

**HR Nicholls Society**

**Charles Copeman Award Presentation**

**South Melbourne - 1 December 2011**

**John Lloyd Acceptance Speech**

1. I am honoured to receive this award. It bears the name of an exceptional Australian. It has been awarded to many Australians who exemplify the courage to stand by their convictions.
2. I started my career in workplace relations in 1973. It was the time of centralised wage determination, quarterly wage indexation, comparative wage justice and common rule awards.
3. Early on I formed a view that to build a career in this field you had to be open to new ideas and to adapt to changes in the rules governing workplace relations.
4. My most challenging position has been the appointment as Australian Building and Construction Commissioner. It was a new office. The Cole Royal Commission had shown that the conduct found in the building and construction industry was disgraceful. Regulation by a powerful body was required.
5. The success of the ABCC is a credit to the team we built. The staff proved to be resolute and professional. They often worked under very challenging and confronting circumstances.
6. I want briefly to canvass two highlights from my tenure in the position.
7. The first was the 6 day strike on the Perth-Mandurah railway project in 2006. The evidence we gathered pointed to the action being taken by the employees. In July 2006 we decided to commence proceedings against about 100 employees. It was a crucial decision because it showed that the ABCC was serious about upholding the rule of law and all in the industry, large or small, would be held accountable for their conduct. The proceedings shocked many but it had an immediate impact and conduct improved. Penalties of over \$900,000 were imposed.
8. The second was the Westgate Bridge dispute of February to May 2009. It showed that despite all the work of the previous four years the culture of parts of the industry was still rotten. The dispute called up all the worst features of the past – a protracted strike, threats, intimidation, abuse, damage to property, dangerous car chases, bikie gang involvement, blockades, pickets, police involvement and demonstrations. It resulted in numerous court cases, injunctions and ultimately record penalties and costs totalling \$1.5 million.

9. It will take years and probably a new generation of leaders to bring the culture of the industry into alignment with accepted standards of decency found elsewhere.
10. It therefore is incomprehensible to me for the Parliament to have before it a Bill that abolishes the ABCC and diminishes the power of the regulator. If passed shameful conduct that will harm the industry and the economy will continue. This policy combined with a downgrading of the National Code of Practice means the unions boast they are back in the game of controlling the industry's labour arrangements.
11. The attitude of the construction unions is consistent with a recent national trend. The leadership of many Australian unions is becoming more militant and arrogant. In the Victorian nurses dispute an order of Fair Work Australia is defied. In the Qantas dispute personal abuse is frequent and the ruin of the employer's business reputation appears to be of no concern. The right of Australians not to join a union or to establish their own business as a contractor is seen as unacceptable.
12. The unions have accepted with relish a system that has given them a privileged position. Union membership is at an all-time low; 14 per cent in the private sector. Yet this week a non-union agreement is heralded as exceptional.
13. I am most concerned that the Australian workplace relations system is unsuited to our times. As I said before workplace relations was an area of regular change.
14. We had progressed through the years with a dismantling of centralised wage determination to a system where agreement making prevailed. Choice of agreement type helped businesses adapt to a more competitive marketplace. The trend of the changes over 30 years was to make the system more flexible and conducive to improved productivity. The roles of the tribunal and the unions decreased as it was recognised employers and employees were generally capable of managing their own industrial affairs with a limited need for assistance.
15. But in 2007 this progression to a modern system was reversed. We now have a complex multi layered system. Wages and conditions are regulated by national employment standards, awards, enterprise agreements and minimum wage orders. Disputes are more protracted. Industrial disputation is increasing in many sectors. Arbitration is being relied on more frequently. The unfair dismissal system is at times hostile towards employment growth.
16. The trend since 2007 has been in the opposite direction to where we should be headed.
17. I have just returned from 3 weeks in Europe. The prospects for Europe's future are alarming. The focus of the commentary is obviously about the financial crisis. Any attention about how to make the troubled economies more robust and competitive is limited. However, where it does occur labour market reform is listed as a high priority.

18. European labour markets are highly regulated and inflexible. High unemployment has been a feature of many European countries even during years of expansion. In the most troubled economies unit labour costs over the last 10 years increased at a much higher rate than in Germany. Regulated and inflexible labour markets in the end deliver a harsh outcome – massive job losses and low employment growth during recovery.
19. The fair work system has moved the Australian labour market towards an inflexible and highly regulated European model. This poses enormous risk for the future. The Euro crisis will lead to a recession in Europe and global growth will fall. Australia will be confronted with a much tougher economic environment.
20. It is essential that the Australian workplace relations system is reformed. We must have a system that facilitates investment and jobs growth. Changes to many areas are required. Agreement choice, bargaining, right of entry, transfer of business, termination of employment are just some of the areas.
21. Interested parties such as this society play a crucial role in encouraging change. The society has proved effective in the past. It is important that it continue to be a forum for ideas about how to improve our workplace relations system.
22. I will continue to argue for workplace relations reform through my work with the Institute of Public Affairs.
23. I look forward to being an active member of the society in the years ahead. I am most grateful to receive this award from the society.