

## ANNUAL CONFERENCE 2010 EDITION FAIR WORK – REFORMING OR RECYCLING INDUSTRIAL RELATIONS?

*Pranav Bhatt, Editor*

The fiftieth Annual Conference was held against the picturesque backdrop of the Sebel Harbourside Kiama. This year's conference was themed around "Fair Work – Reforming or Recycling Industrial Relations?" Well over 100 members drawn from industry, academia and government attended to hear from, and socialise with some of the nation's foremost industrial relations minds.



### Day 1

The Convention was opened by his Honour **Justice Boland** of the Industrial Relations Commission of NSW. Justice Boland then introduced his Honour **Justice Haylen**, Judge of the Industrial Court of NSW and Executive Committee member who paid tribute to the recent passing away of two giants of industrial relations – Jeff Shaw and Bill Fisher.

Justice Boland went on to acknowledge Jeff Shaw's weighty contribution in designing the current system of industrial relations in NSW.

Justice Boland praised the ongoing resilience of state industrial relations systems despite WorkChoices presenting the opportunity for states to divest themselves of industrial relations. Justice Boland also noted that the Commission's role could expand in the not too distant future to become a "one-stop-shop" similar to Fair Work Australia. He closed by defending the Commission's handling of the *Kirk* case and noted that there was a distortion of facts in some of the subsequent reporting of the controversial decision.

The Federal Attorney-General, the **Honourable Robert McClelland** addressed the theme by arguing that Fair Work was a major practical reform, reflective of the values of the new century – goodwill, co-operation and shared interests. He pointed out that the Fair Work Act has received mixed attention in the media, but is still in the process of being "bedded down".  
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## ***Dean Mighell on Fair Work: “a new set of Mag wheels on a Monaro with a coat of paint”.***

The Federal Shadow Minister for Employment and Workplace Relations, the **Honourable Eric Abetz** opened with a light hearted prediction, foreshadowing the removal of the word “shadow” from his title pending the outcome of the election. His speech centred on Fair Work being recycled, but a reform on WorkChoices. He said Fair Work had shifted focus away from job creation, productivity and innovation to a more interventionist and flawed approach in enterprise bargaining and take home pay orders.

The then NSW Minister for Industrial Relations, the **Honourable John Robertson** argued that although Fair Work was a significant reform and in the main, NSW had referred its industrial relations powers to the Federal Government, it did not mean NSW was committed to the arrangement indefinitely.

**Dean Mighell**, Secretary of the Electrical Trades Union (Victoria) described Fair Work as “a new set of Mag wheels on a Monaro with a coat of paint” partly because many of its key components are a continuation of WorkChoices, but also because he felt the union movement had surrendered to the will of the Australian Labor Party.

Mighell said that that Individual Flexibility Agreements under Fair Work were defacto Australian Workplace Agreements without an external test and demonstrated how Fair Work has watered down Australia’s commitment to International Labour Organisation covenants.

The NSW Shadow Minister for Industrial Relations, the **Honourable Greg Pearce** continued the Coalition’s familiar theme, confirming that WorkChoices was “dead and buried”. He also supported the harmonisation of occupational health and safety legislation and award modernisation.

**Michael Harmer**, Chairman and Senior Team Leader at Harmers Workplace Lawyers framed his insights around why it’s “time to stop treating industrial relations like a political football”. Harmer said the focus must shift back to the workplace and good people management, an area in which Australia lags the world. He closed by advocating the case for small business employees to not be excluded from fairness by way of a Federal Code.

**Joellen Riley**, Professor of Labour Law at the University of Sydney Law School examined the notion of fairness and whether Fair Work met this test. Professor Riley contrasted how some of the aspects of fairness that were entrenched through enterprise bargaining and industry wide awards have been swept away by a free market approach to industrial relations. She concluded by noting that more work needs to be done to make Fair Work a fair system for all parties.  
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**Mark Lennon**, Assistant Secretary of Unions NSW questioned whether Fair Work will meet the needs of a modern workforce or whether it is just a step in improving parameters around work conditions.

