

# Howard's Industrial Relations Agenda

**Speech by Doug Cameron, National Secretary AMWU - given to Evatt Foundation on 26th May 2005**

Thank you for the opportunity to address this Evatt Foundation seminar on the Howard government's proposed industrial relations changes. I intend to discuss issues which go to the practical operation of the proposed system and the implications for working families. In the short time I have available it will be impossible to cover all of the problems or solutions however I want to address a number of significant issues from the AMWU's perspective.

Let me initially address the justification being used by the proponents of legislative change. The proponents include the Conservative political elite, and employer organisations such as the BCA, ACCI and AIG. The battle cry is for increased productivity, more flexibility and improved competitiveness.

The leadership of the Liberal party and business groups focus on an extremely narrow productivity agenda. The productivity issues identified by government and business are designed to:

- Dress up a cost-cutting agenda as legitimate productivity issues!
- Increase so called "flexibility" by further casualisation, contracting out and off shoring.
- Dismantle the historic checks and balances of Australia's industrial relations system and massively increase employer prerogative and power
- Destroy or diminish the trade union movement's capacity to intervene on behalf of members.
- Revert to the Master servant relationship
- Impose commercial and criminal law on employees and treat them as commodities and criminals.
- Promote individualism over collectivism

The industrial relations changes supported by business are amongst the worst examples of "short termism" witnessed in this country for many years.

The business community has demonstrated their true colours, they want complete managerial prerogative and control over the lives of working people.

They have abandoned any pretence to a sophisticated high skill high wage agenda.

The real drivers of productive performance, which are:

- Skill development and training.
- Investment in new technology.
- Research and development.
- Innovation.
- Improved management systems.
- Robust marketing and logistics systems
- Inclusive and cooperative business planning
- Product refinement and development

have been abandoned for a short-term focus on punitive archaic industrial relations legislation.

The AIG have attempted over many years to portray themselves as moderates and pragmatists when it comes to industrial relations. The AIG submissions to the Commonwealth government on industrial relations changes are the most reactionary and conservative public position I have seen from this organisation for a quarter of a century. It is particularly hypocritical of the AIG to argue for further restrictions on bargaining rights for manufacturing workers through: Increased "flexibility" by introducing, individual contracts, contracting out, casualisation and off shoring.

## **Prohibitions on pattern bargaining**

Secret ballots which are not about democracy but are designed to deny and delay access to protected industrial action. Intervention rights for downstream organisations affected by protected industrial action.

## **Increased penalties against workers and unions.**

Ludicrous restrictions on workers access to their union by denying reasonable "right of entry" to union officials. The hypocrisy of the AIG is that they argue for draconian industrial legislation while proclaiming they are not promoting a race to the bottom for workers wages and conditions.

## **Their argument is intellectually barren and an attempt to mislead the Australian community as to their real agenda.**

I can assure those members of AIG who attempt to force down wages and conditions for AMWU members that they will be faced with significant and determined opposition.

AIG members better start conducting a cost benefit analysis of the implications of attempting to strip away our members' rights.

Our members will fight long and hard to protect their rights and their families' financial security.

What we are witnessing is a brand of government authoritarianism alien to the democratic traditions of this country.

- Australians did not vote for the destruction of the trade union movement.
- Australians did not vote for the abandonment of this country's commitment to international standards.
- Australians did not vote for the destruction of hard fought industrial and social achievements.
- Australians did not vote to diminish human rights protections.
- Australians did not vote for government control and abuse of information
- Australians did not vote to outlaw dissent.

The Howard government is overseeing a massive assault on the foundations of our democracy.

Forcing millions of Australian workers into a system based on commercial and contract law and denying that a power imbalance exists between employer and employee is a dogma alien to Australian contemporary political life.

This approach will inevitably lead to massive losses of income and conditions for Australian workers. The Howard government has moved beyond any other conservative industrial agenda in advanced Western countries. They have moved well beyond the neo liberal agenda of Reagan and Thatcher and Conservative administrations in New Zealand. We have moved to a neo Conservative agenda reminiscent of the early 19th century.

Australian workers and their unions will be subjected to industrial laws designed to subjugate workers to the employers will. Penal powers will be used to intimidate individual workers and will become the norm in Australian society.

- In the early 19th century commercial law predominated.
- In 1811, a magistrate could authorise 50 lashes and 30 days hard labour for drunkenness, disobedience of orders, neglect of duty, absconding, abusive language to his master or overseer or any other disorderly or dishonest conduct.
- In 1828, a convict Shepherd, received 500 lashes, one month's solitary confinement on bread and water for "inciting his master's servants to combine for the purpose of obliging him to raise their wages and increase their rations"
- The Master and Servants Act of 1828 provided for "One hour's absence by a free servant without permission - prison or the treadmill"

- In 1840 "bolters" free workers who have left their employer's employment without permission were subject to the Bushrangers Act.

The Howard government's industrial relations agenda is a 21st-century equivalent of 19th century commercial Law in action.

Over the years, with the establishment of trade unionism and a more enlightened and sophisticated social system, commercial law was replaced with a mixture of commercial and social based law.

The Conciliation and Arbitration act encompassed social progress and ensured that labour was not treated as a commodity and special recognition and rights were required for workers and their unions. I'm afraid that the social implications of Howard's agenda are not widely recognised within the Australian community.

The current system breaches ILO conventions and is amongst the worst in the westernised world.

The proposed system in combination with the Building Industry Task Force and the ACCC rips apart the social consensus that workers are entitled to protection from laws designed to protect property and commercial transactions.

The ACCC is being used as a political and industrial battering ram against individual workers and the trade union movement.

