The History of the A.C.T.U.

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Preface

This history details events leading up to the creation of the Australian Council of Trade Unions, and expounds the role the A.C.T.U. has played in Australian labour relations. Part One looks at the origins of the A.C.T.U.; Parts Two, Three and Four describe its activities within three time frameworks.

Justifying division of a history into specific periods of time can be difficult. Ideas and events can, after all, have effects felt beyond the period in which they occur. Yet, in order to present a lucid account the historian is frequently obliged to subdivide his history into parts which he can relate to each other, and present as increments in a total interpretation.

Determining the chronological divisions is a complex process which depends among other things upon the theories the historian holds about his craft, and what he thinks his investigations have taught him. I have concluded that what the A.C.T.U. did between 1927 and 1980 can be best explained if it is thought of as operating in three separate time periods: 1927–49; 1949–72; and 1972–80. Each of these periods occupies a Part in the history; at the beginning of each Part, a chapter describes the Context in which the A.C.T.U. operated. These chapters discuss the principal influences outside the trade union movement itself which set limits to the A.C.T.U.'s policy-making and executive action. The Context for each period has an internal consistency, but each is distinct from the others. Each Context supplies elements for an explanation of the events which are described in the chapters which follow within each Part.

But out of all the things that the A.C.T.U. has done over half a century or more, how does the historian decide which ones he will select for explanation, and how will he organize the explanations of specific events into a unified whole? To answer these questions, the historian needs some theory of history which provides him with criteria for asking questions, and selecting facts which are relevant to answering them. If his history is to be coherent, he must ask a single overriding question of such magnitude that the others he asks are subsidiary to it.

The overriding question I have asked is this: to what extent have the activities of the trade union movement confirmed or weakened the power of employers to control the means of production and its distribution? In theoretical terms, the question

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Context: the Economy, the Government, and the Employers, 1949-72

At first sight, the period 1949-72 is one of unbroken political and economic stability. The Liberal Party-Country Party coalition won the Federal election of 1949, and remained in office for the rest of the period. Businessmen at the time and historians since have tended to think of the entire 23 years as 'the long boom', a period of growth, certainty and optimism paralleled in Australian history only by the years between 1870 and 1890.

The continuity of the boom obscures the differences between the periods within it. After the mid-sixties, the boom continued, but both political and economic certainty began to recede. After 17 years of one Prime Minister, the Federal Government had four in half a dozen years. Some old and fundamental economic institutions like the Basic Wage disappeared completely, and others, like the protective tariff, seemed likely to undergo radical change. A long period of comparative peace in industry came to an end and some economists began to doubt, for the first time in 20 years, whether full employment could continue and inflation be restrained. Members of the Government and numerous businessmen began again to question the ability of the Conciliation and Arbitration Commission as it then existed to make any useful contribution towards solving the problems of economic management, or maintaining industrial peace.

The Economy

In the 1950s Australian economic growth measured by gross national product in real terms averaged about four per cent a year. In the 1960s this rate accelerated to five per cent, falling back to four per cent in the first three years of the seventies.[1] By overseas standards, this performance was not outstanding. In Australian terms however it was the best for a century.[2] The only check to growth came with brief recessions, and even the most severe of these, in 1951-52 and 1960-61, now appear almost inconsequential.[3]

An important source of the economy's growth was the boom in manufacturing. Between 1948-49 and 1968-69, the value of production of all

The Government began to withdraw import licensing provisions about the time it signed the Japanese Trade Agreement, and in 1960 it abolished what was left of the system. Inflation followed. The Government increased direct and indirect taxation, cut public expenditure, and severely restricted credit.

The effect was much the same as it had been some years earlier. Inflation fell away rapidly, to the extent that in 1963 there was virtually no increase in prices. Unemployment rose above three per cent in the third quarter of 1961, but fell below two per cent within a year, and stayed down.[27]

The decline in unemployment and the containment of inflation reflected the sustained growth of the Australian economy after 1961. Productivity in manufacturing seems to have risen again and a new future opened up for manufacturing as an export earner. The Government extended the policy of trade diversification, and received tariff concessions from individual countries on a number of actual and potential exports to them.[28]

The extent of Australia's trade diversification was symbolized by the eclipse of the United Kingdom as Australia's major trading partner. By the mid-sixties, the United Kingdom supplied only 24 per cent of Australia's imports (as against almost 50 per cent in 1950), and the United States supplied slightly more. In 1966—thanks partly to the beginnings of the minerals boom—the value of Australia's exports to Japan almost equalled the value of its exports to the United Kingdom.[29]

To many Australian businessmen, the events of the early sixties symbolized Australia's coming of age as an industrial nation. Australia had established trade and industrial independence of the Mother Country. It had succeeded in maintaining full employment, containing inflation, and sustaining growth. There was every reason to believe in the future.

The optimism of the businessmen was paralleled by complacency among economists. In the words of Professor Whitehead:

> Among academic economists of the time there was a sense of disillusion, a feeling of futility, for it seemed that the system had been perfected, and they had no new worlds to conquer.[30]

For economists this new Utopia was to last less than five short years. For some businessmen, even this brief time brought its problems.

The Economy, the Government and the Employers, 1949-66

In the forties, the principal associations of employers had begun operating a Joint Secretariat in Canberra. In view of the demands that the wartime and post-war planning of the Curtin and Chifley Governments had placed upon them, they had needed to consult together much more frequently. But as the War came to a close they found another reason for closer co-operation. They believed that the Labor Government represented a serious and immediate threat to the existence of private business enterprise. To them, Prime

Minister Chifley's banking legislation was positive proof of his Government's intention to pursue the destruction of capitalism.

With the defeat of the banking legislation, and shortly afterwards the defeat of the Labor Government itself, common ideology lost much of its power to compel employers to united action. The Australian Council of Employers' Federation withdrew from the Joint Secretariat in March 1949. With the election of the Menzies Government in November, employers' associations felt free to indulge again in those differences that had divided them in the thirties and earlier.

Their most public dispute was—as before—over the regulation of Australia's import trade. The Associated Chambers of Commerce of Australia (A.C.C.A.), representing as it had previously combinations of shipowners, merchants and insurance brokers, continued to speak as 'the unique and authentic voice of free enterprise'. It supported General Agreement on Tariffs and Trade (G.A.T.T.) and applauded the Government's decision to accept G.A.T.T.'s revised trade rules in 1955.[31] It also supported the retention of articles IX-XI of the Ottawa Agreement, which guaranteed British manufacturers preferential entry to the Australian market. It wanted import licensing brought to an end as quickly as possible,[32] and when that was achieved by 1960 it began to show a real interest in the establishment of a Royal Commission which would investigate tariffs as part of a more general inquiry into costs and prices.[33]

By contrast, A.C.M.A. regarded these policies as essentially subversive of Australian industry. It was extremely defensive about A.C.C.A.'s proposal for an inquiry into the tariff, and was adamant that 'reductions in the tariff must be preceded by an investigation into the circumstances of an industry at least as detailed as the examination which precedes an increase in protection'.[34] But its fears of a tariff inquiry were no greater than its suspicion of G.A.T.T. in the early 1950s. A.C.M.A.'s Tariff Officer told a meeting of the Metal Trades Employers' Association (M.T.E.A.):

> The declared purpose of G.A.T.T. irrespective of any propaganda you may have heard to the contrary, is to reduce protective tariffs and to bind them against increase . . . and to give the same tariff treatment to all irrespective of different living standards, working hours, wage levels, and therefore, costs of protection. Whilst this country remains a party to the Agreement, the whole structure, of Australian Industry, both rural and manufacturing, rests upon a foundation that is both shaky and insecure.[35]

Differences between associations of employers of this order impeded continuing close association on industrial issues. There were also differences over the industrial issues themselves, and some of these were fundamental. In the early 1950s, the A.C.C.A. was still denouncing the 'disastrous' 40 hour week which had virtually become Australia-wide in 1948.[36] The M.T.E.A. felt so strongly about the matter that it took action through the Arbitration Court to enforce a return to 44 hours. The Australian Council of

Employers' Federation (A.C.E.F.) on the other hand had retail traders as members. Its President took the point of view that 'efforts should be directed towards trying to make the 40 hour week work'.[37]

There were offsets to these differences. All employers' associations agreed that taxes were too high. They all believed that immigration—especially of those people 'easily assimilable'—was a valuable stimulus to the economy.[38] They supported the Government's anti-Communist policies. But as they agreed that these matters were being managed by a government which was sympathetic to their interests, they felt no need to combine more closely on these issues. What did push them into closer combination was the 1950 Basic Wage judgement, the accelerating inflation of 1951-52, and their interpretation of its cause.

In September 1950 the Basic Wage stood at £7 2s. In October the Court gave its judgement—as a result of a hearing which had formally begun a whole ten years before. It awarded 20 shillings, the largest increase in its history. Automatic quarterly adjustment in the inflation of 1951-52 took the Basic Wage to £11 11s by September of the latter year—an increase in money terms, of over 64 per cent in two years. The Court added further to the economy's wages bill by advancing the female basic wage from 56 per cent to 75 per cent of the male rate.

Employers' associations saw this increase in wages as the root cause of Australia's problem of inflation. They believed in a wages-prices spiral: that increases in wages inevitably led to increases in prices which led to increases in wages.[39] The *Metal Trades Journal (M.T.J.)* referred to the system of quarterly adjustments as the 'fundamental fault' in Australia's economy, and this opinion was shared without qualification by the journals of all other major employers' associations.

In 1952, the Arbitration Court began a Basic Wage and Standard Hours hearing on the initiative of the employers. They sought the reduction of the female basic wage to 60 per cent of the male rate, the restoration of the 44 hour week, and the abolition of the system of quarterly adjustments. They were successful only in the last request. By majority decision the Court in 1953 ended a practice of thirty years' standing.

All employers' associations had complained of the Court's system of quarterly adjustments. Some had other criticisms as well. These followed from the Chifley Government's amendments to the Conciliation and Arbitration Act in 1947, ever since then, according to the *M.T.J.,* the Act had been 'lopsided'.

The 1947 amendments defined by exclusion the powers of the Conciliation Commissioners. It gave them power to decide in all matters except standard hours, male and female basic wages and annual leave. There was no right of appeal from their decisions. This meant that their discretion in award matters was absolute; employers who thought an award too generous had no redress. The M.T.E.A. wanted this changed, and in 1952 the Government obliged by amending the Act in such a way that an appeal could be lodged to the Conciliation and Arbitration Court if the Chief Judge of the Court thought it in the public interest.

The second sort of complaint about the 1947 amendments had its origin in a problem that employers shared and frequently divided over in times of labour scarcity. The 1947 amendments gave to the Court of Conciliation and Arbitration power to punish for failure to observe the terms of any of its awards. This offered to employers faced with labour shortages the opportunity of using the Court's power to punish as a means of holding down actual wages to award levels. They had to decide whether they should take it. If union members went on strike for over-award payments, should employers try to make them return under threat of penalty and risk aggravating the dispute? Or should they pay up, get on with the job, and absorb or pass on the extra cost, knowing that this might prove less costly in the long run?

