

The Queensland Journal Of Labour History

No. 24, March, 2017

ISSN 1832-9926

Contents

EDITORIAL	Howard Guille	1
BLHA President's Column	Greg Mallory	5
ARTICLES		
The Labour History Plays of Error O'Neill, Part 2	John McCollow	7
Disadvantage and Suffering: A Failure of Education	Ian Mackie, Gary MacLennan	27
The Travels of a Slim Book: Rockhampton Stonemasons, 1890– 1899 and Beyond	John Dargavel	39
BOOK REVIEWS		
<i>Worth Fighting For: A Centennial History of the Federated Clerks Union—ASU Central and Southern Queensland Branch</i>	John Martin	43
<i>The Conscientious Communist</i>	Howard Guille	46
Wally Stubbings Family Moves to Brisbane	Lesley Synge and Wally Stubbings	50
IN MEMORIUM — Digger Murphy	Paddy Gorman	57
Vale Sigrid McCausland	Frank Bongiorno	62
Connie Healy	John Healy	66
CONTRIBUTORS		72

Editorial

Howard Guille

The Penalty Rates Decision

The Fair Work Australia decision on weekend penalty rates is a disaster for low paid workers. It is another victory for narrow market-based economics and a serious disruption of the principle that ‘minimum standards’ should be inviolate except for extreme social or natural circumstances.

In the words of the decision, issued in late February

existing Sunday penalty rates in 4 of the modern awards before us (the Hospitality, Fast Food,

Retail and Pharmacy Awards) do not achieve the modern awards objective, as they do not provide a fair and relevant minimum safety net (s53).

The cuts are shown in the table. The Sunday rate for permanent staff (full and part-time) goes down from double time in retail and pharmacy to time and a half. In the Fast Food award, the penalty rate goes down to time and quarter (for permanents) and time and half for casuals. This is the same as the Saturday rate. The reason given is that the workers in Fast Food are predominately young and many are

Award	Sunday Penalty Rate
Hospitality Award	
full-time and part-time employees: (no change for casuals)	175 per cent → 150 per cent
Fast Food Award	
(Level 1 employees only)	
Full-time and part-time employees:	150 per cent → 125 per cent
Casual employees:	175 per cent → 150 per cent
Retail Award	
Full-time and part-time employees:	200 per cent → 150 per cent
Casual employees:	200 per cent → 175 per cent
Pharmacy Award	
(7.00 am – 9.00 pm only)	
Full-time and part-time employees:	200 per cent → 150 per cent
Casual employees:	200 per cent → 175 per cent

students; they are presumed to be less affected by working on Sundays.

Depending on how the decision is implemented (and, as of February 2017, FWA has called for submissions about this), some 680,000 workers face a pay cut; for permanent workers regularly working weekends this could be up to \$6000 a year. The cuts will hit more women than men, more young workers than older ones and more low income people than the better-off. As the ACTU said *'The average worker in accommodation and food services earns \$524 a week and those in the retail trade earn just \$687—compared with a \$1,163 average for all Australian workers.'* The FWC itself says it will provide "hardship" to workers.

The decision is a victory to the constant 'drip by drip' attack not just on specific award conditions but on comprehensive labour market regulation. The cuts to penalty rate have a lineage back to Work Choices. The areas where penalty rates have been cut have the highest proportion of workers whose conditions are set by Modern Awards, not collective agreements. *Work Choices* removed the award safety nets pushing workers take it or leave it on to individual contracts via Australian Workplace Agreements. The Rudd/Gillard Government introduced modern awards to provide a safety net for workers not under collective agreements and as a minimum condition for enterprise bargaining.

Work Choices was comprehensively rejected in the 2007 Election. In 2010, Tony Abbott said *'It's dead, it's buried, it's cremated now and forever'*. But in December 2014, Coalition Treasurer Joe Hockey asked the Productivity Commission to do a review of the industrial (workplace) relations framework including penalty rates. The Productivity Commission said the system needed *'repair not replacement'*; it endorsed the principle of awards, enterprise bargaining and the procedures for unfair dismissals though proposing some process changes and more 'flexibility'.

