

If at first you *don't* succeed...

The Victorian Branch's fight to regain common law rights for injured workers

It was said that Robert Bruce drew inspiration from watching a spider repeatedly try and tie a web from one point to another in a cave. No matter how many times the spider tried and failed to link up the thread it nevertheless went back and started it all over again.

The campaign to regain common law rights for injured workers and to obtain a fair system of compensation in Victoria has been a long struggle.

When the Kennett government was elected in 1992 they set about a radical change to the workers compensation system in Victoria.

Their initial proposal was to retrospectively abolish common law rights. Individual firms mounted a campaign as did the general public, which had the effect of preventing the retrospective abolition but could not prevent significant restrictions on the right to claim damages and in the reduction of benefits.

During that campaign the major law firms practising in injury litigation in Victoria were targeted as having a vested interest in advocating positions that were designed only to ensure that they generated income for those law firms.

It was out of that campaign and the criticism that APLA really gained some momentum in Victoria as an organisation.

When next the Kennett government proposed abolition of common law rights APLA in partnership with the Law

Institute of Victoria mounted an extensive campaign against those changes achieving some modifications of the harsher measures proposed by the government. Ultimately however we were unsuccessful in preventing the government from abolishing common law rights for injured workers.

We were determined however not to let the issue rest.

When a by-election was called in the seat of Mitcham, resulting from the resignation of a senior government minister over reforms to the Auditor-General's role, APLA campaigned in the electorate to ensure that the removal of common law rights to injured workers was an issue in that election.

The result was a substantial swing to the opposition Labour and the election of the Labour candidate.

Well before that by-election and right up to the recent State election APLA members had been encouraged to contact their local MPs and to let them know of the views of APLA. They also encouraged their clients to visit MPs and tell them what they thought of the removal of rights and the alteration of benefits.

After the Mitcham by-election APLA members continued to visit MPs (both opposition and government) to forge links with the WorkCover authorities and to develop media strategies to keep the issue in the public eye.

From May to October of this year

APLA members donated funds to enable us to engage Simon McGregor, the National Policy Officer, in an ongoing role to develop a policy strategy document and to assist in the lobbying of MPs.

When the State election was called for September the APLA State Branch Committee determined that it ought to campaign in the marginal rural seat of Ballarat East. In part this was because the electorate was marginal, in part because APLA had a good membership in that region, in part because the ALP were proposing to launch their election campaign there and in part because advertising in rural seats would be cheaper than in the metropolitan area.

Media consultants Kerr Walsh were engaged and we worked closely with Gary Hyland of that organisation. We developed a number of print and radio ads focusing on the impact of the Kennett government's compensation changes on the wife of an injured worker. A copy of the print ad is shown here. The radio ads used the same text.

President Audrey Jamieson travelled to Ballarat to launch the campaign and attracted media interest from local media and also Radio National.

It was originally hoped that the marginal seat of Ballarat East might swing sufficiently to give the seat to the Labour party. The swings were in fact far greater than expected and the Labour party picked up not only Ballarat East

"I RECKON WE DESERVE BETTER"

A message from a young mother.

"It's been a year since Jim was injured on the job. And he's still not back at work.

He can't even make a common law claim for his injuries, no matter how much he's suffered.

We're getting to that desperate stage. It's so tough on the kids.

Why did the Kennett Government change the rules for injured workers? Because they don't care.

The Kennett Government turned its back on us.

Well. I'm going to turn my back on them, and put the Liberals last.

I reckon we deserve better."



**INJURED WORKERS DESERVE A BETTER DEAL.
THIS SATURDAY PUT THE LIBERALS LAST.**

Authorised by Audrey Jamieson for the Australian Plaintiff Lawyers Association

APLA Victoria advertisement featured during the election.

but the other Ballarat lower house seat of Ballarat West as well as the two upper house seats and the neighbouring lower house seat of Gisborne which was being contested by the former Health Minister Robert Knowles.

APLA did not actively support the ALP but liaised closely with them.

APLA was determined to make its stand apolitical. However because the Liberal government had removed common law rights and had given no indication that they would ever restore them, and also given that Rob Hulls the Shadow Attorney General had attended the APLA State Conference in May pledging the return of common law, APLA had no hesitation in urging voters to put the Liberal party last.

The state wide election result ended up in a hung parliament with Labour winning 41 seats the Liberal National Party Coalition 43 seats with three going to independent candidates.

The ultimate makeup of the parliament hinged on the supplementary election that had to be conducted in Frankston East because of the death of another independent candidate on the

eve of the election. That supplementary election was to be held in October.


Once more the state branch of APLA determined that it should run a campaign in Frankston East again based on radio and print advertising. Because such a campaign involved metropolitan media which was more expensive we rattled the tins and the membership in Victoria generously donated sufficient funds for us to mount a strong campaign. Again we urged the electorate to put the Liberal party last and we conveyed our message by endorsing a letter from an injured worker who resided in the Frankston East electorate. This letter focused the voters of Frankston East on the family impacts the changes to the compensation system had on injured workers.

Frankston East returned a Labour candidate with a swing almost double the metropolitan swing that had occurred in the general state election a month before. The independents following this supplementary election gave Labour the support it needed to become a minority government.

Once the Labour party was con-

firmed as the new government it again reiterated its support to reinstate common law for injured workers and to look at other reforms to the compensation system.

The minority Labour government still faces opposition from the Liberal/National party controlled upper house and it needs the support of the independents for any legislation.

APLA's role in Victoria is therefore far from over and we will continue to negotiate with all the parties and to lobby for a just and fair compensation system and remember the lesson of that ancient Scottish king. 

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