

'The Workforce of the Future'

Address to Independent Contractors Of Australia National Summit

Bob Day

Canberra, 24th August, 2004

It was said during the 1920's that Prohibition was terrible – but it was better than no alcohol at all.

There is much we can learn from that observation.

I was once asked by a trade union official, “*Do you want a no-strike clause, or do you want no strikes?*” Again, reality trumps perception. The perception in Australia is that we are free. The reality as we all know is rather different.

I am delighted to give the opening address at this inaugural conference of Independent Contractors of Australia. In an era when our language has been undermined by political correctness, it is refreshing to be among people whose purpose is clear and direct.

Those two words *independent* and *contractor* mean precisely what they say. Independent. An inspiring concept. It is synonymous with freedom, with the capacity to choose - right or wrong, and indicative of the very high place which the individual has in the culture we have inherited.

Contractor. Someone who contracts. The sanctity of contract is one of the three pillars of our common law system. The principle that people who sign contracts and who are then expected to keep their word and honour their undertakings, is one of the foundations of our civilisation.

Most of today's speakers will be addressing the legal, economic and regulatory framework surrounding independent contracting – the who is; what is; where is; when is; and how is; independent contracting permissible. What I wish to argue however is, first, a human being shouldn't have to jump through a myriad of hoops just because they choose to work differently to someone else, and, second, we'd all be a whole lot better off if we removed the regulatory framework altogether.

An individual who is able to freely enter into a relationship with another person, in order to achieve an ambition which neither party could achieve acting alone, is a situation which we take as an everyday occurrence. It is an event, nonetheless, of profound moral significance. And, as we well know, it also has highly beneficial economic consequences.

Where freedom is unknown, where private property is insecure, where economic life is centrally controlled, there we find that the gap between rich and poor is wider, and the rich are richer, and the poor are poorer and much more numerous, than in those societies which have inherited the rule of law - notably the security of property and the sanctity of contract.

Every major thinker who has written about the foundations of a free society - David Hume, Adam Smith, Edmund Burke, all understood the fundamental nexus between the freedom of the individual, freedom of contract, and the free society which supports those freedoms.

So those words - Independent Contractor - are truly inspirational. They are more than mere words. They represent a good life and a just society. When it is finally accepted that the individual is capable of making a conscientious judgement as to his or her best interests and is capable of entering into an exchange of promises with another free man or woman, that is to make a contract, not only are the parties to the contract both better off but society as a whole is enhanced.

What we are discussing today is about more than efficiency, though its contribution to efficiency and productivity is beyond dispute. It is about the very nature of our society.

My message is that we represent the very best traditions and aspirations of our society. We are proud of who we are, and what we do. But, and we know this from centuries of experience, we must be vigilant in protecting those traditions.

Whilst there might have been a reasonable degree of bi-partisan support for most of the great changes that have done much to free up the Australian economy over the past two decades, our labour market remains highly regulated and is a serious burden on our economic life. In phasing out protectionism, and abandoning the White Australia Policy, we have interred the ghost of Alfred Deakin. But we have not yet interred the ghost of Henry Bournes Higgins, the father and champion of labour regulation.

While protectionism today has few serious defenders, and open financial markets are no longer controversial, freedom of contract has been diminished in Australia in recent decades. When Francis Fukuyama predicted that the end of history had occurred with a complete vindication of the liberal market economy over state planning he underestimated the implacable resistance of many in the West to the ideas that had delivered that triumph.

Let us not kid ourselves, our standing and status as independent contractors remains under threat. There are people out there who do not like us and they will use any arguments that come to hand, for example, that we are merely engaged in an elaborate scheme to avoid tax, as ammunition against us. That argument has no legs and has proven to be baseless, but it is endlessly repeated.

Contractors are paid for performance – not for time. Any arrangement like this, based on personal values rather than the values of the collective, is a threat to many.

