

*FIN*ON THE DRY SIDE 232

TWO WAYS OF COPING WITH UNIONS John Hyde

In the event of a Labor election victory, the Industrial Relations Bills---the so-called Hancock Bills---will be re-introduced with few modifications. They were withdrawn only to deny the Opposition an issue. Ironically, by torpedoing the Liberal's chances, it is Sir Joh who is allowing most of the gains that have been made against union power over the past two years to be undone at a stroke.

From Alfred the Great to the Hancock Report our forebears maintained the pretence, if not always the fact, of law that was above everybody, even the King. Hancock's much-quoted description of unions therefore bears repeating: "centres of power:- they replace the powerlessness of individual workers with collective strength. It is a mistaken view of a pluralist society that every subject is equally dominated by the might of the state and its arms of enforcement."

The Hancock Report's descriptions are perceptive but its prescriptions are either trivial or abject capitulation to unions which it believes are too strong to be 'equally dominated by the state'. It diligently reported the public's wish for sanctions for breaches of industrial laws but nevertheless recommended against them. How can the state sanction a 'centre of power' which it does not dominate? Hancock saw the difficulties of subjecting unions to law but instead of seeking to overcome the problem gave up on it.

Apart from a few corporate statisticians, no one would be silly enough to suggest setting up an employer or consumer 'centre of power', also above the law, to match the unions by equally unlawful means, so the alternatives boil down to:

- * tolerating organisations which impose their own rules to the detriment of others, much as the barons did until Magna Carta. This can be done by turning a blind eye to breaches of the law or by amending it so that even the common law leaves out actions taken in pursuit of an industrial dispute.

- * bringing the 'centre of power' within the reach of ordinary law by resort to an even stronger legal power, or
- * reducing the 'centre of power' until it can be countervailed by the relatively gentle use of police-backed authority that is customary in Australia.

Unions are not always significant centres of power. When they, or sections of them, have been so blatant as to deny themselves the support of other unionists, particularly when they have trampled on the wishes of other workers, the solidarity on which union power relies is missing. I was surprised to hear Mr Simon Crean say that loss of union support was why the unions involved in the Dollar Sweets and Mudginberri disputes could be subjected to the ordinary civil courts.

Mr Crean cited the Robe River dispute as evidence that, in other circumstances, companies are forced back to the industrial tribunals. He boasted that Robe River Iron

Associates had been forced to withdraw their civil court action.

The circumstances at Robe River admit other interpretations. Production is maintained at pre-strike levels with 30% less staff. Robe ore has gained (or regained) a competitive edge. Is the lesson to be learned here that the mere threat of civil action will achieve results? Is it that an employer with resources, a game plan and his back to wall can win in any jurisdiction? Or was this another case of a union which had gone too far to command the respect and solidarity of other workers?

The Hancock bills effectively prevent ordinary people from getting even the unions which other unions will not support into the ordinary courts in any circumstances.

Since the Clarry O'Shea case, the Arbitration Commission and the State industrial tribunals have been so terrified of being revealed as paper tigers that they have bent over backwards to appease defiant unions and thus reinforced them. I don't see them as instruments of justice.

Most of the time I think Mr Crean and Professor Hancock are right: the hardest trade unions cannot easily be brought within the authority of the courts. As things are, to do so might ultimately require the army. Blood would be shed; almost certainly that of relatively innocent parties; and more blood is oft shed over the bones of martyrs. Use of arms is not an attractive option. Our governments rightly avoid it wherever possible---and the unions know it.

That leaves only the final option, that of reducing the power of unions until they, like ordinary citizens, must obey laws that treat everybody equally. This might be done by a no-holds-barred confrontation---troops versus a general strike. Some people think that is necessarily the bottom line---the barons subdued if not by force at least by the threat of it. I don't.

Unions' privileges can be whittled away by degrees too small to inspire a general strike and when public opinion is on side---this is the Thatcher approach; it was not Ted Heath's. Workers may be given the right to opt out of unions and awards. Access to the protection of the common and trade practices law should be made easier, not more difficult. Shop or company unions should be encouraged. Industry unions which cover all direct competitors, however cosy they may be for employers, should be discouraged. People with an interest in economic efficiency can be appointed to the IR benches. General laws protecting workers' rights against employers, unions and awards, such as proposed by Mr Alan Rocher, the Federal Member for Curtin, are practical steps.

The debate should be in proper human rights terms, denying the unions moral high ground. Most workers can be protected from violent picketing. The many privileges of non-union groups should go: this will produce benefits in itself and

be seen to be fair. Most importantly, all product and factor markets must be liberated like financial markets. This will prevent unions and employers passing on the costs of their inefficiency.

Unions can be subject to ordinary laws. The Hancock bills, going exactly the wrong way, could eventually lead to a bloody confrontation.