

QUEENSLAND BRANCH NEWS

NEWSLETTER of the QLD Branch of the MARITIME UNION of AUSTRALIA

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To be truly radical is to make hope possible, rather than despair convincing - Raymond Williams No. 161 – 21 December 2018

Branch Secretary Report – Brisbane Ferries – Just How Casual Are You? – ALP National Conference Shrewsbury 24 Campaigners Win - New Multi-Storey Box Storage System - Cartoon Corner

Branch Secretary Report *by Bob Carnegie*

THIS IS THE last Branch News of 2018. This year has been a tough, but in many ways, a successful one for the Branch.

These are some of the successes:

Under my leadership, the Branch has relentlessly driven for an Inquiry into bringing the likes of Rio Tinto and Origin Energy to heel concerning the carriage of intra-state cargoes. To that extent, we have been hugely successful in getting a Queensland Parliamentary Inquiry into intra-state coastal shipping formed. This will be up and running in early 2019. This means a mountain of work for the Branch. As stated before, we are hugely appreciative of the efforts of Penny Howard and Warren Smith from National Office. However, this is a Branch initiative and it is up to all of us to get behind it.

The Branch has been successful in preventing the scourge of Partnerships growing in the towage ports we cover. This has been done by a combination of intense political lobbying and industrial negotiations on the ground. As your Branch Secretary I have led the political lobby and Jason Miners, who has responsibility for the tugs, has handled the industrial negotiations. Against all odds we succeeded. Thanks to the delegates and members who supported the Branch through this.

In North Queensland we have been successful in getting up, after nearly three years of discussions, a very decent EBA in North and Central Queensland with NSS. Our delegates, Bernie Farrelly and Paul Gallagher have done an outstanding job in getting this Agreement up.

In Qube in Brisbane we were successful in gaining 13 full time provisional jobs during a Labour Review. This was due to the great work of the Committee and good work from Warren Smith and Paul Petersen and to a large extent, myself.

DP World looks like being a flash point in 2019. The preliminary EBA talks have not going well and the company's attitude needs an urgent rethink.

Hutchison are also trying us on in their EBA discussions with attempts by the company to turn the clock back more than 40 years. Members are currently voting on protected action.

The Patrick's Terminal has made major breakthroughs in nullifying the use of casual labour. The Patrick's Terminal was in the forefront of supporting the "Uluru Statement of the Heart" which is a credit to both the strongly unionised workforce and dare I say it, Terminal management, who could see that the "Uluru Statement of the Heart" was bigger any industrial issues.

The members at Patrick's Terminal also need to be publicly thanked by all of us for their wonderful donation of \$2500 to the ferry worker dispute.

Brisbane Ferries have, from 3 ½ years ago when the newly voted in Branch leadership

came into office, gone from 24 members to 130. They are undertaking their first ever industrial action and are holding up nobly under the intense management pressure and some 'co-workers' who have betrayed their work mates by walking across a picket line. It must be noted of the great work of the delegates and Deputy Branch Secretary, Jason Miners have been playing in this major dispute.

In areas of social progress, the Branch has been active in numerous areas. We strongly support the anti-poverty network who came to us after making contact with Paul Petersen. As I mentioned at the AGM, Paul Petersen's strong social conscience has been a driving force in several areas of our work. Fundamentally the Queensland Branch does it's best to support those who have less. We think this is a key part of developing a social type of unionism.



The Branch's IDC affiliation is something we hold very dear and important to us. We have supported the Swedish dockers in Gothenburg and recently the dockers in Setabul, Portugal who recently concluded a three week long strike against precarious work. Internationalism is a very important part of the Branch's work.

This is just a short snapshot of a little of the work the Branch has been involved in this year. None of the hopefully good things we achieved would have been possible without the support of the membership and, in particular, delegates.

2019 is going to be an intensely busy year with a Federal Election, probably in May, a major dispute looming in Townsville and the continual battles to fight for our right to work on coastal vessels.

As your Branch secretary, I wish all members a happy and prosperous New Year and whatever denomination of faith you observe, I hope this festive time of year leaves you well.

The fight for a better working life continues in 2019.

Brisbane Ferries

A VERY WELL attended meeting of Ferry workers during their 24 hour stoppage held on Thursday 20 December. The ferry workers are fighting for a decent life and we will keep fighting until a just outcome is reached.



