

# Senator Eric Abetz

## **Liberal Senator for Tasmania**

### Address to the HR Nicholls Society Annual Dinner, Melbourne

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#### **KEYNOTE ADDRESS TO THE H. R. NICHOLLS SOCIETY ANNUAL DINNER**

#### **OAKS ON COLLINS**

#### **MELBOURNE**

\*\*\*Check against delivery\*\*\*

#### *Introduction*

It's a great pleasure to be with you again this evening. I recall being at the first dinner when *Arbitration in Contempt* was launched by the then Shadow Industrial Relations spokesman, the Hon. John Howard and quite a few since.

In acknowledging good people, let me express my genuine and sincere regret at the decision of one of this organisation's stalwarts to leave the Senate. Bob Day is an honest and decent man. He will be a great loss to the Senate.

But as one Senator leaves, another comes along – albeit in no way similar to Bob Day – Senator-elect Kimberley Kitching, who was found by the Fair Work Commission to have provided false evidence on a number of occasions (something that eminently qualifies her to be a Labor Senator), who was championed by Mr Shorten, provides a good segue for tonight's topic and highlights why the Coalition should have sought a more extensive mandate on workplace relations at the 2016 election.

Having called a double dissolution election over the Senate's repeated refusal to pass – some say very well drafted legislation – I had (along with the Labor Party might I add) expected the Coalition to more actively campaign on the vital importance of re-establishing the Australian Building and Construction Commission and the Registered Organisations Commission, along with a number of other fundamental pieces of workplace reform including coastal shipping reform.

Having been left somewhat vulnerable by the Royal Commission, the would-be Prime Minister, Bill Shorten, had the complete lack of self-awareness, yet commendable honesty, to confirm of that which I had warned – if given the chance he would govern our nation like a trade union boss.

This shouldn't come as a surprise given that in his time as Workplace Relations Minister Mr Shorten worked tirelessly to give financial grants and force legislative amendments at the behest of his union mates as opposed to the national interest – including \$10 million for the ACTU for a productivity fund, the Road Safety and Remuneration Tribunal to the Transport Workers Union and sweetheart deals with United Voice to give a leg up for that union along with CleanStart for a small sector of the cleaning industry.

Now, such a “gimme” in politics is rarely handed by one side to the other. Especially when Mr Shorten's threat to ‘govern like a trade union leader’ was said in the context of his visit to the Western Australian Branch of the Maritime Union of Australia where he said that he wanted to bottle up the “spirit” of the room and sprinkle it over the Labor Caucus in Canberra – a ‘spirit’ which saw that union's officials regularly before criminal and civil courts for significant breaches, including for assault in addition to harassing workers with ‘scab’ posters and other breaches of the Fair Work Act.

And he said he wanted to govern like a trade union leader in the context of the discovery of his sleazy deals doing low paid workers out of pay for self or trade union enrichment – be it an undeclared paid campaigner courtesy of Unibuilt for \$70,000 to help him be elected to the Parliament or the ripping off of penalty rates from the workers at Chiquita Mushrooms whilst trousering money for his union.

This provided the Coalition an unbelievably unique opportunity to run a well-founded factually based campaign warning our fellow Australians as to the consequences of electing Labor whilst putting some extra substance to our “jobs and growth” mantra.

Instead, the limit of our mandate on workplace reform that we took to the people was some last minute minor change on CFA volunteers, protecting migrant workers as well as the ABCC and Registered Organisations Bills. Not even the unlegislated elements of the 2013 election policy were taken forward such as changes to right of entry, transfer of business and individual flexibility arrangements.

So those that were critical of the timidity of the Abbott era now have opportunity to quietly reflect on the wisdom and fairness of that unwarranted criticism – at least in comparative terms.

### *The State of Play*

It should go without saying that workplace reform is a sensitive area for the Coalition. We need to tread cautiously yet purposefully. Given the Senate with which we were blessed after the 2013 election, nothing could be rushed.

Every major package of reform took a fortnight of concentrated effort:

- The repeal of the Carbon Tax was achieved in the first fortnight;
- The repeal of the Mining Tax was achieved in the second fortnight;
- Temporary Protection Visas took a fortnight and so the list goes on.

