

A Message from the President

What an eventful few months the IRS has had since the last newsletter!

It started with the AGM. This year's annual meeting was not as prolonged as last year's however the lunch had a special buzz of its own. We were pleased when the guest speaker, Craig Emerson, the Federal Shadow Minister for Workplace Relations and the Public Service, chose the occasion to announce the Opposition's industrial relations policies for the upcoming Federal election at his luncheon speech.

The AGM was strongly attended by members and of course the presence of a large media contingent resulted in many becoming overnight television stars! It's not often that the Society can get its name and logo out into the public arena to such an extent.

A new committee was elected at the AGM and I look forward to the input of the new members, Aaron Rathmell from the Students Group and Aaron McKinnon from the Government Group. Aaron Rathmell is already making his mark with an article on page 3.

Feedback from members is that they like the Parliament House venue for the AGM and lunch - particularly now as the meeting is held in the very beautiful Jubilee Room. Accordingly, the committee has booked the Jubilee Room and Strangers' Dining room for next year. The date for your dairies is Friday 12 August 2005.

Also featured in this edition is a wrap up of the next in the series of the Women in IR events. The Women in IR Group was fortunate to hear an address by Diane Grady, CEO and President of Chief Executive Women and non-executive director of a number of large companies including Bluescope Steel and WattyL.

Recently Joe Catanzariti, partner with Clayton Utz and IRS committee

member, delivered an update on the current status of s.106 of the *Industrial Relations Act 1996* (NSW) to a Twilight Seminar. Over 140 members attended and many were engaged by his concept of a "mega tribunal" in NSW. This proposal has now been widely publicised throughout industrial relations and legal circles and been the source of much discussion. It is very pleasing that the IRS provided the platform for the release of his proposal and the ensuing debate.

In the months leading up to Christmas we look forward to the National IRS Conference to be held in Melbourne and other events where members will celebrate the Centenary of the Australian Industrial Relations Commission. We will also be conducting a careers night at Sydney University in conjunction with the Work and Organisational Society. This night is the first in developing much stronger co-operative links with students and academics at a number of Universities.

The Federal elections have come and gone and Industrial Relations is still the hot topic. At the time of writing the Government's actual plans were still a matter of press and academic speculation but it is certain that the way in which the Government implements its policies will have an impact on all streams of the society's members - Employers, Unions, Advocates, Lawyers and Tribunals. Industrial relations has not withered on the vine yet and does not seem likely to in the near future.

The role of the IRS in fostering rational debate and dialogue will continue to be an important element in creating goodwill and understanding in the field of Industrial Relations over the coming years.

As usual, I encourage all members to continue to provide any articles of interest or feedback to the editor of the Newsletter via email on irsnsw@bigpond.com

Greg Harrison
President

Highlights:

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Member Profile – Life Member Commissioner Peter Lawson

Current Position:

Commissioner , Australian Industrial Relations
Comission

What is your favourite football team?

Wallabies

What was your first job in IR?

(Trainee) employment and industrial relations officer ,
with an international meat and food processing company

**What advice would you give those entering the field on
the ground floor?**

Choose wise and experienced mentors ; learn, learn and
learn some more from them ; don't specialise too early ;
grab opportunities to operate 'outside the square'.

What does IR mean for you?

A lifetime of working with people in circumstances where
there is an inherent conflict in the relationship between
the providers of 'capital' and the providers of 'labour',
and the institutions which impact upon that relationship.

Highlights of your IR career?

Appointment to the federal Commission (1990) together
with the incredible diversity of people, places and issues
dealt with . Appointment as Secretary, NSW Dept. of
Industrial Relations and Employment (1988) . Working in
the mining industry for 16 years , 10 years of which was
in Broken Hill in an industrial system which had very
limited access to tribunals ,and which relied upon the
forthrightness of the parties' representatives . The
characters met along the way. Life Membership of the
IRS of NSW.

Lowlights of your IR career?

