

THE INAUGURAL BISHOP MANNING LECTURE
BY THE HON R J L HAWKE
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SYDNEY

I thank the Catholic Commission for Employment Relations for the invitation to deliver the inaugural Bishop Manning Lecture. This is not a mere formal acknowledgement I can assure you but a sincere expression of gratitude for the opportunity to pay tribute to a truly great Australian. Bishop Manning brought lustre to the image of his beloved Church by embodying and reflecting in his life and work what I understand as the fundamental principles of the Christian Gospels.

I of course knew of Bishop Manning before being asked to deliver this lecture but I didn't really know about him. I hope you will excuse me Bishop when I say that as I read the story of your life I felt, in many ways, an almost uncanny sense of community of experience with you. Let me explain what I mean.

The man I have most loved and respected in my life is my father, a Minister of what was then the Congregational Church and I have written this of him in my Memoirs: **“Clem’s paternal attitude reflected a broader gentleness of character. I have met no man as prepared to see good in others and to shoulder their problems and pain. His was a very practical Christianity. When I was a young man, he said to me, ‘Belief in the fatherhood of God necessarily involves belief in the brotherhood of man.’ This was my father Clem’s creed for life. I remember the endless stream of the poor and the destitute arriving at the manse door in rural South Australia during the Great Depression. No one ever went away without food, shelter or some form of assistance.”**

These fond memories came flooding back to me as I read the story of and the tributes to Bishop Manning in the February 2010 issue of “Catholic Outlook”, the official publication of the Diocese of Parramatta. Let me quote from the tribute by William Luckman: **“Family has always been important to Bishop Kevin. His parents Kevin and Edith, were his religious and moral educators, instilling in**

him a sense of duty and selflessness to serve others and God ...during the post Depression years in country NSW, young Kevin Manning learned the value of friendship and benevolence as struggling families banded together to survive” Luckman then quotes Bishop Manning “One of the things that struck me and will probably stay with me for the rest of my life was the incredible selflessness that was required because of the needs of the people. I can remember my grandfather catching a hare and we were looking forward to having a nice meal when grandma intervened and said there were people next door who were starving; we had to share it with them. So the hare was made into soup so that everyone could get something to eat.”

The more I read the more I was struck by the fact that here was a man who not only embraced but in every way had lived out my father’s dictum that belief in the Fatherhood of God necessarily involved belief in the Brotherhood of Man.

This conviction was reflected in so many facets of Manning’s life and activities. I will refer, relatively briefly, to some of these before addressing in more detail what I wish to develop as the substance of this lecture – and that is Manning’s contribution to the theory and practice of industrial relations in Australia within the framework of the long term, and at times, chequered contribution of the Roman Catholic Church going back to 1891.

First, then, let me refer to Bishop Manning’s commitment in the areas of our indigenous people, refugees and asylum seekers. Sister Libby Rogerson in the February Outlook best sums up these aspects of the Manning legacy: **“Indigenous Australians and their efforts to achieve recognition, reconciliation and justice have always been of the utmost importance to Bishop Manning. He appreciated the great work being done by Aboriginal Catholic Social Services in Penrith and ensured they were supported in the Diocese. In the past two years he has worked tirelessly in an endeavour to build a new centre for Aboriginal people in Mt Druitt**

For the past 20 years Western Sydney has received refugees and asylum seekers from many parts of the world and the Diocese of Parramatta,

under Bishop Manning's leadership, has worked to welcome and to support them.

He was a keen supporter of the initiative, with the NSW Ecumenical Council, to set up the House of Welcome, which provides a drop-in centre and emergency accommodation for asylum seekers and refugees, and the Diocese continues to provide financial support and personnel on the Board.

The more recent arrival of African refugees saw Bishop Manning respond with great compassion and generosity – meeting with community leaders, inviting the OLSH sisters to work with the Sudanese community and financially supporting the New Arrivals Program and the employment of two Sudanese Family Liaison Officers.”