In 1950, after a series of strikes in metals and engineering workshops, the M.T.E.A. asked Mr Commissioner Galvin to insert into the Metal Trades Award a clause which banned the A.E.U. and its members from striking, or from limiting the performance of their work in any other way. 'Against the instincts of a lifetime', Commissioner Galvin agreed. Members of the A.E.U. stopped work; on the application of the M.T.E.A. the Court fined the union, but on appeal the High Court ruled the fines invalid. The Menzies Government amended the Act in a way that purported to validate the power of the Court to impose penalties, and at the same time gave it power to conduct union ballots and remove officials from office.

These matters rested until 1955, when the Court fined the Boilermakers' Society £500. The Boilermakers refused to pay, and appealed to the High Court. The High Court upheld the appeal on the grounds that arbitral and judicial functions could not be exercised by the same body—although five years earlier it had found legal the Arbitration Court's gaoling of Ted Roach, a Communist official of the Waterside Workers' Federation.

The decision in the Boilermakers' case necessitated a complete redrafting of the Conciliation and Arbitration Act, if the Government intended the decisions of the arbitral authority to be enforceable by law. The Government did so intend. It therefore separated judicial functions from the others by establishing a Conciliation and Arbitration Commission on the one hand, and an Industrial Court on the other. The amended Act came into operation in 1956.

The principal and most time-consuming task of the new Conciliation and Arbitration Commission was the hearing of Basic Wage cases. The abolition of quarterly adjustments meant in practice that a system of annual reviews took its place, and the Commission heard Basic Wage claims each year from 1956 to 1961 inclusive.

The frequency of the hearings and the changing interests and practice of the Commission had the effect of compelling employers' associations to co-operate more closely. In parallel with the Government's dedication to a policy of economic growth, the Commission had become more interested in the economics of the society whose wages it was setting. In its 1952-53 hearing, the Court set up guidelines for examining 'the capacity of industry to pay'. It decided that it would no longer consider the experience of

individual employers in individual industries. What it wanted was evidence about the state of the economy as a whole:

> On the subject of saving time in future inquiries . . . the evidence of individual employers is not really helpful. We now specifically intimate that it is to the total industry . . . we will pay regard in assessing . . .a foundation wage.[40]

The evidence in future would have to be comprehensive, and it would have to deal with the analysis of trends. It was not sufficient simply to call on an economist once a year to pronounce on the economy.[41]

The Commission therefore virtually required of employers' associations that they change the nature and quality of the evidence they presented. To do this it became necessary that they produce an organization which would—as the A.C.T.U. did for the unions—put a unified argument and a proposal which would take account of the individual requirements of its constituent members.

By the time the Commission came into being, some associations of employers were already on the way towards this. The 1950 Basic Wage decision had shaken the metals employers, at least:

> Many employers went to the wall because of it. Up to 1950 we were economic infants—and so were the judges on the bench. But when Judge Foster gave his £1, we realised we would have to do some hard thinking about wage fixation.[42]

During the 1952-53 basic wage hearing, this concern resulted in the establishment of a National Employers' Policy and Consultative Committee (N.E.P.C.C.) to replace the previous *ad hoc* arrangements. The N.E.P.C.C. comprised the Presidents, or their nominees, of the Australian Metal Industries Association, (A.M.I.A.), A.C.M.A., A.C.E.F. and the Australian Woolgrowers' and Graziers' Council (A.W.G.C.).[43] By 1958, it had got as far as establishing a Standing Committee made up of a paid industrial officer from each of its constituent organizations,[44] and a working party whose task it was to work out policies which would enable employers to adopt a less defensive role than had been customary.

This process was accelerated by the events of 1959. In 1958, the A.C.T.U. appointed as its Research Officer an ex-Rhodes scholar qualified in both economics and law—R.J. Hawke. This combination gave Hawke immense advantages in working up the kind of case the Commission wanted to hear and in examining evidence and argument put before the Court by employers. In the 1959 Basic Wage case, Hawke succeeded in persuading the judges to award a 15 shillings increase—two shillings above the amount the Basic Wage would have been had automatic adjustments continued.

Hawke also had some success in convincing the Commission that it should restore automatic adjustments to the Basic Wage. The Commission did not restore them, but Judges supporting the 15 shillings increase were highly critical of the 1953 decision to abandon them, and it seemed probable that a future application would succeed. Employers' fears of rising wage costs

were increased by the decision in the Metal Trades Margins Case, in which Hawke convinced the Commission that it should award increases of 28 per cent.

Shortly after this decision, A.C.E.F. proposed a reconstitution of the N.E.P.C.C. and a broadening of its activities. The outcome was the National Employers Association (N.E.A.). This body was dominated by A.C.E.F., A.C.M.A., M.T.E.A. and A.W.G.C.. It also attracted the membership of 35-40 employers' organizations which in turn represented 30 000 employers controlling up to two-thirds of the nation's industrial investment. The N.E.A. set policy and usually met no more than twice a year. It operated through two committees, the National Employers' Policy Committee (N.E.P.C.) and the National Employers' Industrial Council (N.E.I.C.). The N.E.P.C. was composed of one representative each from A.C.M.A., A.C.E.F., A.M.I.A. and the A.W.G.C., and was responsible for the general supervision of the conduct of national industrial proceedings. The N.E.I.C. was made up of industrial officers nominated by the organizations in the N.E.P.C.. It was responsible for research and policy advice and for the detailed administration of the N.E.P.C.'s policy.[45]

The new organization quickly produced some major changes in employers' policy at basic wage hearings.[46] At the basic wage hearing of 1961 it abandoned the old attitude of 'no increase, no time, no how'. For the first time, the employers did not seek reduction and actually proposed an increase. But the increase they proposed was conditional upon the unions accepting a standard working week of 42 hours, and represented *pro rata* payment for the extra two hours worked. This arrangement was to last for four years, after which time, standard weekly hours were to revert to 40 and the increased wages were to remain.

The case, in the words of the employers' junior counsel, was 'disastrous'[47] and from the employers' point of view, so was the decision. The Commission decided unanimously upon a 12 shilling increase and its judgement lent more strength to the A.C.T.U.'s case for the restoration of automatic adjustments based upon the Consumer Price Index. Standard hours remained at 40 per week.

The failure of the employers' case confirmed the decision of some members of the N.E.A. to use their newly-found solidarity in another way. In the early 1960s, as previously, many employers found themselves confronted with demands for over-award pay supported by strike action or threat of strike action. This was particularly frequent in metal trades:

> As industry moves into another decade we find a disturbing pattern of strikes by certain militant unions claiming increases in over-award payments—'or else' . . . these clearly reveal a senseless disregard for industrial law and the future prosperity of the whole community.[48]

Metals employers particularly used their combined strength to invoke the penal clauses of the Conciliation Act for the purpose of teaching unions a better regard for industrial law. Commissioner Galvin's bans and limitations

clause still stood in the Metal Trades Award. It was a relatively simple matter to get an order from the Industrial Court and have the union fined for contempt if it went on strike or imposed some limitation on the performance of work.

By mid-1964, the Industrial Court had imposed fines totalling £43 000 on the unions and ordered costs against them to the extent of £33 000. By that time, a national strike over the penal clauses was a distinct possibility. The Government responded by inserting Section 109A into the Act, which provided for a fourteen day cooling off period before an order could be applied for from the Industrial Court. The crisis subsided.

Not all employers favoured the vigorous use of the penal clauses, and by 1964 alternative tactics were emerging. In that year, the employers applied to the Commission for the abandonment of the Basic Wage and the substitution of a Total Wage. Supporters of the Total Wage argued that its adoption would help employers hold down demands for over-award payment.

There were other arguments in favour of it, and some of these pre-dated the Commission itself. Most of these were based on the contention that the system of fixing the Basic Wage and margins separately in effect gave the unions a double opportunity to win increases in wages:

> . . . because the basic wage has gone awry it should not be used as an excuse to jack up margins and increase the total wage still further.[49]

the *MTJ* had argued in August 1953. One single hearing would also reduce the frequency of 'disturbances to wage, cost and price levels'.[50]

The employers asked the Commission to delete all Basic Wage and margins provisions from awards and insert instead a Total Wage. If this were done, they were happy to see an increase in the Total Wage provided that it matched an increase in productivity. But if the Commission was not willing to adopt the Total Wage system, they would oppose any increase in the existing Basic Wage.

The Commission awarded a £1 increase to the Basic Wage and rejected the employers' request for a Total Wage. But the arguments of the Judges were at variance and the Court's 1961 decision to adjust wages for prices was clearly imperilled. A year later, the Commission completely rejected its judgement of 1961 and accepted, in principle, the employers' arguments for the abandonment of the Basic Wage and the substitution for it of a Total Wage geared to productivity.

At its 1966 hearing, the Commission formally adopted the employers' submissions but delayed implementation of their decision until it had completed its work value review of the Metal Trades Award. In future, there were to be two sorts of hearings: a National Wage Case in which the Commission would conduct a general review of the economy and determine what adjustment should be made to the total wage; and a Work Value Inquiry, to determine whether there should be any change in the wages due to occupations in a specific industry.

1966-1972

The Arbitration Commission began to experiment with the Total Wage in a period of economic buoyancy which culminated in boom conditions by the early seventies. For the whole period 1966-71, the quarterly average rate of unemployment did not rise above 1.8 per cent. For seven months in 1969-70, the number of job vacancies registered with the Commonwealth Employment Service actually exceeded the number of registered job seekers, and the same was true of the month of October 1971. The annual average rate of inflation remained below three per cent for the sixties, but accelerated to seven per cent for the June and September quarters of 1971.[51]

There has been much debate about the sources of this boom, but it seems fairly certain that it was partly imported and that it followed from the effects of the war in Vietnam. In 1962, the President of South Vietnam called on the United States to help in repelling what he described as a Communist invasion from the North. In the next ten years, the United States sent over half a million men to Vietnam and by some estimates dropped on it a greater tonnage of bombs than it had dropped on enemy territory during the whole of the Second World War. It also spent billions of dollars on aid to the region.

The Menzies Government sent conscripts to Vietnam in 1964 and subsequent governments maintained a force of up to 8 000 men there until 1972. But even if Australia had not sent troops, it could hardly have escaped the massive economic effects of the United States' intervention. Between 1968 and 1971, the external liquid liability of the United States, which had been rising steadily, virtually doubled. In the same period the United Nations Price Index of Manufactures in world trade quadrupled its annual rate of increase.[52]

Internally, Australia's economy was affected by the minerals boom, stock market speculation and company take-overs. Between 1966 and 1972-73, the value of minerals produced in Australia increased by a little over 200 per cent.[53] Share prices boomed and so did speculative profits. Foreign takeovers of Australian companies reached the point where, in the words of one Liberal Party Member of Parliament, Australia's door was no longer simply open to foreign investment—it was off the hinges.[54]

One consequence of these events was that Australia's international reserves rose rapidly and actually tripled between December 1970 and December 1972.[55] Australia's chronic balance of payments problem disappeared. This strengthened the arguments of those who argued a substantial revision of the protective tariff. A.C.C.A. had demanded a Royal Commission into tariffs since 1960. The Vernon Committee, established to recommend on Australia's economic development, in 1965 recommended enquiry into the whole problem of providing assistance for Australian industry. In 1966-67, the Tariff Board proposed 'a progressive and systematic review of the Tariff', and proceeded to make a classification of products in high, medium or low ranges. It found that engineering and metals products received protection that was heavily concentrated in the high range. After a lapse of a year or so, the Government referred these industries to the Board for investigation.