Not being sufficiently (capital P) political in influencing a
Minister in the expenditure of public funds for budgeted
programmes versus desirable (read vote-winning) ideas
,which led to an irreconcilable working relationship.

Suggestions to people starting out in IR?

Be yourself. Be open and honest in your dealings with all
players in the field. Respect your colleagues and peers.

Respect the institutions . Have fun ,and
remember that it is not always about winning.
Your integrity is everything.

If you had your choice of careers, would you
choose IR again?

Almost certainlyunless someone paid me
enough money to be a professional sailor!

Who inspires you the most?

Young Australians who seize the moment and
'get on with it'

What motivates you?

The unknowns of the future. My family . The
sea. To be the 'Johnnie Wilkinson' of a golden
oldies rugby team

What is the last book you read?

'Letters from Spike Milligan'

Favourite holiday destination?

Somewhere on, or beside calm waters with a
cold beer in hand and good friends around.

Any regrets??

Sure....but that's private



LAWSON C

Abolishing Discounted Pay Rates for 18 to 20 Year Olds: A Youth Perspective by Aaron Rathmell *

The Harvester Judgement of 1907 is the foundation stone in Australia's system of tribunal-established minimum wages. Its author, Justice Higgins, awarded a basic wage which enabled recipients to live in frugal comfort. This award was revolutionary in the sense that it incorporated consideration of the needs of workers, rather than merely the employer's capacity to pay. However, this wage was in reality only a victory for the white male 'breadwinner', to the long-term exclusion of fair wages for women, non-whites and the young employed.

"So, why then do adult pay rates only kick in at the age of 21? Is this "simply an accident of history"?"

Anti-discrimination legislation has since tried to correct racial and gendered wage discrimination, but legislatures have chosen to exempt youth wages from this protection. This brief discussion looks at Australia's system of junior rates of pay which prevails post-Harvester in 2004 and assesses arguments for the abolition of the discriminatory system of junior rates for 18 to 20 year olds.

Any discussion of youth in the labour market in Australia, whether it is regarding youth wages, youth unemployment, the distribution of youth employment or the nature of the employment contract, is highly contested. In relation to youth wages, one question is whether rates for 18 to 20 year olds, currently inferior to those of adults aged 21 and above, should be retained or abolished. The abolition of wage scale for 18 to 20 year olds would mean that the full adult wage would kick in for workers at age 18. In tackling this issue, all contributors claim to have the best interests of youth at heart. I do not dispute this.

However, I do argue that there appears, in some cases, to be a lack of understanding of the predicament of young workers. Debate needs to look beyond econometrics to the real circumstances of participants in the youth labour market. This debate is very much off the post election agenda of the federal government, but it may well be an important issue for the Industrial Commissions in determining future wage cases and in coming rounds of enterprise bargaining.

The first point to make is that formal status as an adult (despite many 18 to 20 year olds still not being able to cook dinner for themselves) is legally attained at the age of 18 as far as voting, drinking, gambling and the criminal justice system is concerned. So, why then do adult pay rates only kick in at the age of 21? Is this "simply an accident of history"? (Belchamber 1999). Some

commentators find discrimination on the basis of age abhorrent in principle in a society that considers itself non-discriminatory. But the case for the abolition of discounted rates for 18 to 20 year olds is even more fundamental than this. Indeed, discrimination is not always a bad thing and it is arguable that discrimination which seeks to give youth a competitive advantage in the labour market is desirable. So, rather than merely opposing age-based discrimination because discrimination is thought to be a bad thing per se, we should look to the assumptions which form discrimination.

One such assumption, harking back to the Harvester judgement's 'needs principle' is that the needs of young workers are less pressing than those of the general population (Bessant 2000). In many cases, this assumption will hold true, for instance where a teenager's income is supplemented by parents whilst living at home.

However, there are also a significant number of cases where the assumption does not hold true, with important implications for the level of poverty amongst young persons. People aged 18 to 20 will in some cases have dependants: children, partners or other family members. Others may live away from home and be responsible for rent, water, electricity bills and so on. Belchamber (1999) notes that these costs of living are not discounted for 18 to 20 year olds, despite the fact that their wages are discounted!