Now my friends as one would expect from a man of such breadth and depth of spirit Bishop Kevin was an ecumenical leader serving a term as President, and, for many years, as an executive committee member of the NSW Ecumenical Council. Luckman in his tribute says **“The concept of unity has always been at the forefront of Bishop Kevin's plans, and he has spoken widely about the importance of ecumenism and interfaith dialogue”** Luckman quotes Bishop Kevin: **“The fact is that we are all created by God, no matter what religion we are, or faith we are, and one day we are coming back to God.”**

And of particular significance, I believe, in this respect has been Bishop Kevin's unqualified outreach to the Muslim community. A Muslim contributor to “Outlook” Mehmet Saral refers to Bishop Kevin's close co-operation with and financial support for the Affinity Intercultural Foundation formed in 2001 by a group of young Muslims specifically to build bridges between the Moslem community and the wider Australian society.

Saral says: **“The Bishop truly is a man of dialogue and peace and Muslims have always been made welcome to the Cathedral and to his private residence for lunch or tea.”** He quotes an executive member of Affinity, Mansheed

Ansari: **“Each time I see the Bishop my deep respect and appreciation increases. He is a true man of his faith, sincere and humble amongst his own community and most compassionate and loving and open to the wider community, in particular, Muslims.”**

Bishop Kevin, this strikes a special chord with me, for I have helped to establish within the Bob Hawke Prime Ministerial Centre in the University of South Australia a Centre for Muslim and non-Muslim Understanding. This springs from my conviction that quite apart from the unhappiness, the potential danger to our world from misunderstanding and mis-representation in this area is almost immeasurable. The problem is not any one religion but the fanatics of all religions. The dangers of Muslim fanatics are well enough publicised but let us not forget the fanaticism of the Christian Right in the United States which inspired and sustained their President’s unjust war in Iraq which has killed and displaced hundreds of thousands of innocent people and never forget that it was no Muslim, but a Jewish fanatic, who assassinated Israeli Prime Minister Rabin.

Bishop, you have set a profoundly important example in this area and its one which I hope will be widely emulated in your Church and beyond in our broader community.

I turn now to the aspect of Bishop Kevin’s sense of brotherhood for which he is perhaps best known and respected beyond the Church and again, as you can imagine, it is where I feel a special rapport with him – and this is his identification with workers, and their organisations in their struggles to get decency and fairness in the industrial relationship. The influence of Catholic doctrine and the impact of individual Catholics on the evolution of the Australian industrial relations system in general and the fixation of wages in particular is a fascinating but little understood fact of our development as a nation. I think it is enlightening to put Bishop Kevin’s massive contribution within that historical context. Let me do that.

In April 1891 delegates from the colonies meeting in Sydney for the first of three Conventions to draft a constitution for the proposed new nation – the Commonwealth of Australia – defeated a proposal to include a federal power in

regard to conciliation and arbitration. Just a few weeks later, on 15th May 1891, Pope Leo XIII promulgated the papal encyclical *Rerum Novarum* (on Capital and Labour) which was to become a bedrock of the Church's teaching on social justice.

Most significantly *Rerum Novarum* profoundly influenced the thinking of Henry Bournes Higgins, a major advocate for the inclusion of a federal conciliation and arbitration power and later the President of the Commonwealth Conciliation and Arbitration Court who formulated the concept of the basic wage in the 1907 Harvester Case. The incongruity of this influence was wryly remarked upon by Justice Michael Kirby in a 2004 lecture commemorating the centenary of the establishment of the Conciliation and Arbitration Court – Kirby observed that, like himself, Higgins traced his origins to Protestant Ireland and he said of Higgins' embrace of the philosophy of *Rerum Novarum* “...it is no small thing for a person with such an Ulster background to adopt papal ideas.”

But the logic, the humanity and the compassion of *Rerum Novarum* sat squarely with the embryonic arguments that Higgins had used at the Sydney Convention and these were arguments, now bolstered by the intellectual and institutional weight of *Rerum Novarum* that he was able to use with ultimate success at the 1898 Melbourne Convention.

