

Costello says wheel will turn on IR change, hails "whistleblower" Watson

Thursday, February 09, 2017, 1:56pm

Former Liberal Treasurer Peter Costello says there is bipartisan support in Australian politics to maintain the "Rudd/Gillard wage fixing apparatus", but that economic pressures will force politicians to act in coming years. Costello, who now chairs the Commonwealth's Future Fund, said in a speech last night that bipartisanship on IR extended beyond the major political parties to the liberal and conservative wings of the Turnbull Coalition Government.

He told a HR Nicholls Society dinner in Melbourne that Australia is in a "populist" political cycle "phase" where nobody wants to hear about policy. "These days there is little debate about structural reform, little debate about micro economic reforms, and we do not focus upon enhancing the drivers of productivity growth. "Somebody needs to keep the flame alive for policy because we will have to come back to this issue. . . about how we make the economy more productive, how we improve economic growth and how to develop prosperity." "The political class is not focused on this at the moment, but if things continue as they are it will be forced by crisis to focus on it." "Someone, somewhere, should be doing the work so they are ready when the political class finally realises they will have to do something."

Costello used the speech to reflect on economic and political changes since he helped form the HR Nicholls Society in 1986, stressing that the late Ray Evans was the key driver behind the Society. He said the Society succeeded in its aim of documenting and analysing industrial disputes, including his own papers on the landmark disputes involving [Dollar Sweets](#), the Mudginberri abattoir and the use of wide-combs in sheep shearing.

However, Costello argued that the Heydon Royal Commission revealed there has been little progress in promoting the rule of law in Australian IR. "Corruption flourishes," he said. "There are certain industries in Australia, most notably, the commercial construction industry, that are largely lawless. "Not much has changed since the Nicholls society was established.

"In fact, not much has changed since I began working on my first IR case, the BLF deregistration of 1981. "There have been several deregistration cases and several royal commissions, but the CFMEU is still practicing the same conduct that it was up to 35 years ago", he said.

Costello argued that one change in the last three decades was that the content of laws applying to industrial action had been "significantly watered down". "The secondary boycotts provisions of the Trade Practices Act have been watered down

so that secondary boycott activity is allowable when the dominant purpose of the conduct relates to working conditions and, if required procedures are followed in negotiations for proposed enterprise agreements, industrial action may be protected." "Unions are given civil immunity from the law and the law is suspended in the time being in relation to them."

Costello claimed the current IR system can allow longer and more damaging disputes, even though industrial disputes are at historic lows and the Victorian CFMEU was hit with massive penalties for its 2012 blockade of Grocon sites in Melbourne.

He said the HR Nicholls Society had at times been successful in promoting reform of the wage-fixing system but the election of the Rudd Labor government in 2007 had shifted the regulatory regime back to that of the early 1990s when the Keating Labor Government allowed enterprise bargaining. "My point here is that comparing the system now to that of 25 years ago shows little change in wage-fixing arrangements."

"But that does not mean the labour market is as regulated as it was 25 or 30 years ago. The big difference is that economic forces have bypassed unionism and made it irrelevant to large swathes of the economy."

Unions now politically stronger, economically weaker.

The level of unionisation has dropped from 46% when HR Nicholls was formed in 1986 to below 15% now. "There are still highly unionised and therefore highly regulated industries like the commercial construction industry, supermarket retailing, commercial transport.

"But the growth in employment is in the services industries – in franchising, in ICT – areas that are not unionised and therefore not regulated by industrial relations arrangement to the same degree. "Unions are more politically powerful today but they are economically much weaker. "Unionism was a feature of the 20 Century, it will not be a feature of the 21st Century."

Costello argued that employment is growing in non-unionised and lightly-regulated sectors, while unions and regulations are strong in industries not subject to import competition, such as commercial construction.

Vice President Watson likened to Samson in the Old Testament

Costello delivered his speech to an audience that included Fair Work Commission Vice President Graeme Watson, who has resigned with a letter that branded the FWC as partisan, dysfunctional and divided (see [Related Article](#)). Other attendees included barrister Stuart Wood QC, AMMA chief executive Steve Knott and columnist Judith Sloan.

Costello said he had intended to make a "large comment" in his speech on whether the IR system promoted economic development. "But I don't have to because I'm

sitting next to a vice president of the Fair Work Commission, Graeme Watson, who last month resigned from the Commission with a letter to both the Governor-General and the [IR] minister, very eloquently explaining that in his view our industrial relations system does not promote economic prosperity." "He ought to know. "He's worked inside the commission for most of his professional life.

"He wanted to use his resignation as an opportunity to highlight the flaws in the system; he gave it his best shot". "He thought, like Samson in the Old Testament, he would pull the pillars and the walls would tumble down upon the Philistines", Costello said.

He said Vice President Watson's resignation letter constituted an "unprecedented action" that had largely been met with silence. "Judith Sloan wrote a piece about it in *The Australian*, but other than that I've seen little media comment and as far as I've been able to ascertain, the Minister has made no public statement in response, nor has the Treasurer, Prime Minister, or other senior members of the government."

"One of the most senior members of an expensive and powerful government body has blown the whistle on the failure of that organisation to serve the purposes for which it exists, and apparently no member of the government finds it necessary to respond." "Australia is limping at the moment with a budget deep in deficit, low productivity growth, higher unemployment than we would like, and apparently there is no great concern that the institution at the heart of wage-setting might be undermining economic prosperity.

"Does the government agree with the Watson analysis? Or does it disagree with it? We do not know."

"It is possible that the government believes that the system is working well and needs no change." "It is possible the government knows the system is not working well but, since it has no intention of changing it, it sees no point in admitting it. To change things requires a diagnosis of the problem and then the hard work of cultivating an appetite to change it", Costello concluded.

[Speech by Peter Costello to the HR Nicholls Society, Melbourne, February 8, 2017](#)