

Victorian Civil Justice Award to the Maritime Union of Australia

Lorne, Saturday 15th May, 1999

Presentation speech by APLA Victoria Secretary, Geoff Coates,

I am not sure why the Committee has asked me to present the Civil Justice Award to the MUA this year. Ballarat does not have a rich maritime history and neither do I.

Unknown to those who asked me to present this award I have two slight qualifications for it.

I worked on the docks briefly, palletising bales of tobacco for Philip Morris, badly. I was given two hooks and told to "go for it". Some dockside workers took pity on me and showed me how to use the grappling hooks so that I did not seriously injure myself.

Secondly, when I worked in Warrnambool the Transport Workers Union asked me to go and address some workers who had been sacked en masse that morning. When I arrived at the workplace I was told that the company had folded because of debts it incurred and had no assets to pay accrued entitlements to the workers. The workers however had been told that two new companies would be starting up on Monday morning with the same management team and they may employ some of the sacked workers.

We do not live our lives as if the sky might fall in at any moment. We have partners, have children, take out loans, buy houses and cars and arrange our holidays. The men I saw that day had had their lives turned upside down. They had to go home and tell their wives and kids and family that their future looked bleak.

So when the same thing happened at the waterfront I was more than a little interested. Here was the same tactic used for political reasons rather than purely financial reasons.

I know the union won the fight despite what Mr. Reith and Mr. Corrigan might say. The world loves winners, but that is not why we are giving the MUA the award this year.

The basis for giving a Civil Justice Award, according to APLA's National Council, is that it should be given for outstanding contributions to the field of civil justice, consistent with APLA's aims.

It is certainly one of APLA's aims to ensure that working people have rights and that they should be treated fairly and decently.

Being considered for this award involves more than just doing your job. I look around and see many fine lawyers who give a wholehearted commitment to their clients.

None of the lawyers who worked with the union were nominated, although they did an outstanding job. Josh Bornstein and the team of lawyers he assembled were committed and creative. One decision alone was inspired. The conspiracy charge dragged the government into the fray preventing them from sniping from the sidelines.

We have not given the award to John Coombs personally. He spoke for and led the union well. He copped a lot of hostile press reaction. He remained apparently calm and effectively brought attention back to the real motivations of his opponents and ultimately swung the tide of opinion.

We can only imagine what it was like for John to be in that pressure cooker situation.

What the union faced was a concerted campaign by powerful forces to not only take their jobs, but to radically reshape their industry.

I think it was clear to the union from the start that the actions taken by their opponents were part of a broader industrial relations agenda designed to weaken unions, and their ability to represent their members and to alter the balance between working people and employers.

This union therefore took on a fight that not only involved protection of their own interests, but a fight that they clearly saw as being waged on behalf of the whole union movement and of working people generally. It would have been easy for the union to act out of a sense of outrage. In hindsight this would have played into the hands of the government and it is greatly to the union's credit that they saw this and acted in such a determined and focused way.

There also came a point in this dispute where it appeared that all the good work that the union had done may have fallen simply because the company did not have assets to re-employ them. In a fantastic show of commitment and solidarity the members agreed to go back without any guarantee of being paid in order to keep the fight alive. They must have had real concerns about their financial future and their ability to feed their family, so it was indeed a courageous decision.

One other feature of this union also commends them to the Civil Justice Award. In the past where the unions have been in dispute with their employers or under pressure from the government, the MUA has shown solidarity and has assisted its comrades in other unions. In this dispute they reaped what they sowed, because they were able to draw on the strength of their fellow unionists and of other members of the community.

It is a lesson that should not be forgotten. Solidarity when it is practised both within your own ranks and across the community provides an enormous strength. It is a lesson that APLA is learning. This union fought a brave fight not only for its own members, but for working people as a whole and APLA has great pleasure in presenting the Civil Justice Award to the members of the MUA. ■

Acceptance speech by John Coombs, National Secretary of the Maritime Union of Australia

Thank you

Over the previous twelve months I have, on behalf of the Union, taken every opportunity to thank the people who assisted us during the dispute. This is again one such opportunity to acknowledge that the successes of our legal team were absolutely fundamental in providing an opportunity for a satisfactory settlement of the dispute.

You see, there was always a strategy. We had successfully used it on the same employer, Corrigan of Patricks, when he sacked 55 workers in Sydney in 1994, and we resisted then the temptation of a national stoppage as a response and fought a legal battle in the Commission which resulted in Senior Deputy President Simon Williams ordering the reinstatement.

Again, in late 1997, Reith and Corrigan's initial attempt to encourage us to self-destruct was following the sacking of 24 Cairns wharfies; and again

we resisted the bait – and you will recall the role of the ITF in stopping the ship from berthing, and it was all over in 48 hours. But this one was, of course, different and not everybody agreed with the strategy. Greg Combet and I came under plenty of highly influential pressure to go for the “big bang” approach – an approach that would have resulted in Corrigan's 30 days and all-over prediction becoming fact.

Julian Burnside payed Josh Bernstein a well-deserved compliment this morning on his selection of the team, however he did not mention that there was occasionally a difficulty with one non-legal member – me – which they handled with the same professional skill with which they handled their advocacy.

To Josh and to all at Maurice Blackburn and at Ryan Carlisle Thomas... I say to you that working class people the world over who followed the dispute

continue to celebrate your success on behalf of the MUA.

In advocating the incorporation of the European Convention on Human Rights States into British law, Geoffrey Robertson QC notes that this does not foreshadow government by judges. It simply means equipping the most appropriate institution, the Courts, with better principles and procedures for identifying and remedying abuses of power perpetrated against citizens by government departments.

The Judiciary will not possess the power to strike down Sovereign Acts of an elected Parliament, but what it needs to have (because no other person or institution independent of government has it) is authority to ensure that decisions which affect the rights of people, taken by Officials exercising the discretions given them by such Acts, are made and executed fairly, and consistent with human rights principles. ■



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Gold Coast

Michael Featherstone
P.O. Box 61
Chevron Island 4217
Ph: (07) 5539 9740
Fax: (07) 5539 9702

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