For our purposes tonight the essence of the relevant sections of *Rerum Novarum* can be summed up I believe as follows:

A) – Labour is not just another commodity whose price is simply to be determined by market forces. This, to me, absolutely foundational proposition – which was at the core of every argument I used in every national wage case I argued on behalf of the Australian workers – was expounded eloquently by Pope John XXIII in his encyclical *Mater et Magistra*, May 15th 1961, on the 70th anniversary of *Rerum Novarum* explaining Pope Leo's “Basic Economic and Social Principles” He said: “**They concern first of all the question of work, which must be regarded not merely as a commodity, but as a specifically human activity.** In the majority of cases a man's work is his sole means of livelihood. Its remuneration, therefore, cannot be made to depend on the state of the market. It must be

determined by the laws of justice and of equity. Any other procedure would be a clear violation of justice, even supposing the contract of work to have been freely entered into by both parties.” My friends, don't those papal sentiments ring out with a commanding clarity among the weasel words of those who introduced and crave to bring back Work Choices into our industrial environment?

B) – The worker is entitled to a fair foundational wage. Again in the words of Pope John XXIII in explaining *Rerum Novarum*: **“We therefore consider it our duty to reaffirm that the remuneration of work is not something that can be left to the laws of the marketplace; nor should it be a decision left to the will of the more powerful. It must be determined in accordance with justice and equity; which means that workers must be paid a wage which allows them to live a truly human life and to fulfil their family obligations in a worthy manner. There is one very important social principle ... economic progress must be accompanied by a corresponding social progress so that all classes of citizens participate in the increased productivity.”**

C) – The State has a duty to ensure such outcomes. Again the explanation of Leo's intention in John XXIII's words: **“It is the duty of the State to ensure that terms of employment are regulated in accordance with justice and equity and to safeguard the human dignity of workers ...”**

D) – And John XXIII went immediately on to emphasise what for our purposes this evening is the fourth essential element of *Rerum Novarum*: **“Pope Leo XIII also defended the worker's natural right to enter into association with his fellows. Such associations ... should be structured in a way best calculated to safeguard the workers' legitimate professional interest. And it is the natural right of the workers to work without hindrance, freely, and on their own initiative within these associations for the achievement of those ends.”**

As I have said my friends, this ground-breaking philosophy of *Rerum Novarum* deeply influenced the thinking and arguments of Higgins who (with Kingston from South Australia) finally won the day at the 1898 third, and last, Constitutional Convention by narrowly (22-19) securing the inclusion of the power for

the Commonwealth to legislate for “**conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limit of any one State.**”

But even more remarkable was the way in which over the next eight years this conjunction of Ulsterman and Pope did so much to shape the social fabric of the evolving Australian nation. No bill in the history of the federal parliament has had a more tumultuous passage than that introduced on the 7th July 1903 to create the Commonwealth Court of Conciliation and Arbitration. Seventeen months and eight days elapsed before the bill received the Royal Assent on the 15th December 1904 – during that period one minister resigned, two governments fell and it was steered through the parliament under four different prime ministers.

In the ferociously bitter debates the soulless conservative prejudices that sought to denigrate the sanctity of labour, and against which *Rerum Novarum* had been so powerfully directed, were paraded by the bill’s opponents. Bruce Smith (Parkes) asserted the futility of attempting to interfere with inexorable economic laws – exactly the same principles he maintained were involved in the labour contract as in the sale of any other commodity: “**It is ... a complete travesty upon modern commerce and a complete reversal of the whole spirit of living which runs right through our history, and by which every man is enabled to do just as he chooses, so long as he does not interfere with the equal rights of other persons.**”

But this antediluvian nonsense could not prevail against Higgins, his liberal colleagues and the new political force, the Australian Labor Party, all of whom in their respective ways reflected and expressed the irresistibly humane philosophy of *Rerum Novarum*. It was three years later however – in the 1907 Harvester Case – that witnessed the ultimate fusion of the philosophy of the Pope and the philosophy and practice of the Ulsterman.

The Harvester Judgement was not given in an arbitration case but was given in response to an application for a declaration that the wages paid by the company H.V. McKay were “fair and reasonable” and that therefore the company’s

products did not attract excise duties – this was the “new protection” concept. And Higgins as Judge of the Arbitration Court was called upon to make this declaration as to whether the wages paid by McKay were fair and reasonable. My friends, in re-reading as I have just done Higgins’ reasoning I had the immediate feeling that I was looking at a rephrasing and fleshing out of Leo’s *Rerum Novarum*.