A.C.C.A. approved of these proceedings: A.C.M.A. and the M.T.E.A. emphatically did not. The proposals of the Tariff Board put the whole established system of 'made to measure' tariffs for Australian industry in jeopardy. Debate was vigorous and sometimes caustic. In its 1968 Annual Report, A.C.M.A. concluded that tariff duties were 'no longer effective as a protective mechanism'.

For Australian manufacturers, however, not all the enemies were among the ranks of those who would have interfered with the tariff. Internal divisions set off conflicts which for the whole of this period marked the relationships amongst employers' organizations in metal and general manufacturing, and complicated the problems associated with the development of the National Employers' Association into a more effective summit organization.

The first of these conflicts resulted from the M.T.E.A.'s attempt to consolidate and extend its organization through the metals industry. The M.T.E.A.'s motives are obscure, but it took its first decisive step in 1965, a year in which the average of registered job vacancies exceeded the average of applicants for the whole 12 months. From the point of view of those metals employers who wished to resist what later was described as 'plant by plant duress' for over-award payment, the creation of a single employers' organization within the industry made good sense.

Prior to 1965, employers in metals and engineering in Victoria were organized as a section of the Chamber of Manufactures and the M.T.E.A. did not exist there. But in that year, the M.T.E.A. set up an office in Melbourne and began recruiting. This was a 'declaration of war' and it led to the establishment of a rival and independent metals group, the Metal Industry Association of Victoria (M.I.A.V.) based upon the erstwhile metals section within the Chamber of Manufactures. There followed three years of move and countermove and finally the supersession of the old Federal body, the A.M.I.A. In 1970, the M.I.A.V. merged with the M.T.E.A. to form the Metal Trade Industry Association (M.T.I.A.), which operated on a unified basis in the three States of Queensland, New South Wales and Victoria. The healing of the split coincided with accelerating progress made by trade unions in the metals industries towards their amalgamation.

By this time, employers' organizations had also become publicly involved in disputes between themselves over another matter, and again their conflict had sprung from problems following the shortage of labour. In 1969, at the request of the A.C.T.U., the Commonwealth Arbitration Commission began hearing the female rates case. The A.C.T.U. asked the Commission to award 'equal pay for equal work', irrespective of whether the employee was male or female.

This represented virtually no problem to some employers in manufacturing industry, who were already paying women well over their award of 75 per cent of the male rate in order to attract them into industry and keep them working. But employers in other industries—notably in retailing trade and banking—already employed very large numbers of women and had not found it necessary to pay over the award. They strongly opposed equal pay.

The National Employers' Policy Committee attempted to steer a middle course between these views. The A.C.T.U.'s advocate pointed out that despite the 'grandiose title' of the N.E.P.C.'s Counsel, 'he does not speak for employers generally or even private employers generally', and claimed to have heard him 'crying out a moment ago, "Who needs enemies when you have friends like mine?"'[56]

The Metal Trades Work Value Judgement presented the employers with even more acute difficulties than had the Female Rates Case. Its results led the Government to alter one of the operating principles of compulsory arbitration, and to question the ability of the Commission to discharge its duties. The conflict of interests the Judgement produced amongst the A.M.I.A. and other associations of employers resulted in a restructuring of their organizations at national level.

The Commission gave judgement in the Metal Trades Work Value Case in December 1967. Its decision aimed at increasing the degree of correspondence between what it had awarded and what employers were actually paying. It increased the fitters' margin by $7.40 and added as much as $10.05 to some other categories, but in so doing ruled that there should be 'complete or partial absorption of the current over-award payments in the increases now awarded by the Commission'.[57]

The metal unions were determined that—on the contrary—the increased margins awarded by the Commission should be added to those wages already being paid. On 10 January 1968, the 'absorption battle' began and the metal unions' campaign of strikes culminated on 6 February with a 24 hour stoppage which affected 320 metal and engineering works throughout Australia. Later in February, the Commission varied the judgement it had given in December. It determined that 70 per cent of the increases were now payable and promised a further review in August—which duly awarded the balance.

Some employers in the metal trades seem to have had considerable doubts as to whether absorption was ever practicable. J.B. Clarkson, President of the M.T.E.A., predicted serious inflation if the increased margins were not absorbed. But he also acknowledged that 'the decision challenged economic laws and entrenched practices in labour relations'.[58] Before the judgement, some of his members had made agreements with unions which arranged for any increased margin awarded to be added to existing wages.[59] Absorption would clearly affect some employers more seriously than others, but well before the 'battle' began it was obvious that the consequences of following the Commission's direction might cost all employers something. Despite this, the M.T.J. took the position that 'A duty to implement the decision has been placed on the employers',[60] and that the Commission's decision should be enforced.

There seems to have been considerable dispute about what was to be done, not only among the metal trades employers themselves but between the M.T.E.A. and the other employers' associations likely to be affected by the decision. Those who argued for law and order prevailed. In practice this

meant that the M.T.E.A. and others made very extensive use of the bans clause inserted in the Metal Trades Award by Commissioner Galvin in 1950. The Industrial Court granted the orders as requested, and the metal unions were heavily and repeatedly fined. The unions refused to pay the fines; for the time being nothing more happened, because the Government took no action to collect them. The unions condemned the penal clauses under which they had been fined, but having won the 'absorption battle' they resumed work.

The whole issue of the penal clauses came to a head a year later in May 1969, when the Industrial Court did take some action to attempt to recover outstanding fines. It had imposed fines totalling $8 000 on the Australian Tramways and Motor Omnibus Employees Federation in connection with a series of one day stoppages affecting Melbourne tram services. The Federation's Victorian Secretary Clarrie O'Shea refused to deliver the financial records of the Union to the Court, and failed to attend an oral examination into the financial affairs of his union. Mr Justice Kerr fined O'Shea $5 000; O'Shea refused to pay the fine and Mr Justice Kerr gaoled him for contempt.

When O'Shea was arrested, five thousand shop stewards demonstrated in Melbourne, and in the next few days about a million employees stopped work in protest in all States of Australia except Tasmania. An anonymous citizen paid O'Shea's fine, and the fines owed by his union as well. By then, the Government had agreed to confer with the A.C.T.U. and with the associations of employers on what was to be done about the penal clauses in the Arbitration Act.

Employers generally took the view that 'the retention of the penal clauses was essential to the efficient functioning of the conciliation and arbitration system',[61] and the N.E.P.C. made representations to the Government along those lines. The A.C.T.U. did not agree.[62] It was represented in its talks with the Government by its newly appointed President, R.J. Hawke, who took a harder line on the issue than Albert Monk had when the issue had become critical in 1964.

Like its predecessors, the Gorton Government was a Liberal-Country Party coalition. It had inherited all the usual divisions that make for difficulty between the representatives of manufacturing and rural capital, and in the late sixties these ran more deeply than usual. The protective tariff was in danger. Britain seemed certain to enter the Common Market. The oil boom had opened up a controversy over States' rights. The Country Party was dying on its feet as primary industry declined in relative importance. The attempts of its leader, John McEwen, to re-establish it on a wider basis exposed him and his Party to attacks by the Liberal Party, which began to organize support among graziers. Prime Minister Gorton largely owed his office to McEwen's belief that Gorton's chief rival, the Liberal Party Treasurer, William McMahon, personified the attacks on the Country Party and on McEwen's plans to restore its strength.[63]

The coalition was therefore in no condition to pursue purposes which it suspected were unpopular with the electors and might meet spirited resistance from the unions. Just before the O'Shea case reached its climax, Prime

Minister Gorton had written in a letter to the President of the M.T.E.A., J.B. Clarkson:

> under the Conciliation and Arbitration Act strikes are not illegal and hence cannot be regarded as being inconsistent with the principle of arbitration.[64]

Clarkson replied that:

> to assert that strikes are not inconsistent with our compulsory arbitration system is to entirely misunderstand the basic principles of the system.[65]

The Government however, was not convinced that trade unions should necessarily be punished for strikes by their members, and sought a revision of the Act in the interests of 'maximum co-operation' between employers and employees.[66]

The outcome of the discussions was the insertion of clauses 32A and 33A into the Conciliation and Arbitration Act, and the subsequent amendments of clauses 109 and 111. In practice, these amendments removed the Industrial Court's power to grant injunctions for breaches of bans clauses, and to punish for contempt in that respect. Henceforth under ss 32A and 33A bans clauses could only be varied or inserted in awards by a Presidential member of the Commission, and no proceedings could be taken against a union until there was an investigation into the merits of the case. The new procedure came into force in June 1970.

Employers believed that the amendments 'yielded substantially to the unions what they want'.[67] They complained that the sanctions had become so difficult to implement that they did not exist at all in practice.[68] The procedure always put pressure on them to concede something, and was being selectively used by unions to break down the industry nature of the awards. Individual employers had to 'yield or suffer'.[69]

By mid-1971, a series of consent awards had eclipsed the Metal Trades Award, which was traditionally the wage leader. The Amalgamated Engineering Union took steps to restore its position, and a series of strikes broke out at various metals and engineering works. The Union did not seek arbitration, and the M.T.I.A. feared that 'plant by plant duress' would result in far higher rates being paid than could be settled for if employers negotiated through the Association. It approached Mr Commissioner Hood, who arbitrated without being formally requested by either party to the dispute. His decision increased the tradesmen's rate by six dollars, and awarded $4.50 to less skilled workers.[70] These amounts spread quickly to the rest of industry.

The reaction of other employers' groups was immediate and strong. In a joint statement, the Victorian Employers' Federation and the Victorian Chamber of Manufactures denounced the M.T.I.A. for having carried out 'secret' negotiations.[71] In October, the N.E.P.C. called a special meeting of its members to discuss the Metal Trades Industry Award and the decision in the F.E.D.F.A. case. In reply to accusations of 'unilateral action' the President of the M.T.I.A. replied that:

Labor Government. The A.W.U.'s basis was still the pastoral industry and primary industry generally, but by the 1960s employment in the primary sector was declining absolutely. The A.W.U. had attempted to counter its contracting membership base by diversifying its coverage. This was a matter of change of emphasis; the A.W.U had always been a general purpose union, and in Queensland, the expansion of minerals and open-cut mining allowed it to retain much of its size and importance. In N.S.W., where these opportunities did not exist, the A.W.U. had sought members in the newly-expanding manufacturing industries, and in road construction.

This policy of diversifying membership had brought it into closer contact with a very large number of unions. Sometimes the contact produced sharp dispute, and in Queensland the A.W.U. and the Queensland Trades and Labour Council—the State branch of the A.C.T.U.—had been in frequent conflict. Elsewhere, the more specialised craft unions found that A.W.U. coverage frequently complicated both their wage bargaining and the award making process. There was considerable advantage to them in having the A.W.U. affiliated.[80]

From the A.W.U.'s point of view, its principal objection to affiliation—real or ritualistic—had disappeared by the 1960s. The Right was in control of the A.C.T.U.'s Executive; a union 'whose future was bound up with keeping the Comms out' could have nothing to fear from affiliation.[81] And there were some very positive advantages. As Tom Dougherty explained to the Annual Convention of the A.W.U. in 1966:

> Only within the last fortnight the A.W.U. paid to the A.C.T.U. £1307 arising from a decision made by Executive Council . . . to fight with them against the Arbitration Court's decision to put into awards long service leave, knowing as we did the value of the State decisions *re* Long Service Leave as against the Arbitration Court's decision.
>
> [Affiliation would] save duplication of expense and the wastage of time and money in engaging barristers. Mr Hawke would represent the A.W.U. as well as the whole organization which he usually represents in regard to the Basic Wage and Margins cases. . . . We put it to Mr Monk and Mr Souter, 'Why waste our money, why not let us pay our share of the cost and let the most brilliant advocate I have seen in the Court appear for the A.W.U. as well as the A.C.T.U.?'[82]

The convention empowered the A.W.U.'s Executive Council to negotiate with the A.C.T.U. on the terms of affiliation. Eighteen months later, the A.C.T.U. Executive admitted the A.W.U. as an affiliate. In so doing, it accepted the President's ruling that the A.W.U. would comply with the A.C.T.U.'s rules if one of its branches were affiliated with a State Labour Council—a decision which saved the A.W.U. from having to affiliate to its old adversary, the Queensland Trades and Labour Council.[83] The terms of affiliation made the A.W.U. an industry group in itself, thereby guaranteeing it a permanent place on the Executive. In 1967, the A.W.U. was still the largest union in Australia. It affiliated on 133 260 members, and brought to the 1967 Congress a delegation of 63, a considerable increment to the Right's forces.