Often issues were floated with the crossbench and if they said ‘no’, we decided not to use up precious parliamentary time. So when Senators Lazarus, Muir and Lambie were absolutely opposed to the abolition of the Road Safety Remuneration Tribunal, we decided not to

advance legislation to abolish it and instead developed two reports in anticipation that the RSRT would ultimately over reach (which it did) and present the evidence needed.

Bizarrely enough, earlier this year it was Senator Lazarus who championed the RSRT's abolition and was very pleased to have railed against this outrage against owner-drivers around Australia. When I reminded him of our earlier conversation where he had a different view, he had a vacant look on his face – of course I bit my tongue at the time not wanting him to have another change of heart.

Similarly, with our Fair Work Amendment Bill of 13 measures, I was told by some that they were against it so “bad luck”. I successfully invited them to allow me to at least brief them on each of the components of the Bill. On doing so, I recall going through each component individually and being told by the particular Senator that they agreed with each of the provisions. Yet at the end of discussing all the provisions, I was told the Senator was still opposed although unable to tell me why.

This was the difficult reality with which we were daily faced – and one that we could not publicly highlight for fear of ensuring that we got nothing past the Senate. While this softly-softly approach was a matter of great frustration it developed trust and respect which I believe was of benefit and allowed us to keep the compulsory powers for the FWBC with the support of the crossbench which otherwise would have expired at the end of May last year. The crossbench gave me an extra Senate sitting day for this specific purpose and stood firm in the face of shrill ALP/Green opposition. A major achievement about which, we deliberately didn't gloat.

Let me turn to coastal shipping reform. Labor's rushed laws of 2012 which were a misconceived favour by Mr Shorten to the MUA have resulted in:

- a 63 per cent reduction in the deadweight tonnage (or capacity) of major Australian-flagged vessels with coastal licences from 2011/12 to 2013/14;
- around 1,000 extra administration hours per year being foisted on the industry to meet the red tape of the scheme, as estimated by the Business Council of Australia;
- the fleet of major Australian registered ships (over 2,000 dead weight tonnes) with coastal licences plummeting from 30 vessels in 2006/07 to just 15 in 2013/14.
- the number of ships on Australian Transitional General Licences dropping from 16 to just 8;
- between 2000 and 2012, shipping's share of the Australian freight task falling from 27 per cent to just under 17 per cent, while the volume of freight across Australia actually grew by 57 per cent;
- the cost of shipping for the marginal and struggling aluminium smelter in Tasmania sky rocketing by 63%;
- the cost of shipping sugar from Bundaberg to Melbourne costs more than importing sugar from Thailand;
- clinker for our cement manufacturers being cheaper to import from South East Asia than shipping it around our own coastline;
- And so the list goes on.

Looking forward, at this rate Australia's overall freight task is expected to grow by 80 per cent come 2030, but coastal shipping will only increase by 15 per cent.

Here was another easy, ready-made opportunity to run the negative on Labor and our positive solution within the “jobs and growth” context.

As Employment Minister, along with then Deputy Prime Minister Warren Truss, we advanced and introduced a package of reform in this space which is crucial for our nation’s competitiveness and thousands of on-land jobs. Just ahead of the last election, I along with others sought to have that package on coastal shipping included in the Bills that we take to a double dissolution. While we weren’t successful then, I am hopeful that the Government will reintroduce and prosecute this area of reform as a matter of urgency.

### *On reflection*

To me, workplace relations is a stimulating and dynamic area of public policy as it intersects the major and macroeconomic levers right through to the micro and the minutiae of individual lives. Getting the workplace relations policy markers wrong can destroy a nation’s economy. Conversely, getting it right can help build the nation. Getting the workplace relations policy markers wrong can destroy a household budget and a family. Conversely, getting it right can provide untold security and support. In short, balance is the key.

This is a principle of which I was always acutely aware in my 6 years as the Shadow Minister and then Minister responsible for Workplace Relations. The problem is that while *WorkChoices* in some areas went too far in one direction, the Fair Work Act was similarly an overreach in the other direction.