Higgins wrote that the provision was obviously designed for the benefit of employees in the industry, and must be meant therefore **“to secure them something which they cannot get by the ordinary system of individual bargaining with employers.”** If Parliament had thought that was “fair and reasonable” there would have been no need for the provision and the course of wages could have been left to the usual unequal contest of the market. Therefore, he concluded, the standard of fair and reasonable must mean something else and he could think of no standard appropriate other than his now famous dictum **“the normal needs of the average employee, regarded as a human being living in a civilised community.”** The State, he said, by such stipulation must surely mean wages sufficient for food, drink, shelter, rent and clothing, and **“a condition of frugal comfort estimated by current human standards. This, then, is the primary test, the test which I shall apply in ascertaining the minimum wage that can be treated as ‘fair and reasonable’ in the case of unskilled labourers.”**

Higgins determined that this concept should be applied to a family unit of the unskilled labourer, a wife and three children. He found that a sum of seven shillings a day – or forty-two shillings for the six day week, was required to satisfy the standard he had set. Higgins later claimed, and without serious dispute, that his decision in 1907 raised the average real wage for unskilled labour in Victoria by the order of 27%.

Higgins’ 42 shillings became known as the basic wage and was inserted in all federal awards as the foundational element of the whole award structure. The basic wage retained this important role for almost fifty years until the introduction in 1965 of the total wage. From 1921 the basic wage was automatically adjusted each quarter to reflect changes in the cost of living. This practice continued until the infamous decision of the court in 1953 which abolished this practice – the

automatic adjustment quarterly of the basic wage. Therein lies another – far less appealing – story of the impact of an element of Catholic philosophy on our industrial relations system.

Lets cut now to Oxford 1954. I had gone there as a Rhodes scholar in 1953 – having done law and economics at the University of Western Australia. I was doing the under-graduate P.P.E. (Philosophy, Politics, Economics) degree but after about two terms I realised I was really going over what I had done before. I thought it made more sense to undertake a research degree bringing together the law and economics I already had. So I went to my College and Rhodes House and asked if I could do that; they were not only more than happy they thought in fact it was a good idea. I did some reading at Rhodes House library and came to the conclusion they had all the material that would enable me to undertake a history of the Commonwealth Conciliation and Arbitration Commission with special reference to the development of the concept of the basic wage.

And so the question came up of a supervisor. At that time there was a Professor, Colin Clark, who was head of Agricultural Economics at the University of Oxford. He had been working as an economist with the Queensland Government so I thought he would be a good person to see. I went to him and he seemed quite friendly. He asked me what I wanted to do and I said I wanted to do a history of the Commonwealth Conciliation and Arbitration Court with particular reference to the development of the basic wage. And Professor Colin Clarke replied with these words: **“Hawke,”** he said **“that is a subject which is of no interest to me and more importantly I believe it would be of no interest to the University of Oxford.”**

I thought that must be nonsense so I talked with Rhodes House and my College and said I wanted to find someone else. They agreed and in the event I found Professor Kenneth Wheare, a distinguished Australian academic, at All Souls College. Wheare confessed to me that he knew absolutely nothing about the subject but he was sure we would learn together and have a good time in the process of me developing the thesis. We did – I didn't see him often but when we did we would go

to his study at All Souls and have a couple of sherries and I would get the benefit of his very keen intellect.

So I did my thesis and the last of the major cases I analysed in it was the decision of 1953; the one I have mentioned which abolished the quarterly automatic adjustments to the basic wage. I could follow some of the logic and reasoning in the judgement but I couldn't make sense out of the relationship of this reasoning and the actual decision. So puzzled was I that the very last words I wrote in my thesis in the chapter on the 1953 wage judgement were these: **“all that one can do is to wonder if the judgement completely reflects the mind of the court.”** Well, even I give myself a pat on the back; it was, as you will see from what I am about to share with you, a remarkably perceptive comment.

