

“The Politics of Workplace Relations Policy”

Address by Hon Peter Reith to HR Nicholls Conference on

“How Fair is Fair Work Australia”, 2 April 2011

I am delighted to be here as a guest tonight. Having been out of Australia for a number of years, this is quite a home coming for me. The conference you held today would be as important as any the HRN has held over the years. The information provided should be disseminated across the country. The narrative we have heard today goes to the heart of what sort of country we want to be. We have a lot of work ahead of us. Do not give up; donate, talk, write and keep at the issue.

It is 10 years since I left the Australian Parliament and a lot has changed.

But the essence of my topic for tonight is unchanged. The unions are still fighting the owners of the Lancashire cotton mills in the UK in the early days of the Industrial Revolution. And the ALP has not noticed that the Berlin Wall has been breached and that most people want freedom of choice at work as well as at home and in the ballot box.

Having spent 6 years in London as a banker, I have had the opportunity to not only better understand Europe but also to better gauge Australia’s position in the world. Clearly in terms of economic performance, we have done much better than even we had hoped back in 1990 when John Hewson and I started writing Fightback. And some of the proposals we advocated then have materialised e.g. the GST which was a lot more scary than workplace relations. I was the first on my side of politics to publicly advocate the GST as part of my leadership campaign after the 1990 election. From when Bob Hawke was elected and then John Howard, Australia had been pro-reform. Unlike the ALP, even when in opposition, the Coalition supported reform pursued by our political opponents.

And lots of good policies have been implemented in Australia; privatization, contracting out, independent RBA, individual agreements, a more rational base for IR, less arbitration, use of Trade Practices Act etc. and in many businesses much better productivity, eg the stevedoring, mining, cutting protection and keeping unions out of residential housing etc. All these examples show we can win this debate even though it looks bleak tonight.

We cannot afford to fall behind. And that is happening in a number of key respects. Australia’s slip back into debt, the reregulation of the labour market, the waste of public funds on a massive scale, the reintroduction of government as a provider of services (the NBN), loss of control over our borders and the undermining of support for our immigration programme have all weakened our country. Worse still, no-one seems to want to champion the way ahead.

In a speech in December 2010, the head of the Productivity Commission, Gary Banks spelt out the “productivity imperative”.□. He gave us a warning. He said;

Among these, industrial relations regulation is arguably the most crucial to get right. Whether productivity growth comes from working harder or working smarter people in workplaces are central to it. The incentives they face and how well their skills are deployed and redeployed in the multitude of enterprises that make up our economy underpins its aggregate performance. It is therefore vital to ensure that regulations intended to promote fairness in Australia's workplaces do not detract unduly from their productivity. Getting the balance right is challenging and requires careful ex ante assessment and ex post review. This is particularly important in the context of the structural pressures described earlier, given the premium they place on flexible, adaptable labour markets. However, regulatory changes (in both directions) have generally been exempt from even the cursory obligations of regulation impact statements. If we are to secure Australia's productivity potential into the future, the regulation of labour markets cannot remain a no-go area for evidence-based policy making.

It is a rallying call for reform. And so far, has fallen on deaf ears in Canberra.

The current federal Government is a big part of the problem. Julia Gillard was appointed by the unions, the Treasurer is lack lustre and owned by the AWU and day to day the faceless union types are largely in control subject to whatever the Greens want and what the pollsters report. But nothing much that has happened is unexpected. For example it was easy to predict that AWA's would be abolished.

I predicted the abolition of individual agreements well before the Howard government won control of the Senate in 2004. Kim Beazley had promised their abolition in 2001. I said at an AMMA conference in 2003,

“There is also another significant prospective problem when and if the ALP is next elected they will be able to turn back the clock. We have not abolished compulsory arbitration and the ALP have a proven record at the state level in overturning sensible reform as a pay-back to their union masters. In WA and Queensland, individual agreements have been neutered or effectively abolished and Victoria is in the process of re-regulating the labour market. The same would happen federally if and when the political cycle turns”.