Further, young people are increasingly engaged in tertiary education and are faced with significant financial demands. One would think this would make it difficult for the federal government to justify facilitating rising costs in education whilst avidly defending discounted rates of pay for the people most likely to be studying full time.

From another perspective in the youth wages debate, it is frequently argued that the 'adult at 18' alternative would result in a marked increase in unemployment for employees aged 18-20: their labour would become more expensive, hence reducing their price competitiveness. Consequently, employment of 18 to 20 year olds would be substituted for employment of older workers who are more desirable when wages are equal (Hamilton 1999; Lewis and Mclean 1999).

This, if true, would be particularly concerning given that

Abolition of Youth Wages ... continued from page 3.

the youth labour market, encapsulating 15-24 year olds, already suffers unemployment at a much higher rate than that experienced in the aggregate labour market.

The weakness in the chain of reasoning above is the assumption that young employees would be substituted for older employees because older employees are somehow more desirable. According to Hamilton (1999): "the key issue in relation to junior employment is often a lack of maturity, what the AIRC summarises as issues of responsibility/reliability, the possession of a strong work ethic, application, punctuality, commitment, general life experience, attitude to authority, diligence".

The implication of this long list of overgeneralised alleged deficiencies of youth labour is that lower wages for youth are justified because the labour of youth is worth less. But is this always true? No. It will often be more desirable to employ 18-20 year olds because of their willingness to work part-time, weekends, unsociable hours and summer breaks (Bessant 2000); because of their ability to communicate with the target market of particular businesses in which they are employed; or because of their fitness and enthusiasm.

These positive characteristics of youth in the labour market are particularly relevant in the retail sector, where youth employment is highly concentrated.

It is also argued by opponents of the 'adult wage at 18' model that these young workers are less productive because of their limited training and experience, but again, youth employment is overwhelmingly concentrated in low-skill industries where "the productivity of young workers does not rely upon an advanced or sophisticated skill base but general physical competence and basic social skills" (White 1997).

Even where experience and training are important

qualifications of employment, they hardly justify discrimination against 18-20 year olds specifically: a 25 year old may have less experience than a particular 30 year old, but industrial tribunals would not arbitrarily discount the wages of *all* 25 year olds solely on the basis that the 25 year old is five years younger.

The above arguments suggest that employment of young workers would not be substituted en mass for older workers and hence the argument that youth unemployment would sky rocket if we were to grant 18-20 year olds a full adult wage is problematic. It should also be remembered that the problem of youth unemployment isn't just about youth wages. The causes of youth unemployment also relate to family circumstances; locational disadvantage, personal characteristics and the aggregate demand for labour (Stott Despoja: 1999). Any explanation that simply claims 'wages up, unemployment up' is too narrow.

In the heat of the debate over junior rates of pay for 18 to 20 year olds, the actual predicaments, perspectives and needs of youth are sometimes forgotten and instead substituted for arguments about which econometric methodology best models potential outcomes. This is not to say that the perspective of economists is not important, but rather that holistic analysis is favourable.

Policy makers, whether they are sitting in the chambers of legislatures, or on the benches of the commissions, need to acknowledge that 18 to 20 year olds are also adults and that financial responsibility and hardship doesn't just begin on one's 21st birthday. This will require a re-evaluation of the out-dated assumptions that inform age based discrimination in wage determination.

Aaron is a student at Sydney University and a member of the IRS Executive Committee. We thank Aaron for his contribution and encourage other student members to contribute any articles of interest.

NSW IRS Convention - May 2005 – NEW VENUE

Already it is time to start thinking about the next annual conference and we are proud to announce our new venue of Peppers Fairmont Resort located in Leura in the heart of the Blue Mountains.

We are locking in some great speakers and sessions for everyone to attend.

Make sure you get in early to ensure you don't miss out!