Although the Right remained in firm control of the Executive between 1957 and 1967, there were limits to what it could do. The Industrial Groups remained the main source of the Left's representation; at the 1965 Congress, Delegate Riordan moved:

> That the A.C.T.U. rules be amended to provide that members of the Executive elected to represent the various groups shall be elected by a vote of the whole of Congress provided that only a delegate from a union within the group concerned may stand for election to the Executive representing that group.[84]

The motion if carried would have had the effect of weakening the representation of the Left unions on the Executive. Secretary Souter and delegates from the Labour Council of N.S.W., Melbourne Trades Hall Council, and the Australasian Society of Engineers supported Riordan's motion. Delegates from the Building Workers' Industrial Union, Sheet Metal Workers' Union, and the Amalgamated Engineering Union opposed it. It was lost by 260 votes to 288, although the same Congress endorsed the policy of the Right in what was probably the most contentious of the issues the Executive had to cope with in the period between the late fifties and the mid-sixties.

Penal Powers and Shop Committees

To many Left unions, the very presence of penal sanctions threatened the right to strike and their way of conducting their own business. To many Right unions, penal powers were a remote threat, and to the extent that they prevented strikes that might involve their own members, perhaps no bad thing.

In August 1958 the Executive resolution on penal powers stated that:

> These methods of attacking the Trade Union Movement are causing loss of confidence in the conciliation and arbitration system as a means of improving living standards and will destroy good will in industry.[85]

It warned the employers' organizations that 'a continual policy of attempting to have penalties inflicted on trade unions for strike action [would] aggravate the position', and directed the Executive to arrange a delegation to the Federal Government to demand that the provisions be repealed.

The 1959 Congress endorsed that decision, and noted that:

> notwithstanding our continued opposition and condemnation of the use of penal provisions in industrial matters the capricious use of these provisions by employers is continuing. These penal provisions were deliberately inserted in industrial legislation to provide employers with the highest degree of preferential economic power by destroying or nullifying the industrial strength of the workers organized in their trade unions.
>
> The right to strike is denied and any attempt to exercise it is used as an excuse to bankrupt the workers' organization by medium of excessive fines and extortionate legal costs.[86]

But representations to the Federal Government achieved nothing. The Executive's reaction was to try to strengthen the hand of union executives to prevent unauthorized strikes which might incur penal proceedings. At the Federal Unions' Conference in November 1962, President Monk moved a very long motion whose second paragraph read:

> It is clearly recognized, however, that individual affiliated unions have a responsibility of one to the other, and strike action taken affecting other organizations and their members without consultation with the A.C.T.U. or the appropriate State Branch cannot be accepted as a proper use of the strike weapon.

The motion's last paragraph vested power in the A.C.T.U.'s Executive or its State Branches to call together the relevant unions 'to formulate proposals for appropriate action' when employers took penal action in disputes that the A.C.T.U. or its Branches had authorized.

The motion attracted two amendments from R. Gietzelt (Miscellaneous Workers) and J.W. Bevan (Boilermakers) for the substantial weakening or deletion of the second paragraph. C. Fitzgibbon (Waterside Workers) moved an amendment which ultimately became the Conference's resolution. For paragraph two it substituted:

> The trade union movement is best served where the responsibility of individual unions one to the other is clearly recognized. A union which requires the support of the remainder of the Trade Union Movement has a responsibility not to take strike action affecting another organization or its members without consulting the A.C.T.U. or its appropriate State Branch.

For Monk's last four paragraphs, Fitzgibbon's amendment:

> Congress warns that penal action taken by Governments or employers against Unions involved in industrial action, authorized or endorsed by the A.C.T.U. or its State Branches, must inevitably be met by the Trade Union Movement taking its own practical steps to bring about industrial justice within the community.[87]

substituted a vague menage of further strike action, and did not leave initiative in the matter to the A.C.T.U. Executive.

But neither vague menace nor specific request had any immediate effect on the Government or the employers. In 1964, fines imposed on unions following proceedings under the penal provisions amounted to about £30 000—roughly equal to the total imposed for the whole five year period 1959-63. A Federal Unions' Conference of April 1964 authorized the Executive to arrange a delegation (including Industry Group representatives) to approach the Government and 'put the trade union policy and matters pertaining to the penal provisions, particularly relating to the heavy fines and exhorbitant costs imposed on the unions'.[88]

This time the Government made a concession. It would not repeal the penal clauses, but it was prepared to provide for a 14 day cooling off period before the penal sanctions could be used. Parliament in the Autumn Session of 1965 enacted legislation which gave effect to the Government's promise by inserting Section 109A into the Conciliation and Arbitration Act.

So armed, the Executive presented to the 1965 Congress a motion which aimed to strengthen the A.C.T.U.'s authority in individual disputes. Its four main points were:

1 All sections of the Trade Union Movement will be expected to pursue the A.C.T.U. wage claims in particular areas, making every effort to do so by co-ordination and agreement.
2 When a dispute is threatened or develops to a point where a stoppage is likely, the Union or Unions concerned shall refer it to the State Branch of the A.C.T.U., which shall control the dispute.
3 Where a stoppage of work occurs and proceedings are likely to be commenced by the employers under Section 109, the State Branch . . . shall advise the A.C.T.U., which shall call a conference of the Federal Unions involved, and arrange for them to confer with the Disputes Committee prevously handling the dispute.
4 If agreement cannot be reached under the procedures set out in (3) above, the control of the dispute shall pass to the Federal Unions concerned under the auspices of the A.C.T.U.[89]

Congress endorsed this motion, which gave the Executive an authority to control not only interstate disputes, but also those which were confined within the boundaries of one State. That Congress was prepared to go so far was partly a consequence of the activities of Shop and Area Committees. The issues of penal powers and the control of disputes had been closely connected with the question of their rights and behaviour over the previous half dozen years.

Shop committees were committees composed of representatives of the unions at a particular place of work who had been elected by the employees on the job. They multiplied during the boom conditions in manufacturing in the fifties and the sixties, and they were most common in metals and engineering. Their main purpose was to get shop agreements for higher wages and better conditions than the relevant awards prescribed. They were not averse to using strikes as a bargaining weapon, and as the organization on the job they were often better informed about tactical timing than union officials. In the sixties they began to co-ordinate their activities through Area Committees to develop the process the Metal Trades Industry Association referred to as 'plant by plant duress'.

The results of this process were not necessarily unwelcome to union officials when they sought award increases before an industrial tribunal, but shop floor activities produced a number of problems for them. Shop committees which went on strike frequently or at critical times risked having the unions to which their members belonged fined under the penal provisions; and they made it difficult for union officials to negotiate on an

industry-wide basis because they could not persuade the employers' organizations that the bargain they were willing to make would stick. Moreover, Shop Committee decisions drew into strikes unions which normally attempted to avoid them; and no matter how impeccable their record, these unions were fined like their more militant associates if employers decided to prosecute.

The Executive at first tried to deal with the problems posed by the Shop Committees to union management by bolstering central authority. At the 1955 Congress Albert Monk moved an Executive recommendation which declared in part:

> In a state or society which is pledged to full employment, with a growing Trade Union Organization adding to its prestige and power in the community, there rests upon the Trade Union Movement a growing responsibility for a proper and adequate direction and control of its forces. Because of legal responsibilities that flow from legal registration of trade unions . . . together with added responsibility for unity and cohesion in industrial activities in their various forms, and the attainment of our political objectives to consummate our industrial and social aspirations, we recognise that development must proceed along lines of greater Federal control of Trade Unions.[90]

This appeal to job security, economic responsibility and loyalty to the Labor Party did not have the desired effect. Shop Committees continued and at the 1961 Congress the Executive again sought to limit their activities by bringing down a recommendation for a Charter for Shop Committees. The Charter stated their functions to be:

> 1 To deal with questions of improvements in shop conditions which affect more than one organization.
> 2 To assist, when requested by the Union concerned, to obtain improved conditions peculiar to the department in which members of such unions work.
> 3 To co-operate with other Shop Committees for improvements in general workshop conditions throughout the whole establishment. *But all matters affecting wage rates and conditions of employment covered by Awards or Agreements shall be determined by the Unions concerned.*[91]

The Charter was adopted, but it had no more effect than preceding resolutions, and twice in 1962 the Executive condemned repeated stoppages organized by shop committees for increased margins without the authority of the A.C.T.U. Branch. In December 1963, on the motion of Harold Souter, the Executive endorsed a long motion which combined the 1953 and 1961 resolutions, and ended with a specific prohibition of Area Committees. In July 1964 the Executive expressed:

> its disapproval of the Unions acting contrary to the declared decisions of the Federal Organizations and Trade Union policy by coercing other unionists to participate in unauthorized industrial disputes . . . the acceptance by many workers of recent unnecessary and unauthorized actions by shop committees in calling mass meetings of workers in various establishments indicates a complete lack of knowledge or appreciation by such workers of Trade Union policy and actions.[92]

The same Executive meeting adopted the motion on penal powers and control of industrial disputes which the 1965 Congress subsequently reaffirmed.

Wages Policy

Members of the Communist Party were active in the Shop Committees, but their success depended on the leadership and active participation of far greater numbers of people who were not Party members. The Party believed that the involvement of the mass of employees in struggles over specific issues would demonstrate the true nature of the relationship existing between employers and employed in Australian capitalist society. The same belief inspired the combination of Communist and non-Communist Left delegates who criticized the Executive's wages policy at successive Congresses between 1959 and 1967, and sought its approval for industrial stoppages in support of Basic Wage and margins claims.

The recommendations put by the Executive on the Basic Wage between 1955 and 1967 were externally consistent with one another. Although the Judges of the Court had for years been saying that the 'needs' criterion of Justice Higgins' Basic Wage had been subsumed within the doctrine of 'capacity to pay', the A.C.T.U.'s policy continued to refer to both elements individually. It did so because Left and Right held different views of what a Basic Wage should be, and how it should be obtained.

