

Thugs, bullies and thieves exposed by union probe

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Two months ago, when the Australian Bureau of Statistics revealed trade union membership had plunged to 15 per cent of workers and just 11 per cent of those in the private sector, it was evident the movement was on a path to self-destruction.

The case for reform is now far more compelling following yesterday's release of the final report of the Royal Commission into Trade Union Governance and Corruption. Judging by yesterday's initial responses, workers, employers, industry groups and the Turnbull government grasp the point. So do harder heads in the Labor Party. But regrettably, judging by his no-show yesterday, Bill Shorten does not. Or perhaps he does not know how to defend the indefensible. Nor does ACTU secretary Dave Oliver, who sounded like he was in fantasy land yesterday when he tried and failed to link the royal commission to the unrelated, ultra-mild recommendations of the Productivity Commission to scale back Sunday penalty rates. Far from attacking workers, the royal commission has exposed a plethora of unfair and costly attacks on workers by bosses — the bosses of the Construction Forestry Mining and Energy Union, the Australian Workers Union, the Transport Workers Union, the Health Services Union and the National Union of Workers.

The case study singled out by Malcolm Turnbull illustrated the point. As Commissioner Dyson Heydon detailed, in exchange for \$25,000 a year, the Victorian branch of the AWU agreed with cleaning company Cleanevent not to seek better terms and conditions for its members for three years. At the very least, Mr Heydon noted, unions receiving such benefits should be forced to disclose them to members before votes were taken on enterprise agreements.

In a measured, factual and even-handed style, Mr Heydon — one of Australia's most distinguished former High Court judges — outlined widespread, deep-seated and hardcore corruption from the most junior ranks of union officials to that of "many state secretaries". Evidence gathered from 505 witnesses over 21 months justified Mr Heydon's conclusion that the corruption detailed was the "small tip of an enormous iceberg" in which the union movement had "room for louts, thugs, bullies, thieves, perjurers, those who threaten violence, errant fiduciaries and organisers of boycotts".

The Prime Minister did not exaggerate when he said the findings were a "watershed moment" for the labour movement — unions and the ALP — that would emerge stronger only by undertaking reforms and supporting the report's recommendations. Unions, Labor supporters and Labor MPs, however, have every reason to be angry with Mr Shorten for failing to appear on such a crucial day. The report needs to shape the future of his party, the union affiliates who exercise an iron grip of Labor preselections and policy and the AWU over which Mr Shorten presided during many of the matters dealt with in the report. In November, the commission personally cleared Mr Shorten of criminal or unlawful conduct. But the AWU faces possible prosecution and other proceedings over its dealing with numerous employers. With his leadership already under intense pressure, Mr Shorten's response to the report could determine his political future. He must emerge from his holiday hiatus sooner rather than later.

In referring 45 individuals and organisations to police, public prosecutors and regulators for possible charges or further investigation, Mr Heydon was forensic and fair. He insisted on identifying wrongdoing and possible criminal conduct by employers and their executives as well as by unions on "both sides of any corrupt transactions". Employers, including construction giant John Holland and Chiquita Mushrooms, are among those referred to Victoria Police and prosecutors. On the union side, former HSU secretary Kathy Jackson and former trade union boss turned Victorian Labor MP Cesar Melhem were among those referred to prosecutors. Ms Jackson, the commission concluded,

may have committed a crime by obtaining \$250,000 from an employer by false pretences. She “seemed to be able to operate almost as she saw fit in terms of deploying branch funds for the purposes of personal travel or other expenditure despite some knowledge by the committee of management. In that respect there was a contrast with her colleagues, Michael Williamson and Craig Thomson, who operated much more furtively and secretly”. Mr Melhem has been referred to Victorian prosecutors for consideration of possible corruption and false accounting charges.

Wisely, Mr Turnbull agreed upfront to one of Mr Heydon’s most important recommendations — re-establishment of the Australian Building and Construction Commission as a vital watchdog. The government will also introduce a new Registered Organisations bill. After operating successfully under the Howard government, the ABCC was abolished by the Rudd government when Julia Gillard was industrial relations minister. The Abbott government’s efforts to revive it were blocked in the Senate by the opposition, the Greens and crossbenchers. In light of the royal commission, legislation to re-establish it needs to be passed in the national interest. Further attempts to block it would deserve to be punished by voters. Corruption in the building industry extracts a high price — from employers and also from taxpayers. As Master Builders chief executive Wilhelm Harnisch said yesterday, the CFMEU had cheated the community out of much-needed infrastructure such as hospitals, schools and childcare centres by driving up the cost of construction for such facilities. Concerns over union corruption began mounting in 2012, when The Australian’s Hedley Thomas began investigating the notorious AWU Workplace Reform Association slush fund, which Ms Gillard helped establish when she worked at Slater & Gordon in the 1990s. It was those concerns that partially prompted then-opposition leader Tony Abbott to promise a royal commission into union corruption as part of his 2013 election platform. In late 2014, Mr Heydon cleared Ms Gillard of committing any crimes. But he found she was duped by her corrupt former boyfriend and client, Bruce Wilson, into helping him set up a fraudulent union fund that raked in hundreds of thousands of dollars. Revelations about the conduct of Mr Thomson, who was later found to have misappropriated \$300,000 from the HSU, also underlined the need for a royal commission.

Predictably, Labor has dismissed the commission as a “political witch hunt”, using any excuse to undermine its work and prejudice its findings. After it was established, the commission’s work was also obstructed by those who had much to lose. In Mr Heydon’s words, they were “less than frank ... mulishly stubborn” and “blatantly mendacious” in answering questions and providing material. At the CFMEU’s Queensland headquarters in April last year, for example, security cameras were covered, documents removed in a horse float and burnt, with some dumped with soil at a landfill. Such conduct prompted Mr Heydon, in a flash of humour, to open the section of the report on “document destruction” with a line from Shakespeare: “Away, burn all the records of the realm.”

With or without the co-operation of the labour movement, the Turnbull government should prioritise Mr Heydon’s key recommendations. Most importantly, a national approach to the registration, deregistration and regulation of union and employer organisations would be more efficient and even-handed than the current federal-state hodge podge. The regulator, as Mr Heydon recommends, should “have information-gathering and investigative power similar to those of the Australian Securities and Investments Commission”. It should also be empowered to inspect the books and records of organisations.

Nor should workers be forced to contribute towards election funds.

For all of the hysterical and misguided furore in August over Mr Heydon’s regrettable decision to initially accept an invitation to a Liberal Party event, the commissioner has emerged from his long, exacting challenge as a man with just one bias — in favour of the workers whose interests the

exposure of corruption should ultimately protect. Only then will they stop voting with their feet and wallets and rejoin unions.