

Justice Geoffrey Giudice

**Comments by ACTU Secretary Jeff Lawrence
Ceremonial sitting of Fair Work Australia
Melbourne
Friday, 24 February 2012**

President, Members of Fair Work Australia, Ladies and Gentlemen.

It's an honour to recognise the second longest-serving President of the Tribunal, and to reflect on the contribution that Your Honour has made to, what I believe, is one of Australia's most important institutions.

This event is more formal than last Friday where the three organisations came together with 450 others to express appreciation of your contribution.

In preparing for today, I looked over the welcome speech that the President of the ACTU, at that time, Jennie George, gave in October 1997.

Even then a bad joke was made about bow ties. This tradition continued last Friday night with name tags in Melbourne colours.

She said that as Your Honour commenced his Presidency, the "whole country is watching, to see how this uniquely Australian institution evolves under your leadership and adapts to the challenges of the new Act and more significantly, the new millennium".

The new Act she was referring to was the Workplace Relations Act 1996. Little did she know, Your Honour would preside over two more significant legislation changes: WorkChoices and the Fair Work Act.

In fact, Your Honour said only recently that the last 20 years in IR have been, in a real sense "revolutionary rather than evolutionary".

It is in such times that leadership is really tested.

I believe that the President's leadership has been significant in the historic context of this Tribunal. The Tribunal must continue to have an active role in Australian society.

Giudice custodianship

Your Honour has always acted impartially, fairly and respectfully.

As I said last Friday night, you have presided over historic, if not tumultuous, change within the Tribunal:

- You saw the maelstrom of WorkChoices through to the formation of Fair Work Australia.
- For the first time in 100 years the minimum wage decisions were removed from the Tribunal. You also saw these powers reinstated.
- We have had the transformation of thousands of State and Federal wards into 122 Modern Awards.
- The Tribunal's role has shifted to a more activist role in bargaining, supporting those workers who are unable to bargain on their own – more needs to be done.

- And changes to how unfair dismissal applications are heard, and increased use in technology – has made many tasks, like award modernisation, easier and information flow more freely and openly.

Your Honour has made sure that throughout the difficulties the Tribunal has continued to be an institution of integrity, and deserving of respect.

You have stood by your fellow Commissioners, worked hard to create a collegial spirit, and supported the development of judicial skills and expertise. I would like to use a phrase I've rarely had the opportunity to use in the Commission; you have been – from all that I understand - a good boss.

Historical overview

Through all these changes you have been driven by the priority to maintain respect for this historic institution.

The Tribunal has been sustained, during its life by a fragile consensus between employers, unions and government that our unique industrial relations system was essential to an Australian society which has been more equal than most.

That consensus has been under pressure many times and fractured during WorkChoices.

It is essential that we have an activist FWA which:

- Maintains fair minimum wages which protect the lowest paid.
- Defends the comprehensive safety net of the award system.
- Promotes the right to collectively bargain and promotes the spread of bargaining.
- Ensures our workplaces are more equal and reflect changes in society e.g. the recent pay equity decision.

Not all of the Tribunal's decisions we have agreed with, but as an institution the Tribunal remains one of the most important vehicles for a fairer and more equal society.

It is an institution that has withstood sustained attacks, because it speaks to the heart of Australian society. It speaks to what we believe in: a fair go for all.

Key cases

The Tribunal has evolved, and Your Honour has played a positive part in its modern evolution.

You have presided over numerous important test cases and minimum wage hearings that have maintained or improved the wages and conditions of working Australians, particularly over issues of work and family balance.

I would just like to mention just three of these that I believe have been particularly significant:

- 1.** The first minimum wage decision of the Minimum Wage Panel was significant in defining a 'fair and relevant safety net'.

The decision made a clear distinction that the primary consideration was no longer to be the 'promotion of economic prosperity' that defined the Howard Government "Fair Pay Commission".

The primary consideration under the Fair Work Act was the safety net: fairness, relevance, and the needs of the low paid.

While the last decision of the Fair Pay Commission froze the wages of the lowest paid Australians - a freeze that would last 18 months - the first decision of the Tribunal's panel recognised the hardship this wage freeze caused on the low paid, and awarded a record \$26 a week increase.

Only \$1 short of the ACTU claim.

We have not usually been so on the money with our claims.

2. The recent pay equity case was possibly the greatest advancement in pay equity since the Tribunal's decision 30 years ago, to recognise not just equal pay for equal work - but equal pay for comparable work. This long-established concept now has a modern practical outcome delivered through this significant decision.

3. Finally, I must mention the Award modernisation process. Justice Giudice's leadership during the very difficult role of modernising awards was admirable.

What seemed an impossible task of bringing together thousands of State and Federal Awards - was dealt with practically and in a conciliatory way.

For the over one million workers who rely on the Award system, this work has protected their future; and the future of the safety net in Australia.

Conclusion

When Jennie George gave her welcome speech, she stated that the role of the Commission must continue to change and evolve, but that:

"Its fundamental responsibility as an institution which defends fairness and equity in the workplace and advances the interest of society generally must continue into the next century".

I believe it was in no small part, because of the leadership, and integrity of Justice Giudice that this has been the case.

Jennie asked, on behalf of working people, that His Honour tackle his new job with 'strength, courage, and compassion'. Your Honour has excelled in this, and delivered this through patience, respect and impartiality.

On behalf of Australian workers and their unions I thank you for the job you have done.

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