In 1955, the Executive recommended and Congress adopted, the following statement:

> 1 The basic wage must provide as a minimum for the reasonable needs of a married wage earner and his family; what are reasonable needs being determined from time to time in the light of standards generally accepted by progressive communities and the social aspirations of the Australian people.
> 2 Subject to the maintenance of the minimum standard referred to above, the basic wage shall be assessed on the basis of the increased productivity of the nation; and should be the highest wage that the full resources of the community fully employed can provide.[93]

In 1957 the Executive's statement placed heavier emphasis on the second element. It criticized the 1957 decision of the Arbitration Commission and went on:

> Congress reaffirms the demand for a complete restoration of the basic wage, the relativity of margins, and the system of quarterly adjustments with periodical reviews to increase wage standards in accordance with the increasing productive capacity of the nation . . . Congress therefore directs the Executive, in association with unions concerned, to work out composite claims to be pursued and to initiate action through negotiations or applications, as the circumstances require, in order to achieve this objective.[94]

Two broad categories of questions therefore arose; one about the nature of the wage itself, the other about tactics to be used. To what extent was the

Basic Wage (and margins added to it) to be limited to restoration to some past standard? How far was it to be determined by some automatic statistical process? How much was it to be based on the economy's productivity, and how much on 'family needs', whatever they were? In any case, what was the A.C.T.U. to do: limit itself to procedure through the Court, or support its claims by industrial action?

The Right generally supported Executive recommendations, sometimes emphasising the desirability of automatic adjustment.[95] It opposed attempts to base the wage predominantly upon needs, and therefore presumable, considered productivity to be of greater importance.[96] It did not believe in industrial action to support Basic Wage claims.[97]

The Left by contrast was in favour of the reverse. It favoured emphasis on a Basic Wage based mainly on 'needs', because needs were historically relative. A needs wage required no justification by obscure statistical process, could be simply expressed, appealed to a sense of social justice, and could be set so that (if it were attained) it bit more heavily into capitalists' profits. It was therefore ideologically much more acceptable, and it offered much scope for agitation and organization.[98]

Accordingly, Congress delegates from Left unions, between 1953 and 1967, moved a series of amendments to the Executive's recommendations on the Basic Wage which directed the Executive to place more emphasis upon needs, and required it to organize widely-based campaigns, as well as stoppages in support of specific basic wage and margins claims.[99] The Executive never agreed, and none of the amendments were ever carried, although some of the decisions were very close.[100]

Automation and the Miners, Seamen and Waterside Workers

The Congress delegates who spoke to support the Left amendments on Wages Policy represented about a dozen unions, all of them moderately large or large, and most of them with some reputation for industrial militancy. All of them had Executives in which there were members of the Communist Party; and in some of them Communist influence was strong.

This was true of the three unions that had been involved, with the Executive, in the most dramatic ideological and industrial disputes of the early 1950s: The Miners, the Seamen and the Waterside Workers. They continued to criticize the Executive's wages policy and took issue with it on other matters, but their relations with the A.C.T.U. were much more harmonious from the late fifties onwards than they had been a few years before. One reason was that by then all three unions had been severely affected by technological change, and they feared that worse was to come.

A.C.T.U. policy on technological change was first set by the Congress of 1957, which adopted a report from the Committee on Automation established by the Executive. The Report declared that the benefits of automation (the word was used to refer to rapid mechanization as well) 'should not be allowed to rest with the parties into whose hands they first fall, namely, the

owners of particular industries'; increased production should result in increased purchasing power. Specifically it advocated:

> 1 Joint consultation to ensure planned introduction of automation with the least possible dislocation
> 2 Maintenance of full employment
> 3 Training and retraining programs . . .
> 4 Severance pay
> 5 Increased leisure as living standards increase
> 6 Planned resettlement of displaced labour.[101]

It was the second last of these that the A.C.T.U. first concentrated on. After adopting the Automation Committee's report, the 1957 Congress resolved that:

> The Congress recognises that notwithstanding the expanding needs of modern society, the increasing application of automation to industry and commerce, over all, steadily reduces the work force required to satisfy the needs . . .
>
> Therefore Congress now places in the forefront of its fighting platform the demand for the reduction of the working week from 40 hours to 35 per week without loss of pay, and initiates a nationwide campaign to compel employers and Governments to bring about this necessary reform.[102]

The A.C.T.U. first applied this policy to coalmining. By the end of the fifties, mechanization in the coal mines of N.S.W. had made rapid progress. In 1952, about half of all coal was mechanically loaded; by 1961, the proportion was 95 per cent. In the latter year, continuous mining machinery produced half of N.S.W.'s coal output; the comparable figure for the United States was 25 per cent. Output per manshift worked between 1952 and 1961 more than doubled.[103] At the same time, demand for coal slackened as oil firing replaced coal in sea and land furnaces, and as diesel and electric locomotives replaced steam on Australian railways.

The effect of the coalmining workforce was severe. In December 1952, employment in black coalmining in Australia reached a peak of 27 135. By June 1959, it had fallen by about a third to 18 534,[104] and it was to fall still further. Mines were closed, Lodges were wiped out, and whole communities disrupted.

In these circumstances, the Miners' Federation and the A.C.T.U. worked together closely, and by 1959 had achieved some success. Congress in September resolved that:

> As an example of the type of action and campaign calculated to resolve A.C.T.U. policy in the face of a situation wherein advanced mechanization and incipient automation leads to crisis conditions for all sections of a Community, Congress applauds the A.C.T.U. [and] Combined Mining Unions actions with the intense organising of all sections of the coalfields community and rank and file movement which led to the A.C.T.U. Combined Mining Union's Agreement with the New South Wales Labor Government establishing the 37½ hour week in the large State-owned sector of the coalmining industry in N.S.W.[105]

The next stage began when the Miners' Federation, with the support and assistance of the A.C.T.U., put a case for a 35 hour week to the Coal Industry Tribunal. Mr Justice Gallagher refused the claim, but awarded instead an additional week's annual leave. The A.C.T.U. Executive decided that the 35 hour campaign must continue, and determined that the coalmining and power generating industries be the industries on which it concentrated.[106] Despite renewal of the campaign at successive Congresses, there was no further breakthrough by the end of the sixties.

Like the Coalminers the Seamen were also affected by technological change by the end of the 1950s. Some years earlier, Australian shipowners had begun a programme of rebuilding their ageing fleets. The new ships were bigger, and they required fewer men to sail them. At the same time, shipowners were losing passengers and freight to rail, motor and air services. The number of berths available to members of the Seamen's Union of Australia was threatened further by the decision of Ampol Petroleum to man the tanker *P.J. Adams* with a crew recruited outside Australia, thereby avoiding the obligation to pay Australian wage rates and meet Australian conditions of employment. The *P.J. Adams* had been built at Whyalla with a subsidy of £1 000 000 from the Commonwealth Government.

The Seamen's Union approached the A.C.T.U. Executive for a declaration that the *P.J. Adams* and any other vessels owned by H.C. Sleigh, Ampol and Burns Philp should be manned by Australian crews. The Seamen then requested the Executive to declare the *PJ. Adams* and Ampol 'black'.[107] The Executive at first demurred at industrial action, but eventually declared:

> That the duty falls on us to assist the International Transport Federation in its campaign against 'Flags of Convenience' ships for which no agreement exists, and for the implementation of the I.L.O. Convention in respect thereto; and we therefore resolve that unless substantial assurances are received before 31st July 1963, in respect to [the ships specified] that a programme will be adopted by the Australian Government and the Australian interests using their ships that their use will be under Australian manning and award conditions, the A.C.T.U. will initiate a campaign of action to ensure the adoption of such a policy.[108]

In the meantime, the Executive had authorized the officers to take up with the Government the possibility of subsidizing the employment of an Australian crew.[109] Even so, it was not until 1966 that the *P.J. Adams* was manned by Australians.

By contrast with the early fifties, the Seamen's relations with the A.C.T.U. remained cordial, and the Seamen got considerable help from the Executive. The same is true of the Waterside Workers' Federation, which was far more closely involved with the Executive over a longer period of time than the Seamen. The W.W.F. took up so much of the Officers' time that the President sometimes felt it necessary to apologize for his constant involvement in the waterfront affairs.[110]

Like the Seamen, the Watersiders were faced with a rapidly increasing mechanization of their industry at a time when air, rail and road transport were carrying an increasing proportion of passengers and freight. Some

mechanization of cargo handling had occurred during the war, but its effects on employment were masked until the mid-fifties by increasing post-war trade. Then in 1956 Queensland ports began to bulk load sugar; in the next ten years, new bulk handling installations began to load chemicals, ore, and mineral sands, and older installations were so expanded and improved that the need to load bagged cargo for trim was eliminated. Towards the end of the fifties, unitisation of cargo began, with much increased use of pallets, pre-slinging and shore-based cranes. In 1959 the first roll-on roll-off ship, the *Princess of Tasmania,* came into service. In 1964, the first cellular container ship, the *Kooringa,* began to ply between Melbourne and Fremantle.[111]

The new techniques did offer some advantages to W.W.F. members. The need to prepare cargoes meant that for the first time it was possible to offer permanent employment to a substantial number of watersiders. This advantage was however heavily offset by two other consequences of technological change.

The first of these was the problem of demarcation. The new techniques meant that cargo had to be handled in different ways; the question was, did the new tasks belong to members of the W.W.F., or did they fall within the scope of work done by members of other unions? Some employers who took the opportunity to attempt to replace W.W.F members by members of unions they believed to be more docile made the issue more urgent.

The other consequence was a large and sudden drop in demand for waterside labour. In 1954-55, the average number of watersiders employed daily was over 18 000; in 1961-62, it was below 13 000, a reduction of about a third. This statistic alone understates the degree of the decline. Average hours of employment per week fell over the same period from 32.2 to 25.7, and the average conceals marked differences between ports.[112] The waterside workforce continued to decline during the sixties.

In the first few years of rapid technological change after 1956, the days not worked through strikes on the waterfront declined sharply. Then in 1960, stoppages resulted in almost 168 000 man-days not being worked—a figure about the same as those of the early fifties.[113] The Government responded by enacting legislation which broadened the Australian Stevedoring Industry Authority's power to suspend waterside workers and revoke their attendance money for offences against discipline. It also offered a scheme of long service leave for waterside workers which penalized the leave they accrued if they were absent from work without lawful cause. When Jim Healy (General Secretary of the W.W.F. and Transport Industry Group delegate) referred the matter to the Executive, it resolved:

> The aim of the Trade Union Movement is that Long Service Leave is a right accruable to a worker for service rendered to an employer or an industry. Because the Legislation of the Federal Government relating to waterside workers does not recognize such a right without disabilities and penalties, the A.C.T.U. Executive expresses its complete opposition to objectionable principles in the Long Service Leave Bill which imposes penalties on entitlement because of the individual action of waterside workers.[114]

The A.C.T.U. put this argument to the Minister for Labour and National Service (Mr William McMahon) who said that the Government was 'well disposed to meet this view' provided that the A.C.T.U. and the W.W.F. were prepared to recognize:

> the importance to the Australian economy of avoiding port stoppages and consequently would do their utmost to settle disputes by negotiation.

As to the other penalities, the Government was prepared to review them in a year's time.[115] The Government kept its word on Long Service Leave, and eliminated the penalties from the Act.[116]

But the inducement the Government offered was not sufficient to keep stoppages on the waterfront down to a level it considered satisfactory. In July 1963, it accepted the Executive's suggestion for a National Conference which would discuss the most pressing problems of redundancy. At the Conference, employers reported agreement with the W.W.F. on the permanent employment of those of its members who serviced 'roll-on roll-off' ships. They also stated their willingness to examine the Federation's redundancy scheme if they could be sure that 'there would be no return to the previously existing unsatisfactory state of affairs in the industry'.[117] As an incentive to industrial peace, this proved no more urgent than the inducements held out by the Minister for Labour and National Service two years before. In 1964, days not worked through strikes on the wharves rose to 113 536. The following year they increased to 155 520.