The Productivity Commission said that *'There are compelling grounds for premium rates of pay for overtime, night and shift work'*. But it also recommended that *'Sunday rates in the hospitality, entertainment, retailing, restaurants and cafes industries should be brought into line with Saturday rates'*. The grounds were *'Australian society expects to be able to shop, go to a pharmacy, and eat at cafes and restaurants on weekends'*. And, *'the overall social costs of daytime work on Sundays are similar to Saturdays, and consistently lower than evening work'*.²

The Government now stood back, claiming clean hands, and let the employers and their friends take the case to reduce weekend penalty rates to the first 'four yearly' review of awards that had been mandated into the Fair Work Act.

There are some very major social, political and historical questions involved. One is the sheer number of people affected; according to the Productivity Commission around 4 million people work at least a Saturday or Sunday each week. That is around one in three in the workforce. The largest groups are nurses, medical and hospital staff, retail and hospitality workers, protective and emergency services and public transport. This one third of the workforce is providing services—often essential—to the two-thirds who have ‘normal’ working hours. The fundamental question ought to be how to organise the provision of such services so that the burdens are shared. It is submerged in almost the same way as domestic work; these are not matters that either the Productivity Commission or Fair Work considered.

Instead of taking a broad social approach, the matter has been reduced to an individual microeconomic matter. How much extra has to be paid to compensate a person for the ‘disutility’ (the word is used by the PC and the FWA!) of working weekends. The transcripts and submissions for the FWA case are crammed with claims and counter-claims, backed by surveys and economic models of various levels of sophistication and credibility, putting dollar numbers to the marginal costs in social dislocation from working on Sunday as against Saturday.

The ACTU made the case that awards are minimum standards and only to be reduced where there is *proof that economic and social development had regressed to a point where it is no longer economically sustainable to continue to provide such minimums, notwithstanding their desirability* (231). In other words, minimums are precisely ‘minimums’. Forcing people below them is to harm them either absolutely or relative to people who have ‘above minimum’ conditions.

The FWA rejected the ACTU argument on the grounds that it was not in the legislation and hence would reduce the ‘discretion’ of the Tribunal. A resort to legal niceties is a retreat from politics and policies that are doing harm to actual people. Indeed, there is a tenor through the conduct of the entire case that winning the immediate legal point, and frequently a process point, is the most important result.

The FWA and the Productivity Commission who laid the ground work at the behest of the Federal Coalition Government seem to have a touching faith in an Alice in Wonderland world where cutting the wages of those at the bottom can be portrayed as the best way to create jobs. With stagnant real wages and widening inequality, action on negative gearing, capital gains and tax avoidance and evasion with the proceeds spent on social and physical infrastructure would be a much more effective way to promote employment

and social inclusion. At best, on my reading of the FWA decision, the cuts to penalty rates will allow a small business shop or cafe operator to spend Sunday in bed and not at work, by employing a cheaper casual worker. It is not much of a gain. Not one of the business operators said that prices would reduce because of lower penalty rates. One conclusion is that the lower wage costs will go straight into profits. While many small businesses are doing it tough it is more than likely that a very substantial part of any increased profit will pass into the hands of the shopping centre and retail strip owners via increased rents.

This issue shows how far current workplace relations arrangements built around the theory of individual economic actors have moved from the collectivism of the labour movement. John McCollow provides part two of his account of the Labour History Plays of Errol O'Neill. He makes the strong point that 'All art is political' and that dogmatism, not didacticism, is the problem. We are privileged to publish a preview of the forthcoming book *Wharfie* by Wally Stubbings and Lesley Syngé. This links strongly with the obituaries—a better word is celebrations—of Connie Healy and Digger Murphy.

John Dargavel provides a fascinating account of how the minute book of the Rockhampton Branch Lodge of the Stonemasons Union eventually

finished up being recognised by UNESCO's Australian Memory of the World Committee. It emphasises the importance of artefacts and original records to remembering and interpreting the past. And the centrality of archivists and archives; to which we honour and remember Sigrid McCausland.

Ian Mackie and Gary MacLennan combine history, analysis and argument in their account of high Indigenous employment and low quality education. They make the strong point that there is no solution to Indigenous disadvantage within neoliberal ideology. The issue concludes with reviews of two books; one by Bob Russell, one of the current editors of this journal and one by Jeff Rickertt, a former editor.

Notes

- 1 Fair Work Australia, *Decision 4 yearly review of modern awards – Penalty Rates*, [2017] FWCFB 1001, Melbourne 23 February 2017.
- 2 PC News - October 2015, <http://www.pc.gov.au/news-media/pc-news/pc-news-october-2015/workplace-relations>