

The Royal Commission into the Building and Construction Industry

Resolution

ACTU CONGRESS 2003

1. Congress condemns in the strongest possible terms the politically biased and fanatically anti-union recommendations of the Cole Royal Commission into the Building and Construction Industry.
2. The Commission was established as part of the Federal Government's program of attack aimed at any sign of union strength, and must be seen in the context of its moves against unions in the maritime, meat, coal and manufacturing industries.
3. The report reflects the anti-union nature of the proceedings, the focus of which was on presenting unions in the worst possible light, while denying them any adequate opportunity to counter allegations made by employers and counsel assisting the Commission.
4. The majority of the 392 findings of unlawful conduct against organisations and individuals concern technical breaches of the *Workplace Relations Act* by unions and their officials. Some of these findings were based on alleged incidents occurring up to seven years ago. Most findings concerned ordinary industrial issues relating to matters such as right of entry and adherence to disputes procedures and reflecting, to a large extent, the unsatisfactory state of the current industrial law and its application to the industry.
5. Only a handful of findings were made against employers, mostly for breaches of the Act such as payment of strike pay. No specific findings against companies or individual employers were made in relation to tax avoidance, non-payment of entitlements or use of phoenix companies. Only two findings were made against employers breaching occupational health and safety legislation - both in the Northern Territory, although approximately 50 building workers are killed at work each year.
6. Conclusions, such as that unions habitually ignore Commission and Court orders, were made on the basis of remarkably little evidence. Non-compliance with an order was found in only five disputes, involving in total seven individuals and three unions.

7. The Commission did not establish any evidence of union misconduct, whether criminal or industrial, to justify a vicious attack on the unions' ability to organise and bargain, as was claimed by the OEA and Tony Abbott.
8. In spite of its political and biased nature, the Commission has not produced any successful prosecutions to date, with many matters referred from it to authorities having been quietly dropped.
9. Although recommendations dealt with health and safety, payment of tax, employee entitlements and security of payments to contractors, these are much weaker and less specific than those dealing with unions and industrial relations and do not take such a punitive approach.
10. In spite of the clear lack of justification for the introduction of coercive and restrictive legislation to govern industrial relations in the building and construction industry, the Federal Government has announced that it will legislate the Commission's recommendations. A key element of the proposed legislation is to attempt to criminalise normal bargaining activities and to put the building unions outside the framework of existing industrial law.
11. The Federal Government's legislation will, if passed, significantly weaken unions' ability to bargain collectively on behalf of their members, and is designed to take control of disputes away from the parties directly involved and the Australian Industrial Relations Commission. In particular, the legislation will:
 - (a) prohibit pattern bargaining;
 - (b) institute a prohibitive penalty regime on unions who take industrial action or seek to bargain vigorously;
 - (c) encourage and facilitate actions for damages against unions;
 - (d) seek to apply the Commission recommendations to builders and state governments by threats of withholding Commonwealth funding from construction projects which do not adhere to a revised Code; and
 - (e) establish the Australian Building and Construction Commission (ABCC) with coercive powers and a brief to prosecute unions and their members at every opportunity, ignoring the wishes of the employer parties to disputes, and whether or not the issues have been settled, and overriding the dispute resolutions functions of the Australian Industrial Relations Commission.
12. Congress resolves to join the building and construction unions in their campaign against the proposed legislation, which, it is well understood, will be turned against other workers if successful in this

case. The Federal Government has made it clear that its desire to restrict bargaining and impose heavy penalties on unions and their members for engaging in industrial action extends beyond the building industry.

13. Congress calls on affiliates to assist the campaign by informing members about the issues, lobbying politicians and participating in the public debate.