In June 1965, the Government announced that it intended to set up an inquiry into the stevedoring industry. The A.C.T.U. officers discussed the terms of reference proposed with the W.W.F., and reached the conclusion that the inquiry could 'make no real contribution to the industrial peace on the waterfront'. The Executive suspected that the real purpose of the inquiry was to 'formulate means of imposing further restrictions and penalties on the W.W.F.'.[118] It requested an inquiry of much broader scope.

The Government's reaction was to bring down a bill to amend the Stevedoring Industry Act. The Bill gave the Australian Stevedoring Industry Authority greater power to suspend individual waterside workers, in some cases without right of appeal. It also gave the Governor-General power to de-register the W.W.F. and permitted the establishment of another port union in its place.

After conference with the Executive of the W.W.F., the Executive of the A.C.T.U. declared that the legislation:

> aims to destroy the long standing trade union organization of the Waterside Workers' Federation.
>
> The A.C.T.U. is strongly opposed to the matter of the de-registration, registration or re-registration of unions being in the hands of the Government, particularly having regard to the fact that the trade union movement may readily become involved in disputes with the Government, acting in its role as an employer.
>
> The A.C.T.U. again calls for an 'all-in' conference with the Commonwealth Government with a view to resolving the issues in dispute between the parties, and calls on the Government to delay the proposed legislation to allow this conference to be held.
>
> We call on all sections of the trade union movement to solidly support the A.C.T.U. and the Waterside Workers' Federation in accordance with the terms of this resolution.[119]

In October, the Government announced that it would agree to a conference of the A.C.T.U., the W.W.F., the Employers, the Australian Stevedoring Industry Authority, and the Department of Labour and National Service. The Chairman was to be Mr A.E. Woodward, and the terms of reference were to supersede those of the inquiry previously announced. The A.C.T.U. Executive accepted participation in the Inquiry, but pointed out that it would not 'tolerate the introduction of non-union labor on the Australian Waterfront'.[120]

The Conference began in November 1965, and continued for 16 months. Albert Monk and Harold Souter attended the Conference on behalf of the A.C.T.U., and were also busy solving waterfront problems in other ways. In 1966, they organized a series of meetings between unions interested in the demarcation problems that technological change on the waterfront had produced. Not counting the A.W.U., which seems to have been absent, there were no fewer than 15 unions involved.[121]

The Executive noted that the parties to the Conference 'were prepared to make and in fact did make many concessions from the attitudes and positions they might otherwise have taken'.[122] In April 1967 the Conference presented a Report which outlined a scheme whereby Waterside Workers achieved permanent employment without any reduction in their wage standards. The Government accepted the recommendations for permanent employment of watersiders, and introduced the necessary legislation later in the year.

While the Conference sat, days not worked through strikes on the waterfront dropped from 155 520 in 1965 to a mere 4 772 in 1966. But apart from the peak years of 1960 and 1965, they had been well below the figures for the early and mid-fifties. Figures for the coalfields show an even more dramatic contrast, and in themselves go a good way towards explaining why the annual total of days not worked through strikes for the first seven years in the sixties is consistently below the corresponding figure for the fifties.

But from 1967, the annual total of days not worked began to increase quite rapidly, and the trend carried on into the seventies. In 1967, there were 705 315 man-days not worked through strikes; in 1968, the total was more than half as high again, and 1969 added another 90 per cent.[123] The W.W.F. and the Miners' Federation contributed only a very small part of this increase.

The reasons for more militant behaviour in this period are not all clearly understood. Blue collar unions which had no particular strike record increased their activity; the Locomotive Enginemen held their first national stoppage in 1969. Some white collar unions held their first strikes; in 1968, the Bank Officers struck, and the N.S.W. Teachers' Federation, the largest of

the teachers' unions, called out all of its members for a day. But the group of unions which made easily the biggest contribution to the augmented strike total was the Metal Trades group, and the result of their activity seems to have influenced others.

The Metal Trades Work Value Case and Clarrie O'Shea

Early in 1967, the Arbitration Commission announced that it would replace the practice of fixing wages in terms of a Basic Wage plus margins by setting a single total wage for each occuptional classification in the awards under its jurisdiction. This decision was contrary to A.C.T.U. policy, and led many unionists to fear that they would be swindled out of the margins they believed were due to them.[124]

The A.C.T.U. Executive decided that affiliated unions should conduct lunch hour meetings to publicize the Commission's decision. This was not enough for the Metal Unions. The Boilermakers and Blacksmiths wrote to the Executive suggesting a national stoppage, and the Sheet Metal Workers and the Moulders wrote in similar terms. The difference between A.C.T.U. policy and that of the Metal Unions was sharpest in Victoria, where the Metal Trades Federation decided to hold four-hour stoppages on successive days in the metropolitan area and in the country. As the State Branch of the A.C.T.U., the Melbourne Trades Hall Council directed that the stoppages should not proceed. Four Unions accepted the direction, and four (the A.E.U., the B.B.S., the F.M.U. and the S.M.I.U.) did not. The Council suspended their representation for the rest of the year.[125]

This was not the end of the affair. The excluded unions kept pressing the Executive to sanction a four-hour stoppage, and this time they were joined in their request by the normally peaceful Electrical Trade Union and Australasian Society of Engineers. In July, the Executive yielded to pressure, and approved a four-hour stoppage under the control of the State Branches.[126]

The A.C.T.U. did not go far enough or fast enough for the Postal Workers either. After their claim for a $3 rise for drivers had been rejected by the Public Service Board, the A.P.W.U. Executive circulated a leaflet which read:

> WE ARE NOT GOING TO ALLOW OURSELVES TO BE BOGGED DOWN AGAIN IN USELESS DISCUSSIONS. We will make this point clear to the A.C.T.U. leaders.
>
> They can go their own way if they want to. We are not bound to follow them into oblivion. If some A.C.T.U. leaders—in the face of nation-wide activity by thousands of Australian workers—continue to stall, to hesitate and try to 'meet' the Government, then we have to consider going our own way . . . We do not see Trade union unity as unity with inaction.[127]

What was restraining the A.C.T.U. officers and the majority of the Executive was their fear that the Government might make use of penal sanctions, and their belief that the postal dispute resulted largely from the activity of shop committees acting in defiance of A.C.T.U. policy. Both these issues were involved even more dramatically in the 'Absorption Battle' following upon the decision in the Metal Trades Work Value case.[128] The Commission's decision that increases it granted should be absorbed in existing over-award payments led to stoppages in over 300 engineering establishments throughout Australia. Many, perhaps most of them, took place without notification to the State Branch of the A.C.T.U.[129] The Employers resorted to penal sanctions, and eventually sought a blanket cover.

The response of the A.C.T.U. Industrial Disputes Committee was to request the Executive to organize nation-wide stoppages in protest against the use of penal provisions, and to call on the Government to repeal them.[130] By the time the Executive met, the Commission was on the point of backing down from its decision that increases should be absorbed. On 21 February it announced that it had determined that 70 per cent of the increases it had granted were now payable, and promised a further review in August.

The Executive stigmatized the Commission's pronouncement as a 'pathetic industrial exercise' which '[lessened] confidence in the arbitration system'. It declared that the decision vindicated the A.C.T.U.'s contention that arbitral tribunals should only determine minimum rates of pay and stated that the A.C.T.U. would immediately press the Government to:

> 1 Repeal the sections of the Act in accordance with the A.C.T.U. Congress decision, and
> 2 Agree that the fines imposed in the resultant dispute be remitted.[131]

The Government denied both requests, and matters rested there until May 1969, when Clarrie O'Shea, Secretary of the Victorian Branch of the Australian Tramways and Motor Omnibus Employees Association, was gaoled for contempt.[132] About a million unionists throughout Australia stopped work. The A.C.T.U. Executive recalled the 1965 Congress policy decision for the abolition of the penal powers, and instructed the Officers to 'immediately initiate urgent negotiations at the highest Government level' to secure O'Shea's release.[133] Within a week, an anonymous citizen had paid both O'Shea's fine and the sums levied against his union as a result of prosecution under the penal provisions. The Executive then resolved:

> 1 Pending the outcome of discussions with the Federal Government, unions are advised not to meet any outstanding fines imposed under the Penal Clauses . . .
> 2 Should any action in respect of already imposed penalties be proposed or taken against any union or officials, the Executive shall be called together immediately to determine what action should be taken on a National or State basis to protect that union or officials . . .
> 3 This Executive instructs the A.C.T.U. officers . . . to enter into further immediate conference with the Commonwealth Government to press for the repeal of these specific pernicious penal sanctions . . .
> 4 The Executive be kept informed as to progress, and in the event of any undue delay or breakdown in negotiations, the officers will call a special meeting of the Executive to determine what effective national action the A.C.T.U. should take to achieve its policy.[134]

Neither employers nor the Government took further action to prosecute under the penal clauses, or to recover fines due. But discussions with the Government had yielded no results by the time of the 1969 Congress in September. Congress endorsed the Executive's policy statement which was based on the resolution of 21 May quoted above. It defeated an amendment from the Federated Ironworkers' Association which aimed at avoiding strikes by extending conciliation services. When the 1969 Congress closed, the Government would still not abolish penal clauses; on the other hand, unions could virtually ignore the threat of prosecution under them.

The Executive moves Left

The increasing industrial militancy of 1968 and 1969 was paralleled by the shift to the Left in the composition of the Executive. At the Congress of 1967, R. Gietzelt of the Miscellaneous Workers' Union defeated J. Riordan (Federated Clerks) in the ballot for the Services Industry Group delegate to the Executive. In the same elections, J. Devereux and F. Hall defeated their Right opponents in the Metals and Food Distributive groups. J. Petrie who had represented the Food and Distributive Industry Group, became the Junior Vice-President; J. Anderson, C.Fitzgibbon, A. McDonald and J. Coleman retained their places. On important issues the Left could expect eight votes in an Executive of 17.

This balance changed dramatically in October with the death of Jim Kenny, Senior Vice-President, and one of the men of the Right. The rules did not prescribe the method of electing a Senior Vice-President between Congresses, and the Executive deadlocked eight votes to eight on possible procedures. President Monk ruled that the position should remain vacant, and although the Executive finally did manage to resolve, by a majority of one, on a way of replacing its Senior Vice-President, the President's ruling in practice prevailed.[135]

It prevailed because, for practical purposes, the replacement of the Senior Vice-President quite suddenly lost its point. In October 1968, W. Brown, South Australian Branch delegate, died. The Rules did set out a procedure for replacement of Branch delegates; the South Australian Branch replaced W. Brown, of the Right, with J. Shannon, of the Left.[136]

Delegate Shannon took his seat on the Executive at the same meeting as Albert Monk announced that he would retire after the next Congress in September 1969. This event seems to have been anticipated from some time in 1966, judging by the pattern of new affiliations to the A.C.T.U., and the keen interest taken by some delegates in the unions seeking admission.[137]

The Election of Bob Hawke

There were two obvious possible successors to Albert Monk: Secretary Souter, and Research Officer Hawke. Souter was widely acknowledged as a loyal and efficient officer. He had however become increasingly identified with the Right, and especially in the matter of combatting penal clauses, the

Left found him insufficiently aggressive. It was unfortunate for Souter that the problem of penal clauses increased in importance until it dominated all other policy issues in 1969.