When: 13 – 15 May 2004
Where: Peppers Fairmont Resort Leura
Cost: \$880 (if paid prior to 1 February 2005 or \$990 thereafter....

RSVP: irsnsw@bigpond.com.au or ph 02 9630 5211

For further details go to www.irsa.asn.au

Women In Industrial Relations Event - August 2004

The most recent Women in Industrial Relations function was hosted by Frehills in late August with special guest speaker Diane Grady addressing the forum about ways to retain talented and highly skilled women in the workforce. The event was a huge success with more than 130 women attending.

Diane Grady discussed many of the reasons women were not content to remain in the workforce whilst attempting to maintain families and juggle high pressure careers.

In doing so Grady explained: -

"Companies need to assess the real costs for accepting these long-term norms."

Neither older, younger or women employees are content to continue working at this pace".

According to Grady, flexibility around work practices, and encouraging a culture that recognises family commitment and embraces diversity are the best ways to encourage productivity and innovation.

The Women in IR sub-committee is currently calling for expressions of interest from members regarding suggested speakers, topics and of course sponsors interested in hosting any of the upcoming Women In IR functions in 2005. If your organisation is interested in sponsoring or supporting a function for 2005, please contact the IRS on 02 9630 5211 or email irsnsw@bigpond.com.au

Industrial Action: The People's TeamThe Year that Was...

The mid season form of Industrial Action: The People's Team astounded touch football commentators and even their most ardent fans. It was hard to believe that at the start of the season, this was the same team which bookies had as unbackable favourites to again retain the wooden spoon.

For the first time in the team's history, The People's Team was victorious on three consecutive occasions and four overall. Who could forget the pandemonium that erupted after the team secured its third victory. The joyous celebrations from the players and fans alike was indeed, a sight unseen at the Domain since Christmas Carols 2003. This golden run saw The People's Team display what can only be described as magic touch football. The playing of running touch footy, while criticised by the purists, brought the fans back to the game, as the team earned the tag as the new "Entertainers".

The catalyst of such success is difficult to gauge. Perhaps it was the demon-like defence of the team's spiritual leader, Peter Sams DP or the constant absences of the enigmatic skipper, Adam Dansie. Maybe it was Kane Gleeson turning on some "hot sauce" of his own or Monique Brady playing with pain killing injections, which buoyed the team. The acquisition of touch footy debutants, Lee Smith, Kerryn Kahler and Alexander Giudice, proved to be a masterstroke, as they showed the 'old guard' how the game should be played. If further inspiration was sought, The People's Team needed to look no further than one member of the industrial bar, who showed that his ability to niggle away at the other side was not limited to the confines of the Commission.

However, just as the bandwagon grew to Swans-like

proportions and the industrial juggernaut marched into the heartland of premiership contention, something went horribly wrong and the team failed to secure a finals berth. The return of Adam Dansie and the individualisation of the patterns of play and the defection of Damien Timms to Macquarie Bank, cannot be blamed for the demise of The People's Team.

The intense media attention leading up to the playoffs, coupled with the realisation that the team was carrying the hopes of the entire field of industrial relations, did not assist the cause. For this relatively inexperienced team for which winning was once more of a novelty, than an expectation, the pressure proved insurmountable.

Regardless of how the season ended, the sweet taste of victory is not readily forgotten and more good times are expected in the season ahead. For those interested in joining either the People's Team or the fan club, pre-season training will commence at B.I.R.P Night, Civic Hotel, Friday 26 November 2004.

The miscellany of players from across the spectrum of industrial relations, which made up The People's Team include: Adam Dansie (c); Peter Sams DP; Damien Timms; James Corbett; Kane Gleeson; Monique Brady; Lee Smith; Rod Marshall; Paul Bickerstaff; Kerryn Kahler; Alexander Giudice; Rod Fox; Nikki Town; Daniel Lee; Robert Reitano; Renee Saibi; Raymond Mouwad; Kristen VanBarneveld; Tony Howell, Tim McDonald and some others on an ad hoc basis.