This organisation, initially established to promote competition and protect consumer rights within Australia, is now one of the most aggressive institutions against collective rights.

The trade union movement was founded to take competition out of workers wages.

The ACCC has used its competition powers to intervene in industrial disputes and unilaterally prosecute the AMWU and other unions under section 45 D of the Trade Practices Act.

Under the threat of litigation which would cost each union approximately \$800,000 to defend, the AMWU, ETU and AWU were forced to settle an action by the ACCC for \$100,000 each.

The settlement also included a compliance program and training program for each union.

In accepting the settlement, Justice Gray of the Federal Court made the following comments.

"If I had been determining the penalties myself in this case I should have fixed the figure considerably lower than the \$100,000 agreed... The respondents (i.e. the unions) are not profit-making enterprises. They did not engage in conduct the subject of the proceeding for their own gain, or the gain of their officials.

Their overriding concern was no doubt to protect the employees of Upstream Petroleum Proprietary Ltd, including those employed in the future, from possible exploitation by the negotiation individually of their terms and conditions of employment.

The use of a picket is a very traditional means of engaging in industrial action over such an issue. With the exception of a four-hour period on 2 October 2002, access to the site was not blocked... in these circumstances, to call upon the respondents each to pay such a large sum from their resources which ultimately come from the pockets of wage earners appears to be excessive.

There can be little doubt that the agreement has been brought about as much for financial reasons as for any other. Facing proceedings that would have been long and involved if the (ACC) Commission were put to its proof, the respondents probably chose to pay large amounts in penalties rather than encourage large bills for the Commission's costs of the proceedings

My conclusion is that the penalties sought must be at the very highest end of the range appropriate for conduct of this kind."

The AMWU and its members are now facing a similar attack from the ACCC.

Members at the Age newspaper are being pursued by the ACCC to provide evidence against the union in a dispute over workers entitlements and the company's breach of an agreement.

In what is reminiscent of a police state, my members have been served with a notice to give evidence under section 155 (1) (c) of the Trade Practices Act.

They have been served with a notice to give oral evidence at the Commission's Melbourne office.

Graeme Samuelson has advised members that they are to appear at the Commission until they are excused or released by the ACCC from further attendance.

They have been advised that if they refuse or fail to comply with the notice or give false or misleading evidence to the Commission they may be subject to criminal prosecution action or fines or imprisonment under the Act or the Commonwealth Criminal Code.

They are being required to give evidence on oath or affirmation.

They will not be excused from giving information on the ground that the information may tend to incriminate them.

In a somewhat prolific and bizarre coincidence, they are to be examined by a Mr. Stephen King of the Commission.

A horror story indeed!

Our members have been advised that they can be legally represented however legal representation is only permitted to:

Object to the question asked as being unclear, unfair or irrelevant to the subject matter of the examination;

Re-examine the member to clarify their response to an earlier question which requires clarification; and

Make submissions at the completion of the examination as to any relevant matter.

The legal adviser will not be permitted to interrupt or disrupt the examination and the Commission has indicated it will not allow our members to consult with their legal representative prior to the answering of questions.

Legal representation will only be allowed if the legal representative accepts as a condition or gives an undertaking that the questions put or the information provided will not be disclosed by the solicitor or Counsel representing the member.

Members have also been required to abstain, until the inquiry is concluded, from disclosing information acquired and evidence given during the examination.

The ACCC is operating as an industrial and political battering ram against the union movement.

In both of the incidents described, the employers had reached settlements with the union and indicated they did not wish to proceed with legal action against their employees or the AMWU.

In conclusion, workers and their unions are facing some of the most significant challenges in the history of trade unionism in this country.

There must be strong voices both within the movement, from the ALP and the community opposing the legislation which is designed to destroy the effect of trade unionism in this country.

The trade union movement as an institution has contributed massively to the development of Australia both socially and industrially.

Like most modern organisations, the AMWU has conducted polling and focus groups on a regular basis in marginal electorates.

These polls and focus groups clearly indicate that the trade union movement is seen as an important institution to ensure social and industrial justice for Australian workers.

For Labor politicians, the opportunity to differentiate themselves from the Conservatives and stand up for Australian workers and their unions is a vote winner.

The ALP at the Federal and State level must unequivocally defend workers and the institution of trade unionism in this country.

We are facing the fight of our lives, the trade union movement will be judged on how effectively we meet this challenge.

The ALP will also be judged on how they respond to the assault on the working families of Australia.

Unfortunately, the ALP is still fragmented and disjointed in its response.

The struggle for human and trade union rights in Australia is a fundamental battle that must be won.

The ALP cannot concentrate on the form of the system as distinct to the substance of the industrial relations changes.

The ALP cannot be preoccupied with establishing its economic credentials to business while business is in collusion with the Howard government's attempts to destroy the most important non-government organisation in the country.

Just as history will judge the effectiveness of the trade union movement's response, history will also judge the response of the ALP both at the Federal and State level.

Howard has convened a COAG meeting in June.

I expect, and working families around the country expect, the state premiers to unequivocally support them and their unions.

The premiers should not be intimidated, bullied, coerced or bribed into submission on matters of such historical importance and principle.

Minister Della Bosca, I hope we can rely on you to carve the New South Wales ALP's place in history by fearlessly confronting and defeating the greatest attack on working families in the history of Australia.

Minister, I hope Bob Carr proves Paul Keating wrong; I hope that he and other premiers prove that you can put principle between a Premier and a bucket of money!

Thank you for your patience and let's leave here, spread the word and support the campaign for working families and their trade unions.