So, Just How Casual Are You?

I HOPE MEMBERS find this article by one of the finest industrial/legal minds on the Australian union movement, Craig Buckley of the Meat Workers Union, a mate and comrade for over 25 years. A man who has

helped worker after worker after worker. Thanks for letting us publish your article. Although this article refers to the Meat Industry, it has implications for all industries, including ours. Bob Carnegie

Recent Federal Court Case About Casual Employment *by Craig Buckley*



ALTHOUGH IT HAS not attracted a great deal of attention in the newspapers, a recent decision about the entitlements of so-called "casual" employees is causing a lot of uncertainty and concern for employers across the country.

In August of this year, the Full Federal Court of Australia decided in the case of *WorkPac Pty Ltd v Skene* decided that a worker was entitled to annual leave under the National Employment Standards. Mr Skene was entitled to the leave even though, according to his employment contract, he was a casual employee.

In Awards and Enterprise Agreements, there are usually very clear definitions of who is, and who is not, a casual employee. Usually, if your employer has told you that you are being engaged as a casual, and pays you the casual loading (25% in the Meat Industry Award and most agreements), then you are a casual.

However, when it comes to the National Employment Standards, the situation is not so clear. The National Employment Standards, or NES, are part of the Fair Work Act. Workers who have entitlements under the NES are entitled to receive them regardless of what your Award or enterprise agreement says. There are some NES entitlements (like paid personal leave, annual leave, redundancy pay) which do not apply to employees who are "casuals." However, the Federal Court has said that whether or not an employee is a "casual" for the purposes of the NES will depend upon an assessment of all of the circumstances of the employment.

The Federal Court said that the key features of casual employment relationship is that neither the employer or the worker have given a firm commitment to the other about ongoing work or hours. Irregular hours or work patterns, intermittent or unpredictable hours, or uncertainty about how long the employment will last are all common features of casual employment.

Of course, there are plenty of casual employees in the meat industry who fit this description – their hours are unpredictable and vary from week to week, or they are only called up to work during busy periods or if the company is short of people on a given day.

However, there are many "so-called" casual employees in the meat industry who do not fit that pattern at all. Many are working regular hours, often on a full-time basis, effectively on the same roster as permanent employees. These workers are often referred to as

“permanent casuals.” They are not truly casual employees; their employer simply prefers to pay them as casuals, probably because it would prefer to pay a casual loading than deal with the administrative work and cost associated with the leave and other entitlements for permanent employees.

If your employer calls you a casual and pays you a casual loading, the Federal Court says these things do indeed suggest you are a casual employee, but these are not the only things the courts will look at. In other words, if the employer calls you a casual employee, but rosters you for work 38 hours a week, every week, and demands you get permission to take (unpaid) time off work, then it is likely that you are not a casual employee as far as the National Employment Standards are concerned.

This has caused a great deal of concern to employers throughout the country, as many are concerned they will be faced with the prospect of owing annual leave and other entitlements to their casual employees. Some employers have called on the Federal Government to intervene by changing the law to prevent “double-dipping” by so-called casual employees.

What is going to happen?

At this stage, no-one knows for sure. There is a similar case (involving a different worker, but the same employer, WorkPac) before the courts, and WorkPac, with the help of the Federal Liberal National government, are going to argue the *Skene* decision is wrong, or only applies to a very limited range of circumstances.

Even if the courts stick to the decision they made in the *Skene v WorkPac* case, there is no reason for casual workers to get too excited. The Court suggested that if employers were required to pay annual leave or personal leave to people to employees they had called casuals, then the employer would, in many cases (though not all) be able to deduct any casual loading it had paid to those employees. In other words, the casual employee might be “entitled” to take some time off, but the boss may not owe them any money for that time off.

When will we know more?

It may be months before the Federal Court makes a decision on the new WorkPac case, and there may be appeals after that. It could be a long time before we know how casual workers will be affected.

Casual Conversion in the Meat Industry Award

While the *Skene* decision is perhaps not the huge change that many employers fear, there is some good news for our “permanent casuals.”

