



The chickens of destiny don't only come home to roost...

A paper by Dr James Macken, previously a Judge
of the NSW Industrial Relations Commission

Now that the High Court has declared valid the infamous Work Choices laws it is timely to examine the early consequences of the legislation to see whether the dire forecasts of the ACTU and others have come to pass. Despite the short time that has elapsed and the restraint of some of the major employers who fear a political backlash against the government and the loss of some employees in short supply, the worst fears of the unions have been realised.

Tens of thousands of workers have been forced, directly and indirectly, from the security of permanent, award regulated employment, on to personal contracts which are casual or part-time. Thousands have lost their rights to be paid for overtime and many can also be forced to give up leave rights on which their families depend. The worst affected are the lowest paid and the most vulnerable, particularly workers in the hospitality and cleaning industries and those with poor English and little skill. If the Howard government wins the next election there can be no doubt that the unfair operation of the Act will be extended throughout industry generally. This has been forecast by the government itself which has further and worse changes in the pipeline even before the election.

No doubt some of these unfair effects will be publicised before the election by the ACTU. There are three aspects of the legislation which are being ignored because they lack the political impact of the worst examples of injustice. The first is the application of the special laws applicable to the construction industry. These laws are draconic by any standards. They deny the most fundamental human rights and legal protections. The "right to remain silent" being only one of the fundamental legal rights done away with. Workers exercising the fundamental right to strike can be goaled and fined and have their homes seized and families evicted. The right to collective representation is curtailed and refused in some cases. The special legislation directed against the building unions is merely a trial run before being applied to the whole of the union movement later. This should be better publicised'

The second aspect of the IR laws which is under a "cone of silence" is the cynical use by John Howard of a Catholic politician to head the department of workplace relations. This was done because there was felt a need to head off objections to the Act stemming from Catholic social teachings. Howard knew that every single principle contained in the Act violated one or other of the papal teachings on human and work rights. He well knew of the strength of language used by the Pope in support of trade unions and the right to strike; his strong support of collective rather than personal contracts and his advocacy of compulsory arbitration. The casualisation of the workforce on the way to the creation of a servile employment policy has been attacked by all the popes that have spoken on the subject. To head off attacks based on these principles Howard appointed a Catholic to steer the Bill through Parliament. This was attempt to silence the hierarchy was, at best, partially successful. Bishops did not resile from Catholic Social Teaching when commenting on the legislation. Church leaders were united in their criticism of it.

The third aspect of this unjust and unfair legislation which is being ignored is the most important of them all. This is because the legislation, both the general statute and the laws regulating the construction industry, are born of the prevailing social philosophy, "managerial economism". This was described by John Paul II in 1981 as a 'fundamental error' which 'considers human labour solely

according to its economic purpose'. All the changes to the industrial laws are reflective of this philosophy. In its worst aspects it can be compared unfavourably with capitalism and communism.

In all this it is not surprising that the only defence of the legislation against the torrent of legitimate criticism is that it has made for an increase in employment. What it has done in fact is to transfer thousands of workers from secure and permanent employment to casual and underpaid employment without the protection of the union movement. It is easy to create employment if you divide each full time job into two part-time jobs. The Act systematically and deliberately sets out to create a new class...the working poor.

It is very upsetting to see these cruel changes being brought about for the benefit of soulless corporations and their executives who are paid unspendable millions of dollars each year to oppress the poorest and most marginalised workers.

What has our wonderful country come to?

1 January 2007