To round off a long day of speeches, **Michael Easton**, Barrister of Frederick Jordan Chambers provided some light relief during dinner with an entertaining Year in Review. Michael wasn't afraid of discussing some of the more controversial cases of the year and providing his unique spin on events. One of his more memorable observations was his comparison of an advocate's use of the well worn phrase "with respect..." when questioning a member of an industrial tribunal with the equivalent of proclaiming "yea... I'm not a racist but..."

### Day 2

**Michael Tooma**, Partner at the law firm, Norton Rose brought attendees up to speed with the key proposals in the push towards model occupational health and safety laws. Michael questioned whether the reactive enforcement approach to OH&S was the optimal way forward, partly because of the widely varying number of inspectors in each state jurisdiction and because it reinforces the problems of the current regime. He closed by advocating a preventative approach based on front loaded enforcement coupled with a no fault reporting regime rather than relying on inspector driven prosecutions.

**Vice President Watson** of Fair Work Australia pointed out that most industrial relations reforms were introduced by one party and entrenched by another, citing the transition from WorkChoices to Fair Work as a good illustration of this process. Importantly, his Honour called for the end of parochialism in industrial relations and for tribunals to form part of the regulatory framework and not be the centrepiece.

**Sue Bussell**, Executive Manager, Qantas Industrial Relations commented that compared to new airlines, labour is the highest single cost for a legacy airline and this is what compels Qantas to adopt a pragmatic, yet tough industrial relations policy to protect the interests of it's 30,000 strong workforce.

**Senator Jacinta Collins**, as part of a panel discussion about flexibility commented on the importance of being able to terminate an individual flexibility agreement with notice and how the Coalition could be seeking to make them more flexible. Sue Bussell cautioned against expanding the safety net to the detriment of real negotiations during enterprise agreement making.

Michael Harmer pointed out the intangible benefits of flexibility and how more businesses should harness it. Joellen Riley asked why the right to request additional parental leave is not supported by a third party appeal mechanism but instead encourages the lodgement of adverse action claims for remedy.

Overall, the Annual Conference was a roaring success. The Executive Committee thanks Brad Buffoni for his efforts in pulling off another conference (to no ones surprise of course)!

**QUESTIONS, COMMENTS, CONTRIBUTIONS?  
FEEL FREE TO E-MAIL US!**

**E-mail Pranav at: [pranav.bhatt@lgsa.org.au](mailto:pranav.bhatt@lgsa.org.au)**

## WELCOME NEW MEMBERS DECEMBER 2009 – JULY 2010

Leah	Angrisano	AHEIA
James	Arneman	Health Services Union
Debbie	Bradfield	Port Stephens Council
Blake	Briggs	NSW Business Chamber
Stephen	Bull	Transport Workers' Union
Dean	Burrows	St Vincent's & Mater Health
Evelyn	Butcher	Dept. Premier & Cabinet
Shane	Butcher	Law Partners
Ryan	Butterfield	Manpower
Giuseppe	Carabetta	University of Sydney
Jane	Cleary	FCB Workplace Lawyers
Joanne	Cross	University of Newcastle
Mark	Douglas	University of Western Sydney
Maryanne	Duggan	NSW Industrial Relations
Nicholas	Ellem	Energy Australia
Shaun	Etherington	CCER
Mike	Grogan	Crown Equipment
Michael	Jaloussis	WG McNally Jones Staff
Oliver	Judd	NECA
Ruveni	Kelleher	Johnson Winter & Slattery
Jeremey	Kennedy	McCullough Robertson Lawyers
Chris	Langley	Brickworks Limited
Sean	Morrissey	CCER
Michelle	Nairne	CCER
Madeline	Northam	University of Newcastle
Paul	O'Callaghan	Carroll & O'Dea
George	Simon	AMWU
Morgan	Stewart	Dooleys Lidcombe Catholic Club
Sophie	Symeou	Total Perspective Management
Peter	Szilagyi	Hewlett Packard
Julie	Thomas-Bailey	Newcastle Coal
Stephen	Wade	Fair Work Ombudsman
David	Warren	Woolworths Limited
Lyn	Woodward	Brickworks Limited

### COMING UP

**ANNUAL GENERAL  
MEETING AND LUNCH**  
Friday 13 August 12pm

NSW Parliament House

Lunch speaker –  
Paul Munro, Patron

The AGM form should be  
completed and returned  
to Ms Kate Jacobs,  
Administrator by C.O.B.  
Friday 6 August