I went back to Australia to the ANU – to do a doctorate expanding on my work at Oxford. While doing that, and with the agreement of the ANU, I provided some assistance to the ACTU in the preparation of basic wage cases argued by senior counsel Dick Eggleston of the Victorian Bar. In 1958 I was asked by the ACTU to become their Research Officer and Advocate and to actually argue the cases – a marvellous filling-out of all that academic preparation. I was now moving from being the academic who had studied the evolution of the court and the basic wage to an advocate who was going to help to shape things.

So in my first case, 1959, as you can imagine I gave the 1953 judgement a quite thorough going over. I explained its ludicrous inadequacy and its logical inconsistencies and did it in a way which was somewhat offensive to members of the Bench who had been members of the 1953 Bench including particularly Sir Richard Kirby who was now the President.

Basically my argument was *Rerum Novarum* in its essential simplicity. I said they had abolished the adjustments for prices and indicating they would adjust the basic wage for changes in productivity. I took them through the simple economic arithmetic. I said if you adjust the wage for productivity – say 3% – and prices have increased by 5% you are effectively reducing the real value of the wage.

Without knowing it I was quoting *Rerum Novarum* – the real value of wages to be able to meet the cost of living and something for productivity. While I

did pretty well in the case in terms of the basic wage increase I didn't get back the principle of price adjustment as well as productivity but a very interesting thing was happening.

Sitting on the Bench in 1959 was Judge Alfred Foster. He had a radical background having actually been President of the Trades Hall Council in Melbourne. He was quite an outstanding judge, but Kirby, as President, left him off the Benches until 1959 – my first case. Foster was more than a little bit sceptical of me because he had been used to having Senior Counsel before him. In fact he privately contacted Albert Monk, the ACTU President, before the case started asking that they should retain Eggleston rather than this young fellow fresh out of University. But by the end of the first day he was on side.

It turned out that Foster lived very close to me in the Melbourne suburb of Sandringham and when the case finished he asked me to come and meet him for a Sunday morning drink and chat. He was fascinated by the attack on the 1953 judgement and my assertion of the inconsonance between the reasoning in the judgement and the decision. My bemusement would be lessened Foster explained when I understood the involvement of B.A. Santamaria of the National Catholic Rural Movement with the Catholic, Sir Raymond Kelly, President of the 1953 Bench. Foster told me that in the period before, and during the case itself, Santamaria “**wore the carpet thin**” going in and out of Kelly's office.

Santamaria, who was in fact being advised by the convert to Catholicism – Professor Colin Clark – was arguing strongly for a total redirection of the Australian economy away from increasing industrialisation towards a more rural-centred peasant economy. Under this influence Kelly had actually circulated a 14 point letter which included the assertion that what Australia needed from abroad was many more peasants than artisans and train drivers. Within this cloud-cuckoo-land fantasising, the automatic quarterly cost-of-living adjustments were seen as an important element of the “New Protection” industrial process and therefore should be dispensed with.

For our purposes here I just make these three points. Of course the 1953 judgement did not completely reflect the mind of the Court for there was no way Kelly would expose the rationale of Santamaria and Clark. Second, while I do not question the intellectual integrity of Santamaria and Clark in holding their views I certainly reject the way in which they went about perverting the proper functions of the court for their purposes. Third, in the light of this new knowledge, I understood Clark's Oxford performance – the last thing he wanted was a bright young spark examining what was happening with the Arbitration Court and the basic wage.

So in the next case in 1961, armed with this information, I again attacked the 1953 decision and we got back the principles of *Rerum Novarum*. The Court accepted the argument that we must adjust the wage for changes in prices and changes in productivity. After one brief reversal in 1965 which I successfully challenged in 1966, that principle was then firmly embedded in the process of fixation of wages *i.e.* that it was imperative – as a matter of principle, justice, and equity – that the Court must take account of both movements in prices and productivity

Speaking very broadly then, one can say that for the thirty year period from 1966 – when I got that principle reaffirmed – up to 1996, the fundamental principles of *Rerum Novarum*, ie

A) a decent wage maintained and increased in real value to reflect both price movements and in John XXIII's words “**the increased productivity**”, and

B) the recognition of the rights of trade unions to work freely on behalf of their members
were, broadly speaking, reflected in the Australian industrial relations system.