In developing our policy for the 2013 election, while there were some – including in this room – who were pushing for a wholesale reform of the laws, the very clear message to me from both employers and employees was that reform fatigue had well and truly set in and there was no appetite for significant reform at that time. On that basis, we developed and announced a 38 page policy that sought to deal with some key and pressing issues in the Fair Work Laws, including the adoption of many recommendations from the Shorten-commissioned review, and included a full-scale review to be conducted by the Productivity Commission.

Many accused Tony Abbott and me of kicking the reform can down the road. Can I remind you of the old truism in politics? In public policy you need to define the problem convince the public there is a problem before you seek to fix the problem. We felt it important to build the case for change so that the public would come with us and in Opposition, that simply wasn’t possible. The Productivity Commission for example is seen as rising above the political fray that will make recommendations in the national interest.

And if you needed any evidence of the wisdom of that approach, of the 13 components of that policy which many described as “weak”, only 4 aspects managed to pass the Parliament, specifically around unpaid parental leave, Greenfields agreements, protected action ballot orders and unclaimed money. We were able to advance some of our other commitments without legislation, like the creation of the Small Business Priority Helpline at the Fair Work Ombudsman which has so far received more than 300,000 calls and better support for small businesses wanting to take on their first employee.

That said, I do regret that we weren’t slightly more ambitious in our 2013 policy especially in relation to “matters pertaining”. I think it would have been eminently defensible to return to

the Common Law position enunciated in the Electrolux Decision. My well-rehearsed line which I was never able to use was ‘do you prefer the wisdom of Julia Gillard or the wisdom of the High Court’? But it was not to be.

It is now very clear that there are serious problems around “permitted matters” or “matters pertaining” which give rise to protracted disputes and give rise to false expectations as to that which might be achievable.

### *The need for reform*

The Productivity Commission’s report highlights the need for reform albeit modest. The impact of uncompetitive and inflexible workplace laws – not only for our economy as a whole and for business but also the impact for individual workers and their families highlights the urgency of such reform. These highlighted shortfalls self-evidently prejudice our “jobs and growth” strategy and provided another potential campaign opportunity which we neglected.

In my time as Minister, on the basis of the draft report we had already started work in preparation for raising awareness of the issues with a view towards taking a full response to the 2016 election following the release of the final report.

For example, many of the recommendations around unfair dismissal, general protections, bargaining, disputes, right of entry and competition policy are no-brainers. It was also easy to advocate for these in the community. Surprisingly, many of these were highlighted in Mr Shorten’s own review which was deliberately limited by its terms of reference and the appointment of sympathetic reviewers. Even they were mugged by the reality of the need for reform.

It is a matter of regret the Coalition did not seek endorsement from the Australian people for many of the sensible reforms advanced by the Productivity Commission.

Speaking of regrets and missed opportunities – the Productivity Commission appears to have missed the opportunity to make the system simpler and more workable for individual workers and small businesses. Far too often in the workplace relations portfolio, the focus is on big business and big unions to the disadvantage of the majority of workers and their employers who are involved in small business. The Fair Work Laws are in many areas too complex and difficult to understand for individual workers and small businesses and can act as a disincentive to the employment of more workers in a small business.

Perhaps as part of the Government’s red tape reduction work, it could specifically consider how to make these laws work better for this cohort of people whom, my party of the “forgotten people”, should be seeking to champion.

### *Conclusion*

As I have always said, the solution to the workplace relations problem is calm and purposeful reform – advanced through evolution, not revolution.

It is vital that the Government advance workplace reform as a top tier priority if it is to achieve its stated desire of pursuing jobs and growth. The hard yards have been done, we

have two large reports that don't only recommend change but make an unassailable case why that change is imperative.

And, I can attest, there is a Department of professional and dedicated men and women who could implement this agenda.

All that is needed is the political will. A failure of determination will have a lasting effect on our economy, on employers but above all on workers and their families who will be denied a self-sustaining work opportunity.

Encouraged by the luminaries of the H. R. Nicholls Society, I will continue to agitate for such vital reform.

ENDS