Some recent changes to modern Awards, including the Meat Industry Award, have introduced a right for casual employees to request conversion to permanent full-time or part-time employment. The Australian Meat Industry Council (AMIC – a meat industry employer organisation) opposed the inclusion of a casual conversion for meat processing establishments. The AMIEU’s Federal office argued, successfully that casuals in meat processing establishments should also receive this benefit.

Who can ask for “casual conversion”?

A regular casual employee can request casual conversion. A regular casual employee is a casual employee who has worked an ongoing pattern of hours over the last 12 months – in other words, you are effectively working full time, or regular part-time hours.

When can I ask for “casual conversion”?

The answer to this question depends upon whether there is an enterprise agreement which applies to your employment.

If there is no enterprise agreement that applies to your workplace, then you will be covered for the Meat Industry Award. For award employees, the new “casual conversion” rights took effect from 1 October 2018. Speak to your organiser or contact the Union to find out more about whether you can request casual conversion, and what it might mean.

If there is an enterprise agreement that does apply to your workplace, then you may have to wait a while longer. Current enterprise agreements do not, for the most part, have these casual conversion rights. However, as existing enterprise agreements reach their expiry dates, and are replaced by new ones, then casual conversion clauses will gradually be introduced. The Fair Work Act requires that enterprise agreements, when made, must give employees conditions that are better than the Award. Because the Award now contains “casual conversion” rights, any new enterprise agreements will have to include similar conditions to ensure that employees are better off when compared with the Award.

How do I make a request for casual conversion?

Any request must be in writing. Speak to your AMIEU organiser and he or she will explain what you need to include in the request.

Can my employer refuse my request?

If you make a request for casual conversion, your employer must reply to that request, in writing, within 21 days. An employer can refuse a request for casual conversion, but only after the employer has consulted with you, and only if the grounds for the refusal are reasonable. Reasonable grounds to refuse a request may be:

- (i) that making you permanent would require a significant adjustment to your hours (an employer is not likely to be able to claim this if you have been working the same hours for a long time);
- (ii) the employer knows, or reasonably foresees, that your position will cease to exist within the next 12 months (the longer you have been working as a casual, the less likely the employer will be able to rely upon this);
- (iii) the employer knows, or reasonably foresees, that your hours will be significantly reduced in the next 12 months (but in daily hire workplaces, the employer cannot use a reduction of hours due to seasonal factors as a reason)

- (iv) the employer knows, or reasonably foresees that your work days or times will be significantly changed in the next 12 months to days or times that you are not available to work.

If the employer does not have reasonable grounds to refuse the request, then the employer must accept your request and convert you from casual employment to a form of permanent employment.

Will I become full-time or part time?

This depends on the pattern of hours you have been working as a casual employee. If you have been working 38 hours per week, then you will be applying to become a full-time employee. If you have been regularly working less than 38 hours, you will be applying to become a permanent part-time employee. If you work in a meat processing establishment that uses daily hire employment, you will convert to being either a regular daily hire, or part-time daily hire, employee.

Do I have to convert from being a casual?

No, you can stay a casual employee if you wish. The “casual conversion” clause is not automatic – it only applies if an employee requests conversion. There are many disadvantages to casual employment – you do not get paid leave if you are sick, you do not get paid holidays if the plant shuts down, and your employment is generally seen as less secure, which can make it harder to do things like getting a home loan. However, many casual workers in low-paid work come to rely upon the extra money received with the 25% casual loading. This is something of a gamble, which can all come undone if you end up getting sick or injured outside work, but we understand that some people will prefer to take that chance and keep their casual loading.

ALP National Conference *by Mich-Elle Myers*

THE MUA AND other divisions of the CFMMEU sent a sizeable delegation to this year’s ALP National Conference in Adelaide as the party prepares itself for a likely stint in Government for the first time at federal level since 2013.

On the morning of day one, Federal Labor leader Bill Shorten addressed the conference, setting the scene for a federal election fought on the issue of inequality. He also vowed to restore penalty rates, close the gender pay gap, build 250,000 new affordable homes, build batteries for energy storage in Australia, and put an end to sham contracting.

Deputy Leader Tanya Plibersek told the conference that the ALP’s business as a party was to fight for the millions of Australians whose lives are better under Labor.