Hawke, by contrast, was known to favour a tougher line with the Government and with employers over the repeal of the penal provisions. But his attraction to the Left resulted from far more than that. He was by the mid-sixties an advocate whose outstanding ability was acknowledged by both Right and Left.[138] He was still in his thirties, and he had a flair for public speaking and publicity that trade union officials were beginning to recognize as being of special importance now that television networks covered Australia. He was a declared Socialist who was able to draw on a wide range of talent among his friends to make his political doctrine attractive to younger trade unionists, and members of white collar unions.

At the same Executive Meeting as Albert Monk announced his retirement, Delegate Harradine[139] attacked Hawke for writing an article on wage policy which the employers used against the Tasmanian Trades and Labour Council in hearings before the Tasmanian Wages Board. Hawke defended himself to the Executive, and argued that in any case the claim Delegate Harradine put to the Tasmanian Wages Board was not based on A.C.T.U. policy. Delegate Gietzelt declared that Harradine's wage claim derived directly from the economic policy of the D.L.P. and the N.C.C., and moved a long motion censuring him which the Executive adopted in a slightly abridged form by nine votes to seven. The statement on which it was based read in part:

> The article itself, permission to write which was given by the President, clearly does not conflict with the A.C.T.U.'s wages policy . . . The action of Mr Harradine . . . in resorting to the Press for the purposes of making an attack on a fellow trade unionist and Research Officer of this body warrants the condemnation of the Trade Union Movement . . . The basis for the attack on Mr Hawke is so unfounded that the only conclusion to be drawn is that Mr Harradine deliberately chose to manufacture a public controversy to further his own purposes within the Labor Movement.[140]

Six months later, Congress elected Bob Hawke President of the A.C.T.U. by 399 votes to 350.

Blue and White Collar Unity?

In his speech of acceptance at the 1969 Congress, the newly elected President promised that his 'door would always be open to Left and Right alike'.He continued:

> My reference to unity in action leads me to remark on the vital importance of increasingly close co-operation with the white collar movement in this country.
>
> I give you my undertaking that I will at all times seek to establish an effective working partnership with our colleagues in this area.[141]

He repeated these remarks to a conference of the Australian Public Service Federation in Adelaide one month later.

In 1969, there were in Australia four Federal organizations of white collar unions: the Australian Public Service Federation (A.P.S.F.), the Professional Officers' Association (P.O.A.) the Australian Council of Salaried and Professional Associations, (A.C.S.P.A.), and the Council of Commonwealth Public Service Organisations (C.C.P.S.O.). The latter two had approximate memberships of 40,000 and 100,000 respectively.

C.C.P.S.O. had existed since 1921 and its origins even before that. Its affiliates were both blue and white collar unions with a majority or a substantial number of their members in the Commonwealth Public Service. Some of its affiliates were already members of the A.C.T.U., and to a lesser extent, this was also true of A.C.S.P.A.

A.C.S.P.A. was largely a product of changes in wage fixation practices in the 1950s and of the judgements of the Arbitration Court at that time. Until after the War it had been the usual practice to express white collar wages in 'all up' terms. During the early fifties the practice grew of considering white collar wages as made up of a basic wage plus margins, and for purposes of wage negotiations 'all up' wages were treated in this way. This meant that like the blue collar unions, the white collar unions were adversely affected by the decision of the Arbitration Court in 1953 to suspend quarterly adjustments to the Basic Wage. They were further hampered by the 1954 decision in the Metal Trades Award which expressly forbade flow-on from margins granted to white collar salaries. Their plight was aggravated by the impossibility in most cases of supplementing white collar salaries with over-award payment.[142]

As a result, some white collar unions attempted to organize more closely and to adopt blue collar practice in wage negotiations. Two white collar councils in Sydney and Melbourne joined together to form A.C.S.P.A. which was, in the words of one of its founders, clearly understood as 'a stepping stone towards closer blue collar association'. The C.C.P.S.O.'s major affiliate added to its staff G.W. Deverall, a former salaried officer of the Amalgamated Engineering Union. The next few years both C.C.P.S.O. and A.C.S.P.A. sought to have transferred to white collar salaries those margins increases which had been granted to blue collar workers.[143]

This brought them much closer to the A.C.T.U. in a working partnership, and in 1961 the closer association was formalised by the establishment of the National Council of National Employees Organizations made up of representatives of the A.C.T.U. and A.C.S.P.A. The three organizations worked together on other things beside the co-ordination of wage claims. Through the Council and informally they co-operated in the establishment of policy and the carrying out of campaigns for equal pay. They also worked out policy on automation and technological change.

This pragmatic process of closer co-operation seems to have been accompanied by a closer white collar identification with the working class. The expansion of the private tertiary sector and the Public Service meant that the average wage of white collar employees fell quite rapidly. White collar employment did not carry the same prestige value for the younger employees as it did for the older. Further, the increasing size of firms' operations and

the employment of larger numbers of white collar people increasingly weakened the traditional loyalties between white collar employees and their employer. Fear that computers might destroy the customary security of white collar employment had its first effects towards the end of the fifties. In 1958, bank employees struck for the first time in Australia.

But it is easy to overstate the effect of these events. New job opportunities in the fifties and sixties offset losses caused by the installation of computers. Economic expansion made it possible for large numbers of white collar employees to make real salary gains. As a whole, white collar employees remained reluctant to associate themselves closely with organizations of blue collar employees. They were particularly concerned that closer connection with the A.C.T.U. might commit their organizations to support for the Australian Labor Party.[144]

On the other hand, the A.C.T.U.'s officers and members of its affiliates had their own objections to closer association. Among affiliates there was some resentment for the more privileged 'fat cats' of the Public Service and the Public Sector. Some officials and members of the Executive feared that the influence of white collar unions on the A.C.T.U. would be conservative and restrictive. They also feared that it would be impossible for one organization to accommodate different approaches to the Total Wage, and in fact the A.C.T.U., A.C.S.P.A. and C.C.P.S.O. found it difficult to agree on a common form of application which would allow for both percentage increases and flat increases. This helps explain why, despite President Hawke's statements at the 1969 Congress, not a lot of progress was made in bringing the organizations closer together in the next few years.[145]

However, some things did happen. The A.C.T.U. requested and secured the inclusion of A.C.S.P.A. on the Ministry of Labour Advisory Council for discussions on penal provisions. In 1971 the A.C.T.U., in close consultation with the C.C.P.S.O., held meetings of its affiliates who had members in the Commonwealth Public Service to organize a campaign for the revision of the Commonwealth Employees' Compensation Act. The negotiations secured 'the best possible conditions from an anti-Labor government.'[146]

More rapid progress had to wait until the A.C.T.U. had come to terms with the consequences of the Total Wage judgement, and reached closer agreement with the two white collar organizations on the form the national wage claim was to take.

Policy Making and Economic Enterprise

Besides being interested in adapting the A.C.T.U.'s coverage to include changes in the nature of the workforce, the 1969 Executive was also concerned with expanding its political functions. Throughout the sixties there had been a steady expansion and sophistication of policy statements brought down by the Executive for Congress's endorsement. In general, this followed from the recruitment of an increasing number of officers. In particular it resulted from work done by Secretary Souter, Research Officer Hawke and

friends of the A.C.T.U. in the Public Service and the universities. Thus the A.C.T.U.'s economic policy had developed from something not much more than a collection of anti-Liberal Party slogans in the early 1950s to a complex statement of alternative economic management by 1969.

In 1971 Congress endorsed a social welfare policy which complemented the A.C.T.U.'s economic policy. It matched the economic policy in comprehensiveness and like it, drew upon international comparison and data drawn from a wide variety of sources. The same Congress also endorsed an education policy which considerably extended and enlarged the existing statement and applied the principle of compensatory education to Australian schooling conditions. Congress also approved a greatly extended policy on Aborigines which specifically pledged the A.C.T.U.'s endorsement of Aborigines' claim for land rights. By the time of the 1971 Congress the Executive had also formulated for the first time a policy on pollution and the environment.

Another new policy decided on by the Executive—and one which produced some very quick results—was to associate the A.C.T.U. with certain economic enterprises. On 18 November 1970 the Executive accepted in principle proposals put to it by Bourkes Pty Ltd, a Melbourne store which specialized in cut price retail trade. Bourkes proposed a partnership between itself and the A.C.T.U. in the operation of its store. The partnership was to last for five years during which time the A.C.T.U. was to share equally in the profits, although it would incur no liability. At the end of five years the A.C.T.U. was to have an option to buy; if its share of profits earned was not sufficient to allow it to buy out Bourke's ownership of the other half of the store, then there was to be an extension of five years to the A.C.T.U.'s option. The Executive resolved:

> We believe the participation by the A.C.T.U. in the retail trade in this manner will enable the trade union movement to take an effective part in protecting the interests of consumers, securing the setting of reasonable prices, and, in particular to take effective action to prevent the current practices of resale price maintenance and the refusal of supplies which are ruthlessly used against the interest of Australian consumers.[147]

What this meant in practice quickly became apparent. Soon after the A.C.T.U. entered into partnership with Bourkes, Dunlop Australia Ltd refused the store a range of goods covered by that company unless they were sold at the fixed price determined by Dunlop. A meeting of unions convened by the Melbourne Trades Hall Council on 17 March 1971, decided to impose a black ban on the supply of all goods to and from the Dunlop plant and subsidiaries in that group unless the company changed its policy. On 18 March the company announced that it had decided to do that; this meant that Bourkes was able to sell Dunlop's goods for 20 per cent less than the price that the company had previously enforced. A few weeks later the Liberal Government, which had been contemplating actions against retail price maintenance since 1964, introduced legislation which made it illegal.

The weakening of retail price maintenance was in line with the A.C.T.U.'s economic policy on increasing purchasing power. The Congress of 1971 decided it wanted to carry the principle further and resolved that it favoured:

> the principle of the A.C.T.U. entering directly into the consumer credit, insurance and housing fields of economic activity. This conviction is based upon the conviction reinforced by local and overseas experience that the trade union movement, motivated by a desire to provide goods and services at lowest possible prices consistent with the viability and growth of the enterprise, can make a significant contribution to raising the standard and quality of life of the Australian people.[148]

Congress approved of discussions between the Executive and the West German and the Israeli trade union movements for this purpose.

Vietnam, Apartheid, and Nuclear Testing

Equally as important as the adoption of new policies by the new Executive was its manner of applying some old ones. In 1965, the W.W.F. and the Seamen's Union had requested permission from the A.C.T.U. Executive to hold State or national stoppages in protest against the Australian Government's decision to send troops to Vietnam. President Monk ruled:

> The Executive is not supporting industrial stoppages as a protest against the Government's decision to send troops to Vietnam, or further industrial action to prevent passage of troops or conveyance of materials for use by Australian troops in South Vietnam.[149]

The Executive took a similar attitude towards the issue of conscription. It was prepared to express 'the strongest opposition to conscription for military service overseas in all the current circumstances' and to war in general, but it would not support industrial stoppages called to protest against conscription; instead it called on the Federal Government to hold a referendum on the question.[150]

The issue of loading supplies for Vietnam came up again in February 1967 when the Minister for Labour and National Service wrote to complain that a crew could not be obtained to load the ship *Boonaroo* with war supplies for Vietnam. The Executive met the maritime unions and stated that it could 'see no reason to change its decision of May 1965, not to support industrial action to prevent the conveyance of any material for use of or by Australian Armed Forces'. Congress endorsed the Executive's decision and resolved that it supported Labor Party policy on Vietnam. The Party was committed to end Australian participation in the war by withdrawing all armed forces and providing 'all forms of aid to restore damage done'.

