it suits them is the source of much conflict.

A right to resume work, if it existed, would necessarily be a right to exclude other workers from the specific jobs. It would make impossible the rights of other people to accept the vacated jobs, and employers' rights to engage new staff.

Voluntary collusion among employees has not been made illegal in the same way that similar collusion among, say, suppliers of toilet paper is outlawed by the Trade Practices Act. Nevertheless, an employee does not own his job, as he owns, say, his car, and he may not defend the job against others by force, threat or abuse. By the same token, the industrial tribunals ought not defend it for him. When industrial commissioners order reinstatement of ex-employees they are in reality saying to other people, "You may not work here".

When workers stop working the common-sense and only just view of the situation is that they have quit. When they refuse to work as directed so that the activity ceases to be beneficial to the employer, workers should expect that other workers will replace them. This is the counterpart of the right to quit for any reason or without reason. To preserve justice, employment must be voluntary on both sides.

Employees who stop work are testing the market. They are finding out whether they were, in fact, over-worked and/or under-rewarded compared with other possible employments. If they were underpaid, then they would be able to find better jobs elsewhere and their former employer would have to pay more or offer better conditions. If, on the other hand, they were less productive than others on similar money, then the employer would find new more-profitable employees.

A competitive labour market works, however, only when the employer is also competitive. An employer who does not face competition has no incentive to resist union demands and no incentive to pass productivity gains on to customers. Instead these employers tend to devote their energies to political activities and to producing pamphlets in which they blow their own trumpets and offer spurious justifications for the absence of competition. Unions are a special problem for rural people, but only because rural people are unusually dependent upon services in which competition is limited by statute---grain handling and marketing; rail, air and waterfront services; telephone, post, radio and television, for instance. Such organisations cannot be expected to pass the benefits from labour market competition to customers.

The power of unionised employees to gain more than market clearing rates of pay and conditions rests on their ability to stop work in unison and on their ability to stop others from taking the jobs they have just vacated. To achieve the first, unions attempt to monopolise coverage of the employees within an occupation. To achieve the second, they impose what sanctions they can upon the new employees who occupy 'their' jobs and upon the employers who engage the services of newcomers.

Such sanctions clearly subtract from other people's rights, and ought to be unlawful. Freedom to stop working oneself does not imply any right to stop other people from selling their labour to whom they please. And there is, therefore, no 'right' to strike.

Farmers who for years made no bones about prosecuting fellow farmers who sold their wheat to markets which the Wheat Board refused to fill, might be expected to prevent workers from selling their labour to an employer with jobs traditionally filled, at much greater cost, by another union. Thus, when the Wheat Board lined up, at Fisherman's Islands, with the Waterside Workers Federation (WWF) against the wheatgrowers by refusing to provide grain for loading by non-WWF labour it was being consistent. Some farmers were, nevertheless, heard to mutter: "With friends like the Wheat Board who needs an enemy?"

*John Hyde is Executive Director of the Australian Institute for Public Policy*

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