

Dryside

On the right to strike

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Two events are causing some confusion among my more conservative friends. One is the struggle by Lech Walesa's Solidarity trade union against the Polish Government. The other is the doctors' strike. They are used to OK Corral shoot-outs between buyers and sellers of human effort, but don't expect the militants to wear the white hats. Just as the hats identify the 'goodies' and 'baddies' only on conventional Hollywood cowboy sets, so industrial militancy identifies the virtuous only on the stereotyped industrial relations sets to which we have become accustomed.

There are better reference points than militancy and some principles should not be disputed. One such is that an individual should not be compelled to work against his choice. Subject only to contracts he freely entered he may cease employment. To deny this is to advocate slavery.

Another is that an individual may, by argument alone, encourage another in any lawful act. To deny this is to deny free speech.

A third is that an individual shall be free to join groups of his own choosing. To deny this is to deny free association.

It follows from these that individuals hold a right to join unions and to all withdraw their labour - that is to strike. This right is possessed equally by doctors and power workers and is itself unchallengeable if our society is to be free.

However, each of these principles has an equally binding obverse. The free employees are free to work, free not to listen and free not to join. To the extent that they are forbidden to work, compelled to listen and to join, they are not fully free.

Contrast Poland with Australia: in Australia a penalty backed by force attaches to those who won't join unions; in Poland the penalty attaches to those who insist on joining. In each case the white hats are those individuals who claim their proper freedoms and the black hats are those who by force try to stop them. It makes no difference to this principle whether the force is exercised in the name of a government and hence legal, as in Poland, or exercised by a picket line which by force or threat of force prevents people working. The baddies are, as they were in the Wild West, those who by a superior capacity to be violent deny others their freedom. Violence is a much better reference point than militancy, or for that matter class or union or legality.

The threat of violence is often no less a denial of freedom than violence itself and it is far more common. Fear of the Polish police has affected more Polish workers than the one murdered priest and the jailing of several dozen Solidarity leaders. In the British coal strike many more workers feared to cross picket lines than were actually physically restrained by them.

Clearly from the principles established unions may form pickets and the pickets may use arguments to dissuade whoever will willingly listen from working, but they may not physically restrain any person who wishes to pass through their lines. So far as I am aware neither Soliarity nor the NSW procedural specialists offend on this count. There are however more subtle forms of persuasion. Some of these are clearly improper, some not so clear, and some unfair but impossible to define or police. At one extreme are practices like roughing up the strike breaker's kids at school, insulting and frightening his wife, damaging his property and threats to do these things. At the other extreme are the more subtle social pressures like referring to the strike breaker as a 'scab' and loss of friendship or respect.

Any resident Australian should be able to expect the protection of the law at the first extreme and must fend for himself at the other. That he does not always get the protection of the law is evident from damage done to property and the many cases of personal violence done in the name of industrial action.

A recent extreme example of this partisan use of the law is the withdrawal, by the West Australian Attorney General, Mr Berinson, of extortion charges against a Mr O'Connor of the TWU after a magistrates court had referred the case to the District Court. If innocent of the charges Mr O'Connor is entitled to demonstrate his innocence, if not, then his victims are entitled to the protection given by the certain reach of the law. Neither the TWU nor anybody may by force or threat compel the obedience of another person. That is a prerogative of the lawfull government alone and should not be delegated to a trade union or to any other private army.

Although the beneficiaries differ somewhat, the prime cause of lost freedom in Australia, as in Poland, is not the illegal behaviour of the private armies, deplorable as that may be, but the misuse of the government's power to compel under threat of legal violence. It is by this power that closed shops are conferred on builders labourers, doctors and others, the free exchange of services is made impossible and monopolies, including the trade union monopolies, are sustained.

These practices transfer wealth to some people - airline pilots, oil refinery workers, school teachers and doctors - at the expense of others. The absence of competitive alternatives makes it very costly for individual workers to escape the deals done in their names, even if they want to, which often they don't. Clauses in awards giving preference of employment to members of a union are for all practical purposes denial of the right to associate with a different union or no union. Occupational licensing limits both the freedom of the unlicensed and of those who would use their services.

Take the example of doctors, who are freed from competition from non doctors and enabled to enforce rules against competitive practices including advertising among themselves. Although few will admit it, this gives doctors high incomes. By providing virtually taxpayer paid medical care against which fee charging doctors cannot compete, the government has made itself monopoly employer of doctors stifling cost cutting and innovation. The major capital of the industry, hospitals,

is either owned or priced by government. The one competitive area has been the patients' freedom of choice of doctor, and even it is seriously marred by the ban on advertising. Governments have either themselves taken, or by granting industrial privileges encouraged doctors to suppress, freedoms of employment, speech and association. Successive Governments, with encouragement from the medicos when it suited them, have used that threat of legal violence which backs all law to mould this industry into an unworkable pattern. It is government which is now Hell bent on denying the last substantial freedom of the medical market. Although doctors have benefited by the Government's hand, it has been the Government which has resorted to force and properly wears the black hat. Most other industries could tell a similar tale.