A lot of the dreadful re-regulation in FairWork Australia was talked about by the unions from 1996 onwards. WorkChoices was not the reason for Labor's reforms in 2008. The campaign against WorkChoices was only ever about the unions protecting their patch. And it was never genuinely about the disadvantaged in the work force because a lot of the militant unions represent the privileged workers who earn a lot more than the average. They are a new elite. They are not battlers; they are paid as much if not more than MPs. They are earning \$100,000 and more a year on the West Gate Bridge, at the Wonthaggi desalination plant, on Patrick's wharves or they are wiring a high rise building in the CBD. They have extracted a monopoly rent through the militancy of their union at the expense of everybody else. That is why it is that city buildings are more expensive than they should be. You will never hear a union official saying that it is unfair that water bills in Victoria will be going up by more than a thousand dollars a year because the unions have fought hard for their monopolies. In the old industrial relations system, if you wanted to know the real story, follow the money. Follow the union money and you will understand. And who funds the ALP?

An early election is unlikely. But time is short. Anything can happen with a government as shambolic as the current Federal Government.

In work places all around the country things are getting worse. But it is not happening in dramatic events. It is happening slowly but inexorably. Slowly but surely productivity is being eroded and the signs are more apparent day by day. The unions have a lot of discretions under FWA so they partly determine the timing of events. And some employers protected themselves by trying to put off the day that FWA would hit them so there is still a

transition process underway. But the problems are mounting and the damage bill of this disaster is climbing. We are burning slowly.

A. The old culture is being reinforced. The Paul Howes's attack on Rio was not an isolated throw-back; it was a restatement of union values. The MUA has been intermittently on strike around the country for the last few months. This is the first time for some years. Another classic comment from the past was uttered recently by the ACTU President who said that productivity problems stemmed from managers and that more collectivism would boost productivity!

B. The building industry unions have already worked to muzzle the Australian Building and Construction Commission and they hope to have it abolished altogether. It was typical that in March the AWU called the ABCC "evil" and not one member of the ABCC, the government or, to my knowledge business organisation or senior Coalition figure, actually defended a body that has been very successful in requiring unions to observe the law and thus keep some control over costs in that industry. It is a bad omen for a key industry.

C. The Fair Work Act came into effect in 2009 and since then there have been various Court and Fair Work Australia decisions. Some of these decisions are setting directions not fully understood or expected or contemplated at the time. Some are of major concern for example; there is an emphasis on making it easier to pursue protected industrial action, and harder to stop that action, during bargaining. Rudd promised, at the National Press Club, that strikes would be a last resort but the December decision allows strike even before any discussions. This is a dramatic change. Only last week, Heather Ridout, the CEO of AIG, set out a list of 17 problems.

D. Transition provisions allowed individual agreements to operate to their expiry date. Many of those arrangements come to an end in 2011 and, as the unions have generous right of entry clauses, it is certain that in 2011 many businesses will be forced, against the interests of the business and the employees, to negotiate with militant unionists.

E. Workplace Express reported recently on a CFMEU paper proposing changes to the current good faith bargaining (GFB) rules. In essence the union argues that FWA has been too "permissive" with the employers. As one senior lawyer said privately "Show this to your friends. God help us all"

F. The unions are flexing their muscles. Last year, they installed a Prime Minister, their position in the ALP is as dominant as ever and their rhetoric is worsening. And as commented in this conference this morning Rod Cavalier, ex ALP NSW Minister is telling everyone who will listen that ALP rank and file members will never reform their party because the unions will never agree to give up their control. The good news is that Barry O'Farrell only has to be half reasonable and he will be in for a long time. Labour in NSW will never reform and exactly the same issue will eventually hit Julia Gillard.

G. The Qantas dispute demonstrates again the shift to union power. Clauses preventing employers from hiring contractors were not allowable under the WRA. This was changed by Gillard. The damage of this provision alone will be considerable. It is like the business transitions provision which is a silent killer of productivity.