Writing in the Adelaide Advertiser at the time of the Ralph Report/Trade Contractor debate, Professor Cliff Walsh, Director of the SA Centre for Economic Studies wrote that the outcome of the HIA's fight to protect the independent status of trade contractors was ... "A victory for the industry ... and particularly important to its customers because the subcontract system contributes strongly to efficiency, adaptability and cost-competitiveness."

I'd like to extend that even more and argue that the outcome we saw in that case represented a victory not just for the subbies, and their customers, for the economy generally, and extending outward like ripples in a pond, to every Australian.

Even after eight years of a Coalition Government our labour market is anything but free. We still have a system of wage regulation that condemns many young people to unemployment – particularly entry level apprenticeships. We impose conditions on dismissal that inflict unemployment on the unskilled and the disabled. We shackle both employers and employees, particularly employees, with regulations which impose significant financial burdens on both parties.

There is still a huge amount of reform which has to be put in place if the Australian labour market is to provide the jobs, the opportunities and the prosperity which it could provide if we took the word freedom seriously.

We know, better than anyone else, the social, economic, and personal benefits of independent contracting, and we need to be championing our cause unceasingly.

The important point I want to make in all this is that independent contracting does not break **through** the existing Industrial Relations system - it breaks **with** it. It is a world of work with a culture based on freedom, respect and mutual benefits. While it draws some support from statutes it relies for its support on the common law.

Mutually agreeable contracts allow the parties to jettison the old compulsory entitlements in favour of all inclusive remuneration arrangements. Independent contracting recognizes that people have a God-given right to work as hard as they like, for as long as they like, in order to achieve the things they want in life.

Now we know and as we saw on video that this can be arduous and risky sometimes. But we prefer the rewards this demanding way of life offers. And why should anyone have the right to deny us this freedom?

There are now more independent contractors than there are trade union members in the Australian workforce. The tide is turning. We **are** the work force of the future.

It has been calculated that the regulations and restrictions in our labour market costs Australia over \$60 billion per annum. That is the economic cost of our unemployment and under-employment problem. Of course the true social cost is incalculable. Lives are wasted, talent is destroyed and opportunities are lost every day because people are not permitted to act in their own interests.

What possible basis can there be to render unlawful a common law contract – entered by willing parties – to achieve a lawful and productive outcome that is in the self determined interest of each of the parties other than some paternalistic belief that the parties themselves aren't capable of knowing what is in their best interest. No individual can possess either the knowledge or selflessness to make these kinds of decisions for somebody else. Independent contractors absolutely reject the idea that they are unable to determine for themselves what is in their best interest.

So, where do we go from here? First, I believe the Federal Government must actively promote independent contracting as an alternative to traditional employment. Public advertising campaigns, targeted information to employers about the legal and commercial basis upon which independent contracting is based, and its flexibility as an option which is available to very many Australian workers, should be the first consideration.

Promotional campaigns should emphasize the simplicity and flexibility of independent contracting and provide sample contract templates and check-lists to ensure compliance with the legal requirements of this new paradigm.

With the active commitment of a Federal Government to such a campaign, a new growth industry would emerge offering aggregated services to independent contractors - accounting, insurance, BAS returns, contract management and other advisory services - allaying concerns that many of today's unemployed may not be up to the requirements of running their own business.

Second, the Federal Government should set an example in its own employment practices and look to independent contracting wherever possible. The United States set such a pattern in the 1970s when it adopted a 'non-dependency on direct employment' strategy, which proved to be a turning point in American labour relations. Unemployment levels since then have been consistently lower than in Australia despite America's much higher levels of illiteracy.

If Australia had the same proportion of its working age population employed as the US does, we would have another 600,000 in employment. In other words we could bring our unemployment levels down to the 2 percent mark.

Recent events in other nations however, have reminded us of a powerful truth, namely that 'Freedom is never free.'

Today is a start.

Independent Contractors are the most innovative and resourceful of Australia's workers. They bear more risk and show more courage than just about any other sector of the work force. We must apply those same great virtues to agitating for labour market reform and protection of our own precious liberties.

Thank you.

Bob Day was President and Co-Founder of Independent Contractors of Australia