**Daniel Lee –
"The Peoples Team" Press Secretary**

The IRS of NSW Welcomes the Following New Members

Name	Organisation	Name	Organisation
Elizabeth Allen	<i>Printing Industries Assoc</i>	Diana McManus	<i>Employers First</i>
Michael Bailey	<i>Office of Industrial Relations</i>	Alison McRobert	<i>Jones Staff & Co</i>
Michael Banks	<i>DRB Business Advisers</i>	Cynthia Maclou	<i>Owen Hodge Lawyers</i>
Michelle BarnesColin	<i>Biggers & Paisley</i>	Aaron Magner	<i>MacMahon Assoc</i>
Domenica Barila	<i>Deacons Lawyers</i>	Fiona Mellor	<i>Employers First</i>
Graham Barter	<i>Barrister</i>	Daniel Miller	<i>Deacons Lawyers</i>
Paul Bickerstaff	<i>Local Gov Services Assoc</i>	Lucy Moore	
Leigh Brooks	<i>Exel (Aust) Logistics</i>	Simon O'Hara	<i>IRC of NSW</i>
Mark Casey	<i>Uni of Western Sydney</i>	Mark Patrick	<i>KPMG</i>
David Collins	<i>Uni of Newcastle</i>	Bianca Perry	<i>Uni of Newcastle</i>
Grant Connolly	<i>Uni of Western Sydney</i>	Ken Petersen	<i>Macquarie Generation</i>
Michael Cooper	<i>Holman Webb</i>	Kati Ritchie	<i>Uni of Western Sydney</i>
Gregory Dagg	<i>Newcastle MBA</i>	Struan Robertson	<i>Health Services Union</i>
Michael Dixon	<i>OEA</i>	Julia Salt	<i>Alstom Power</i>
Nora Fenton	<i>Pharmacy Guild of Aust</i>	Jon Shapiro	<i>Independent Education Union</i>
Sonja Freeman	<i>Uni of Western Sydney</i>	James Sharkey	
Hannah Gordon	<i>Rail Infrastructure Corp</i>	Nicola Street	<i>AIG</i>
Bruce Grimshaw	<i>Energy Australia</i>	Craig Thomson	<i>Health Services Union</i>
Phillip Hall	<i>Newcastle University</i>	Tim Thorncraft	<i>Employers First</i>
Anthony Haugh	<i>Employers First</i>	Alison Tyrrel	<i>Employers First</i>
Sarah Haynes	<i>Employers First</i>	Glenn Tyrrell	<i>Health Services Union</i>
Heazlewoods Bushby	<i>International Lawyers</i>	Albert Umansky	<i>Deacons Lawyers</i>
John Henington	<i>Aust Steel Mill Services</i>	Cinda Viranna	<i>OEA</i>
Paul Higgins	<i>Uni of Newcastle</i>	Helen Wall	<i>Barrister</i>
Tim Hollins	<i>Stockland</i>	Catherine Whiddon	<i>NSW IRC</i>
Adelle Jackman	<i>NRMA</i>	Catherine Wilkinson	<i>Sparke Helmore</i>
Sharon Kraemer	<i>Pirelli Cables & Systems</i>	Sally Woodward	<i>Deacons Lawyers</i>
Ani Kotronakis	<i>Workplace Law</i>	Sarah Woolley	<i>Uni of Newcastle</i>
Elizabeth Lee	<i>Commonwealth Bank</i>	Judith Wright	<i>Jones Staff & Co</i>
Stephen Loehr	<i>Aust Business Lawyers</i>	Irfan Yusuf	<i>Meehans Solicitors</i>
Daryl Makins	<i>Employers First</i>	Mimi Zou	<i>DEWR</i>
Malcolm MacIntosh	<i>RMIT University</i>		
Kathryn Mcdonald	<i>Westpac Banking Corp</i>		

Newcastle News from the Sub Branch

Newcastle Annual Conference – 29 October 2004

Industrial Relations for Turbulent Times...