The ACTU were always going to insist that an incoming ALP Government abolish AWAs. But because Labour won the election, in part by attacking Howard's WorkChoices, they were able to spook the Coalition into giving up on workplace relations.

Since at least 2008 no-one in the Coalition has put in a sustained effort to prosecute the case that individual agreements are a good idea. It is not just a matter of productivity and flexibility but the needs of individuals to have choice about the way they organise their work and family responsibilities. Freedom of choice is an essential element of Liberal values. The unions are antagonistic to employees exercising freedom of choice over key decisions that affect their working lives. The union movement should realise that people, perhaps especially young people, relish the opportunity to explore choice and make their own decisions. Individualism is as strong as ever.

Coalition MPs have been told to not speak about industrial relations. Of course I understand the political tactic of not making IR an issue in the last election. It was an exceptional situation because no-one has ever won the first election after a new government has been returned to office from Opposition. The situation now is different. The costs of Labour's system are really going to start to build up in the next 2 years. And Tony Abbott has said "it is up to the business community to convince the Coalition to change policy".□.

That is a challenge that must be taken up, but not just by the business community. It is a challenge for the country as a whole including the politicians. If we waited for business, Fightback would never have been written.

Even if the Coalition were elected at the next election if the Coalition does not have a reasonable policy before the election then the Greens will deny the passage of any legislation. The reason we got our IR package through in 1996 was because the Democrats had the honesty to accept that we had a mandate built on the detailed policy released before the 1996 election. And even then, if we have a mandate, and even if we get a bill through, it takes time to stop the rot.

If we don't take the lead soon and if there is no real legislative change before or just after the next election then Australia will have been going backwards for nearly a decade.

I say we cannot afford not to fight this issue. We cannot abandon issues that we know must be addressed. Australia will be a lot of worse off if we sit mute, frightened to do the right thing. MPs are not in Parliament to avoid issues; their job is to tackle the real issues, the difficult issues. And we can't wait round for business. We need a campaign to explain what is happening and our MPs are should be running that campaign.

No-one should kid themselves that we do not have a problem. I appreciate that there is little understanding in the wider community about what is happening. That needs to change. I understand why some businesses are cautious about speaking out. They are threatened by union militants. Just because business leaders and business organisations are keeping a low profile on these issues is no excuse for pretending there is not a growing problem. The first thing that needs to happen is to have more attention on the problems. Small business, labour market economists, the Federal opposition, State governments grappling with infrastructure programmes, and citizens concerned about the country's future need to become active on this issue. If the public do not see a problem then it will be that much harder to persuade the politicians that they need to take up the policy challenge. The public needs to be informed on

what is happening. This is a number one priority for all including business. But business needs to take on these issues operationally. They should boycott the FWA every chance they have. Keep away from the tribunal. If you have to go into the Tribunal, spend the money, hire good lawyers and go to win and thirdly if you lose the first round, then appeal and go public with your issue. My other operational advice to business is to be careful what you agree to in your agreement. Too often, employers sign agreements that give new powers to unions. Unions do not fix problems, they make them so why give them new powers that will only come back to bite you.

The Coalition sold the hardest thing ever to sell in politics in 1998 when we won an election advocating a new tax. The Australian people are not stupid; they want to hear the facts and the reasoning. There is a lot at stake but there are many Australians who are ready to listen and support. As we left office in 2007, up to one thousand AWAs were being lodged PER DAY. There is a constituency for us to work with who know that a better system is available.

So what we need to is to revitalise the constituency that supports a better system. We need the employers – all of them. We need small business. And we need the younger ones who value choice and independence. We need the intellectual firepower and we need resources to prosecute the case. And we need to sharpen the message to the public. As we demonstrated with the GST if you have a good idea people will support you. I think today is a good start and I , for one, am keen to do all I can to challenge the ALP and its masters and advocate a better system for the benefit of all Australians.

It is time to recharge the calls for reform and to seek the common sense of the Australian public to put practical reform back on the national agenda.