The scourge of multinational tax avoidance was discussed. The issue was first put on the national agenda as part of the MUA/ITF’s long-running Chevron campaign. The conference determined that we must take a stand against multinationals and individuals who exploit loopholes in our systems to avoid contributing to the collective bottom line.

MUA National Secretary Paddy Crumlin spoke on superannuation, with Labor now committed to make it easier for workers to recover billions of dollars in stolen superannuation by adding it to the national employment standards, a move that would give it the same protections as any other workplace right.



The concept of a just transition was discussed. Under a Labor government, every worker from a coal-fired power station that closes down will get a first shot at a new job.

Day two of Conference opened with the launch of a Reconciliation Action Plan. After ongoing lobbying by MUA NT Branch Secretary Thomas Mayor, Labor reaffirmed its commitment to an Indigenous voice, treaty and truth-telling. Labor also pledged during the conference to get rid of the controversial work-for-the-dole program introduced by former Prime Minister Tony Abbott known as the Community Development Program (CDP).

The party laid out its vision for a world-class education system. Key to this was the recommitment from Conference to give every Australian child two years of early education and preschool. This goes hand in hand with the Day One announcement that Labor will pay early childhood educators fairly.

The infrastructure chapter underscored the importance of Labor’s role in nation-building, including shipping. Crumlin, WA Branch Secretary Christy Cain and WA Branch seafarer Vicki Helps all spoke on shipping.

The social justice chapter saw the conference endorse a suite of reforms for refugee and asylum seeker policy: ending indefinite detention, condemning the mismanagement of offshore detention, establishing new processes for medical transfers, establishing a special envoy for Refugee and Asylum Seeker issues.

An amendment was also passed to review the rate of Newstart. Australia’s poorest are being further crushed by an inadequate welfare system.

The final day saw debates on health, industrial relations and foreign affairs.

The health chapter saw Labor for Choice pass a motion on the floor supporting efforts to decriminalise abortion across Australia, and acknowledging that legal, safe

affordable and accessible abortion is fundamental to equality.

ACTU Secretary Sally McManus presented the Change The Rules campaign and introduced a sweeping set of platform changes including:

establishing a new Pay Equity Panel in the Fair Work Commission,
delivering wage justice,
redefining casual workers,
cracking down on sham independent contracting,
stopping the unilateral termination of Enterprise Agreements by employers,
restoring penalty rates
allowing workers to bargain across multiple employers

Labor pledged to address the gender pay gap while Vice President Mich-Elle Myers underscored the importance of stamping out deadly industrial diseases and protecting workers at work, at home, and into their retirement.



WA Branch Secretary Christy Cain spoke on a resolution calling for industrial manslaughter laws to be enacted in all states and territories within the first year of a Shorten Labor government.

The Transport Workers Union has revived its Safe Rates campaign, with the rules having been put in place under Labor but taken away by the Coalition Government.

The erosion of public sector work and conditions was discussed. Public sector workers and their families deserve dignity and respect - but this government has only attacked them.

Labor also reaffirmed its commitment to restoring penalty rates to nearly 700,000 Australians.

A motion was passed that a Labor government would increase aid every year it is in office - starting with our first budget. For too long, the Liberals have stripped the aid budget and told us that we have to choose between helping people in Australia, and helping people abroad. We know we can do both.

Anthony Albanese moved a motion to commit Labor to sign and ratify the Treaty on the Prohibition of Nuclear Weapons. It's so important for Australia to show

leadership on disarmament.

A motion was also moved to review parliamentary war powers. In this increasingly unstable world, our decisions to go to war should not rely on just one or two people.

Shipping



We hold you to this Anthony 'Albo' Albanese should Labor be elected next year.

Shrewsbury 24 Campaigners Win Momentous Victory

Source: https://morningstaronline.co.uk/article/shrewsbury-24-campaigners-win-momentous-victory#.XBhR0Ls_SV1.email

SHREWSBURY 24 picket campaigners have won a "momentous victory" by winning the right to a judicial review of their cases.

The 24 were construction workers involved in the industry's first national strike in 1972, which resulted in a substantial pay rise.



Ricky Tomlinson (second left) and John McDonnell (second right) with campaigners trying to quash 40-year-old convictions against 24 pickets delivering a 100,000-signature petition to the government at 10 Downing Street, in December 2013

However, weeks after it ended police began arresting construction workers who had taken part.

