

Royal commission a nightmare for Bill Shorten

AFR, 10 July, Laura Tingle

Just how drawn-out the damage for Bill Shorten will be from the federal government's royal commission into trade unions became clear on Thursday, not just as a result of his testimony, but because of the way the processes of the commission work.

The Opposition Leader did not cover himself in glory in the witness box, which he seemed to approach as a politician approaches a media interview. That is, don't answer the question you were asked, answer the question you wished you had been asked.

In the witness box, it looked even more evasive than it does in front of a bank of cameras.

Opposition Leader Bill Shorten speaks to the media after he appeared at the Royal Commission into Trade Unions on July 9, 2015 in Sydney, Australia. (Photo by Dominic Lorrimer/Fairfax Media)
Dominic Lorrimer

The bottom line of his evidence seemed to be that he knew nothing of the magnitude of amounts paid to his old union, the AWU, by employers for various services rendered, even if he was generally aware that there were agreements that money would be paid for services rendered, such as OH & S training.

He defended his involvement in deals which saw workers get lower rates of pay as better than no job at all, and pointed out that these were struck in the days when the Howard government had got rid of the no disadvantage test.

As others have noted, it does seem just a tad bizarre to see a union official challenged for not being militant enough on behalf of his members.

Shorten's long answers to questions strung out his evidence from the originally expected one day to two.

Yet it was all in response to questioning by counsel assisting the commission, Jeremy Stoljar.

No reply

Because of his position, Shorten was expected to be given the right to be cross-examined by his own counsel. But there was no time left to do this. His counsel subsequently declined the right to cross-examination, except if other parties subsequently choose to cross-examine Mr Shorten.

Part of the reason you would think counsel had declined that right – even though there had been a long discussion at Thursday's hearing about how Mr Shorten could raise matters he felt hadn't been properly dealt with in the framing of Mr Stoljar's questions – is because the next opportunity for a hearing is in August or September.

There would be ample reason for the Opposition Leader to just cut his losses and close down the nightmare of this whole process as fast as he can. This brings us to the drawn-out nature of this royal commission – an agony in the world of the 24-hour news cycle.

But cross-examination or not, the pause button on the Opposition Leader's credibility –and the prospect of further questions – remains on, because any other party has the right to cross-examine him at a later time. You would have to presume there are parties now in the commission's processes that would want to do that.

And of course there is the question of why not all the parties to these agreements – unions are only on one side of them – are required to take the stand in public hearings.

Devastating intervention

To a general public unlikely to ever be across the details of the issues on which Mr Shorten is being questioned, the most devastating intervention during the Opposition Leader's appearance must have been that of Commissioner Dyson Heydon on Thursday. Helpfully noting his concern that Mr Shorten's "non-responsive" answers might ultimately affect his "credibility as a witness" was devastating for the Opposition Leader.

Labor frontbencher Brendan O'Connor called this "a very remarkable intervention by a royal commissioner ... which I think calls into question the motives of the establishment of this royal commission into the union movement". O'Connor has always called this a witch hunt. The problem for Labor is it might be the slowest witch-burning in history, giving the Coalition an ongoing opportunity to keep industrial relations and unions in the news – and not in a good way – even if it dare not go near industrial relations reform itself.