Session Topics

- Changes in Industrial Relations in the Airline Industry
- The IT implications of changing Company Structures and Ownership
- Managing the Private/Public Partnership

Members: \$175.00

Students: \$50.00

Non Members: \$185.00

For more information please contact the Branch Secretary on 02 4962 6369 or email allanf@newcastle-mba.com.au

MOOT Competition 2004 Results

The IRS Mock Arbitration competition 2004 was held this year in the court rooms of the Australian Industrial Relations Commission. The aim of the competition is to provide students with an opportunity to have some practical experience in appearing before the industrial tribunals.

While attempts were made to broaden the competition to include more universities, as fate would have it, two universities pulled out the week before the first round. Fortunately, the students from University of Sydney and the University of Technology, Sydney were very enthusiastic and each university fielded two teams. The problem for the first round was an arbitration of an unfair dismissal application. Commissioner Greg Harrison heard the application under s 170CE of the *Workplace Relations Act 1996 (Cth)* and Commissioner Peter Connor heard the application under s 84 of the *Industrial Relations Act 1996 (NSW)*. The facts involved the dismissal of a union delegate had following an email sent regarding taking industrial action. One team from each university won their respective rounds and progressed through to the final.

The final was held on 14 October 2004 and was presided over by Vice-President Michael Lawler. His Honour heard an urgent application for an order to stop or prevent industrial action under s 127 of the *Workplace Relations Act 1996 (Cth)*. The UTS team of Peter DeVries, Amy Kent, Michael Horan and Catherine Young and the University of Sydney team of Clare Yazbeck, Mimi Zou, Clara Yoo and Fabiana Rodriguez demonstrated their excellent preparation and advocacy skills but by a nose, the University of Sydney team won and now have the honour of displaying the Industrial Relations Society of NSW's "Intervarsity Mock Arbitration Competition Shield".

Thanks to the Australian Industrial Relations Commission for the use of the courts rooms at 80 William Street. Thank you also to Ingmar Taylor of HB Higgins Chambers for providing the problem for the final of the competition. Finally, thank you to the judges, Commissioner Greg Harrison and Commissioner Peter Connor for judging the first round of the competition and Vice-President Michael Lawler for judging the final of the competition.

NSW IRS Christmas Party



The festive season is nearly upon us again! The NSWIRS would like to invite all members and their guests to the annual Christmas party.

When: Thursday 2nd December
Time: 5.30pm – 7.30pm
Where: Tattersals Club
Cost: \$30 members
 \$40 non-members
 \$20 students
RSVP: irsnsw@bigpond.com.au or
 ph 02 9630 5211

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Editors

Nikki Town
Sue-Ern Tan

What's on and where?

THE CENTENARY CONVENTION: THE CONCILIATION & ARBITRATION JOURNEY

When: 21 October 2004
Location: Hotel Sofitel, Melbourne
Email:
bev@conferenceconsultants.com.au
Phone: (03) 9698 7444
Cost: \$899

NEWCASTLE BRANCH ANNUAL CONFERENCE & DINNER -

"IR FOR TURBULENT TIMES"

When: **24 October 2004**
Where: **Noahs on the Beach Hotel,
Newcastle**
[email glenda.winsen@newcastle.edu.au](mailto:glenda.winsen@newcastle.edu.au)
Phone: 02 4962 6369
Cost: Members \$175
Non Members \$185
Students \$50

B.I.R.P Night

When: Friday 26 November 2004.
Time: 5pm till late
Where: Civic Hotel – Pitt St Sydney
Contact: Adam Dansie
Ph: (02) 9242-4145
Email: adam.dansie@lgsa.org.au

XMAS PARTY

When: 2 December 2004
Where: Tattersalls Club
Contact: Susan Stewart
Email: irsnsw@bigpond.com.au
Ph: 02 9630 5211

International Industrial Relations Association 14th World Congress

When: 11th – 14th September 2006
Time: Lima, Peru
Email: iira@ilo.org
Contact: International Industrial Relations
Association

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