Mr Justice Jay, sitting in the Administrative Court in Birmingham, has now given permission for the pickets' application for a judicial review to proceed to a full hearing.

Picket Terry Renshaw said: "It is a momentous victory for the campaign. When we left the court we were delighted with the decision and felt a great sense of achievement after campaigning for the past 12 years to overturn this miscarriage of justice. We are nearly there."

The judicial review is likely to take place in spring and will look at whether the destruction of original witness statements by the police, which was concealed from the defence and court by the prosecution, amounted to an abuse of process.

It will also consider whether the broadcasting by ITV of a documentary titled *The Red Under the Bed* during the trial was highly prejudicial to the pickets' case and should have led to the halting of the trial.

Campaign chairman Harry Chadwick said: "I want to thank our trade-union supporters for the unwavering backing that they have given to us, as we would not have got this far without it.

"The fight is not over yet. We need your continued support to raise funds for the forthcoming hearing." The campaign is backed by 21 trade unions.

Revolutionary New Multi-Storey Box Storage System Unveiled in Dubai

By Sam Chambers

Source: <https://splash247.com/revolutionary-new-multi-storey-box-storage-system-unveiled-in-dubai/>

AN INTELLIGENT MULTI-STOREY container park has been developed by terminal operator DP World and German engineering company SMS. The revolutionary design will be built at DP World's flagship Jebel Ali Terminal 4, in time for the Dubai Expo 2020 world fair.



The High Bay Storage system was originally developed by SMS group subsidiary AMOVA for round the clock handling of metal coils that weigh as much as 50 tons each in racks as high as 50 metres. AMOVA is the first company to transfer this technology to the port industry.

Instead of stacking containers directly on top of each other, which has been global standard practice for decades, the system places each container in an individual rack compartment. Containers are stored in an 11-story rack, creating 200% more capacity than a conventional container terminal, or creating the same capacity in less than a third of the space.

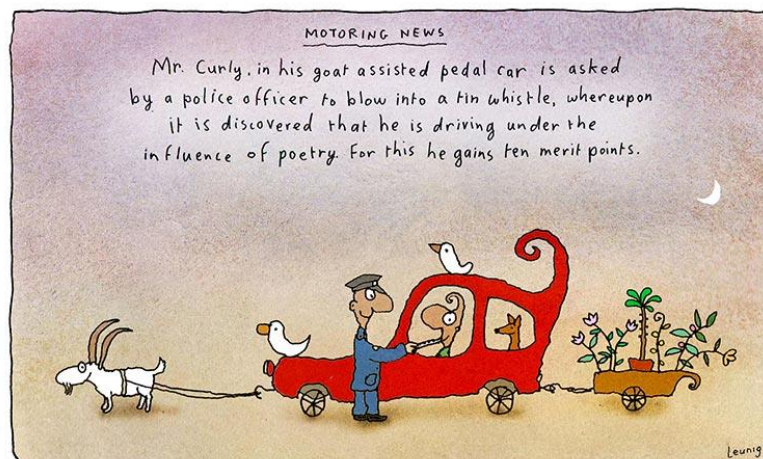
Thanks to the rack's design each container can be accessed without having to move another one, enabling 100% utilization in a terminal yard.

Sultan Ahmed Bin Sulayem, DP World group chairman and CEO, said: "DP World's experience and expertise in moving cargo coupled with the technology of AMOVA will ensure the system is remarkably efficient and relevant for present and future operations. As a world first in our industry we are tremendously excited by its potential and groundbreaking features. Our engagement in new technologies is a major priority and we have become known for seeking ways that transform the way goods are moved across the world. Innovation is part of our DNA and at the heart of our success."

Dr Mathias Dobner, CEO of the joint venture, said: "This new container handling technology allows cities to use their expensive and sensitive land and waterfront areas more effectively. Our system will significantly increase the productivity of handling ships on the quay. This means that quay walls can be shortened by a third. This disruptive innovation will greatly improve the financial performance of container ports, and well as their overall appearance."

Other global terminal operators are understood to be developing similar multi-storey concepts to free up space and increase efficiency. The new Tuas megaport in Singapore to be run by PSA, for instance, is expected to incorporate a similar box stacking method.

Cartoon Corner



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