Then came the Prime Ministership of John Howard and the emergence of Work Choices which in essence represented a regression to the pre-Federation employers rallying cry of “freedom of contract” and the rejection of an effective and legitimate role for trade unions – the very antithesis of the philosophical and spiritual foundation of *Rerum Novarum*.

But the name and voice of Manning thundered again. In the Wikipedia entry on *Rerum Novarum* it is said “**Wilhelm Emmanuel von Ketteler and Cardinal Henry Edward Manning were influential in its composition**”. It is fair to say that Bishop Kevin Manning, who embodied the very spirit of *Rerum Novarum* was influential in saving the principles of this great Encyclical from the ravages of Work Choices. This is an assessment of Mark Lennon, Secretary Unions NSW: “**The cause of social justice has no stronger advocate than Bishop Kevin Manning. His profound concern for the vulnerable and marginalised in the community was never more evident than in his strident opposition to the Howard government’s Work Choices laws. His preparedness to publicly question the morality of the laws was admired and applauded across the union movement. His pronouncements were, I believe, turning points in the campaign against Work Choices**”.

Mr Lennon adds: “**It is a measure of the man that even in retirement the Bishop continues to argue the case for social justice. In particular, unions welcome the Bishop’s continued advocacy for the legitimate role the union movement plays in society in supporting workers rights whilst at the same time reminding unions of our obligations to all in society through the Church’s notion of the common good.**”

This assessment on behalf of the broad trade union movement was endorsed by the Secretary of the Independent Education Union of Australia, Chris Watt: “**During the union movement's Your Rights at Work campaign to remove the insidious Work Choices legislation, Bishop Manning addressed a number of rallies of workers and clearly enunciated the Church's teaching around the fundamental right of workers to a wage which enables them to support a family, with all that that entails.**

At these rallies Bishop Manning also spoke of the role and legitimacy of unions calling them "promoters of the struggle for social justice" and that they were entitled to represent the interests of their members and to help educate those members to be socially responsible.

The Independent Education Union saw Bishop Manning as a passionate advocate for the rights of workers and their unions.

The Independent Education Union believes that Bishop Manning is a genuine humanitarian. His work and commitment around the issues of asylum seekers, a matter of major principle for IEU members, has been inspiring. Bishop Manning was always able and comfortable in sharing a platform with a wide range of community groups and successful in building allegiances around this particular issue. As our members can attest, though, his social justice commitment went well beyond this particular debate.

As the Bishop of Parramatta there is no question of his commitment to the work of IEU members in schools through his support of those Catholic schools and quality education.”

My dear friends, I trust that you appreciate from this historical analysis just how much Australia owes to the inspiration and influence of Leo XIII's *Rerum Novarum* in institutionalising within our legal framework the dignity of labour and giving real substance to the cherished Australian concept of the “fair go”. And, Bishop Kevin, I thank you for your passionate commitment in word and deed to those profoundly important principles and your warning of the need for eternal vigilance against those who would return us to darker days.

And, before concluding may I add my voice to that of Chris Watt in congratulating Bishop Kevin on his compassionate attitude on the question of asylum seekers. We Australians should be shouting from the rooftops the magnificence of our achievement in peaceably settling many millions of people, including so many refugees who have, in making Australia their home, immeasurably strengthened us economically and enriched us culturally.

Bishop Kevin, your life constitutes a complete refutation of W. B. Yeats line in *The Second Coming*: **“The best lack all conviction; while the worst are**

full of passionate intensity.” You, among the very best of Australians have been a man of deepest conviction, driven by a passionate – and compassionate – intensity.

The best tribute I can pay Bishop Kevin is to say with total sincerity that his belief in the Fatherhood of God has given to the countless thousands he has touched – directly and indirectly – a deeper understanding of the reality and the obligations of the Brotherhood of Man.

For that Bishop Kevin I thank you – we are, all, forever in your debt.

R J L Hawke
7th October 2010