Over the next two years public opinion in Australia changed and a draft proposal on defence policy which was submitted to the Executive meeting in November 1969 noted that:

> the force of world opinion has consistently hardened against the intervention of foreign powers in the internal affairs of Vietnam.

It went on to point out that demonstrations opposing the War supported the policies of the Australian Labor Party and the A.C.T.U.[151]

In these changed circumstances the W.W.F. again contacted the Executive about the possibility of preventing the supply of war materials to Vietnam by refusing to service or man the *Jeparit*. The Executive called a meeting of the unions concerned and this time was not so discouraging. To move the *Jeparit* the Government was compelled to commission her as a ship of the Royal Australian Navy.

The attitude of the Executive towards industrial action in protest against Apartheid changed even more. The A.C.T.U. had been concerned with the question of Apartheid even before it had begun evolving a policy on Vietnam. The 1963 Congress had resolved:

> This Congress is confident that if the voices and actions of those who demand an end to the inhuman situation in South Africa would join together both inside and outside the country the days of horror and racial oppression would be soon brought to an end in that country.[152]

Congress authorised the Executive to send protests to the Government of South Africa, to protest to the South African Consulate in Australia, to forward a message to the United Nations Secretary General and the I.L.O. calling for more practical steps to be taken against the Government of South Africa and to continue the consumer boycott of South African goods in accordance with the decision of the I.C.F.T.U.

Early in 1964 the W.W.F. asked the Executive to place a complete ban on the handling of South African cargo. The Executive refused and reiterated the 1963 policy of Congress. The Sydney branch of the W.W.F. then adopted a stoppage policy on ships carrying South African goods. The A.C.T.U. officers met with the Federal officers of the W.W.F. who agreed to conform with official A.C.T.U. policy. On 25 September the Executive announced a rejection of a further proposal by the W.W.F. to impose a black ban on all South African cargoes. The 1965 Congress endorsed the Executive's action and confirmed the policy of 1963.

The question of industrial stoppages in protest against the South African policy of Apartheid did not arise again until 1971. In that year the South African Rugby Union planned to send a touring team to play against Australian sides. The Executive restated the policy it had adopted in 1963 and confirmed in 1965, but this time it instructed the A.C.T.U. officers to put its policy before the Australian government and:

> to request the Government to inform the Government of South Africa that no team from that country would be received in Australia unless that team has been free to be chosen on a non-discriminatory racial basis . . .
> Should these representations prove unsuccessful, we advise our affiliated unions to take whatever action is necessary as an act of conscience on their part to withhold their services from any activities directly associated with these proposed tours . . .[153]

In all States the touring South African Rugby Union team visited, unions placed bans and limitations on services to them. In Sydney, unionists picketed the motel where the team was staying and at the Cricket Ground there were extensive demonstrations while the match was in play.

The New Zealand Federation of Labour (N.Z.F.O.L.) noted 'with pleasure' the A.C.T.U.'s decision on the visiting South African team and announced that it would follow a similar policy if a South African team chosen on a discriminatory racial basis were to visit New Zealand. It also joined with the A.C.T.U. in industrial action which protested against the testing of nuclear devices in the Pacific Region.

In 1963, the A.C.T.U. and the N.Z.F.O.L. had issued a joint statement which sought the help of the I.C.F.T.U. and the Governments of Australia and New Zealand in persuading France to sign the Nuclear Test Ban Treaty and refrain from testing atomic devices in the Pacific. These approaches were unsuccessful and France continued the programme of testing. In 1965, the A.C.T.U. received suggestions that unions take industrial action but did not act on them. It gave the matter no further consideration until 1972 when the Australian-New Zealand Trade Union Co-ordinating Council (A.N.Z.T.U.C.C.) held its inaugural meeting. The A.N.Z.T.U.C.C. repeated the requests that the A.C.T.U. and the N.Z.F.O.L. had made in 1963 and after, but this time it added:

> In the event of such representations being unsuccessful we ask the I.C.F.T.U. to call upon its affiliates to request their members to refrain from providing any services necessary to the carrying out of such testing.
> We indicate that if the French Government should decide to proceed, we will call upon our affiliated unions to act in this manner.[154]

In May, trade unions in New Zealand and Australia placed a black ban on all French ships and aircraft operating in those two countries as a protest against continuing French nuclear testing in the Pacific. The ban was accompanied by widespread protests against the test and was not called off until after the testing was completed.

The Left, the Right and 'Political' Strikes

The Executive's policy of using industrial action to give effect to its policies on foreign affairs drew strong criticism from the Government, the popular press, and the Right within the trade union movement. Their objections were summarized in Agenda Item 152 for the Congress of 1971, submitted by the Federated Clerks' Union:

> This Congress draws the attention of the A.C.T.U. Executive to the long-standing policy of the Trade Union Movement of support for the Parliamentary system of government and the view that whilst the Trade Union Movement has the right to influence governments upon legislation and executive action, it does not have the right to usurp these functions by direct action.
>
> It draws attention to the statements and actions of outside bodies and of some trade union officials seeking to commit the Trade Union Movement and

unions to a course of direct action, the aim of which is to deny to the Parliament and Governments of Australia, as elected by the people, the right while in office to carry out the functions of Government.

Attention is drawn to efforts by outside bodies to involve the Trade Union Movement and trade unions in a campaign of 'stop work to stop the war'. Certain unions are placing bans upon ships of countries because they don't favour the government in control. Others are proposing bans on sporting and cultural groups because of disagreement with the political system, politics or governments of the countries of origin . . .[155]

Congress did not discuss the motion owing to shortness of time, but its mover, J. Riordan, made it clear that his union stood by it nonetheless. His reference to 'outside bodies' was in particular a reference to the Communist Party.

From the mid-sixties, the Communist Party had begun to concern itself far more with 'political' as distinct from 'industrial' issues. The 1967 Congress of the Communist Party of Australia adopted a new constitution designed to facilitate greater rank-and-file influence in the working of the Party's decision-making bodies. In parallel, its industrial policy aimed at vigorous rank-and-file activity which would subvert bureaucratic control of trade unions and lead to more frequent intervention in political and social issues. Outside the trade union movement, the Party was to involve itself more directly in similar issues wherever they presented themselves.[156] Thus the Party devoted much of its resources to promoting women's liberation, Aboriginal land rights and conservation and doing what it could to end conscription, the Vietnam war and the testing of nuclear weapons. A large minority of Party members disagreed with the new policy, and among the strongest opponents of it were several trade union officials. Some of them did not take easily to working with university students and others outside the Party. They took the new emphasis on 'grass-roots activism' in trade unions as a criticism of their own competence, and were concerned that the 'Stop Work to Win the War' policy in particular would rupture some useful working alliances they had formed with the Right. They also considered that many of the 'political questions' were too advanced for working class organization in the current circumstances.[157] In their opinion this was also true of the campaign against the penal powers. The events that followed the imprisonment of Clarrie O'Shea proved that they were wrong about this; but the argument with the Party ended shortly afterwards because those who disagreed most with the new policies left to establish the Socialist Party of Australia (S.P.A.), Australia's third Communist Party.

The 1969 Executive's Wage Bargaining Policy

Any hopes the Communist Party had that the penal powers might continue to provide them with a basis for mass industrial political activity came to nothing. As with the other mass political questions the Party worked at, the A.C.T.U.'s policy was favourable enough. The 1969 Congress had decided that:

Should any action in respect of penalties be proposed or taken against any union or official, the Executive shall be called together immediately to determine the appropriate action which is to be taken on a National or State basis.[158]

No crisis occurred, because neither employers' organizations nor the Government attempted to make any determined use of the penal powers. In 1970, the Government amended the Conciliation and Arbitration Act in a way that made it much harder to have bans clauses inserted, or to prosecute once they had been. In practice, employers made little use of the amended procedures.

The Government also agreed to write off $38 000 from the $48 000 levied in fines before the amendment and remaining uncollected. Legal challenge and anonymous donation disposed of the balance. The only fines the Government insisted on collecting were those owed by some of the metal unions. Their payment, it insisted, was necessary before the organization could be legally amalgamated into the Amalgamated Metal Workers' Union, which in 1971 became Australia's largest.

Despite the generally conciliatory attitude of the employers' organizations and the Government, the A.C.T.U. did not abate its policy on abolishing penal clauses. It considered the 1970 amendments to the Act no substitute for their abolition.[159] The Government, on the other hand, would not repeal them. The A.C.T.U. could hardly take industrial action to force their abolition if they were not being applied, but it did have other means of persuading the Government to think again. It began to encourage collective bargaining as a supplement or an alternative to the formal procedures of conciliation and arbitration.

This tactic offered several advantages. Collective bargaining fitted in well with the general wages policy of the Left, and in the early seventies—times of full and over-full employment—it offered very substantial wage gains, especially to the more powerful unions. To the Commission and the Government, it served notice of increasing strike action, and the reduction of the Commission's control over the setting of wages.

There was nothing new about collective bargaining as such. Some unions had bargained collectively with employers for as long as there had been organizations of employers to bargain with. The arbitration system had accommodated itself to the practice by providing means whereby agreements reached privately could be registered and given force of law. Scores of unions—especially the larger and stronger bargainers—had taken advantage of the process.

The A.C.T.U. had not before concerned itself very much with bargaining outside the arbitration system. Most of its energy and resources had gone into the argument of the Basic and the National Wages, and into securing minimum standards for those unions which were not industrially strong. It had no intention of abandoning the arbitration system, for there were many unions which, 'for one reason or another [had] not got the capacity to obtain a reasonable remuneration by reliance upon direct negotiations. But there was a shift in emphasis.[160]

In April 1971, representatives of employers and employees on the National Labour Advisory Council issued a joint statement which announced that discussions should be held on the operation of the Conciliation and Arbitration Act which would include:

> The A.C.T.U. suggestion of the desirability of investigating the adoption of a system of voluntary agreements to regulate the relations between employers and unions outside the legislation, including, if desired by the parties, provisions for their enforcement.

The Executive agreed on procedures for dealing with industrial disputes outside of compulsory arbitration, noting that 'the ideal situation is one in which obligations between the parties are arrived at by agreement set out in written form'.[161]

The procedure discussed by the Executive had in fact been practised by it some time before. Early in 1970, the Waterside Workers' Federation began direct negotiations with the Stevedoring employers. They referred their dispute to the A.C.T.U.; President Hawke and Secretary Souter assisted directly in the negotiations. After a national stoppage of some days, the W.W.F., the A.C.T.U. and the employers agreed on a settlement which provided for a weekly pay increase of $6.50, an extra week's annual leave (making four in all) and a 17.5 per cent loading on annual leave pay. The Federation gave a written undertaking that it would not strike over these issues during the two-year currency of the Agreement.[162]

Commenting on the dispute and the Agreement at the 1971 Congress, the President said:

> There is no doubt that what was achieved in those negotiations set the pattern for subsequent negotiations successfully conducted by other sections of the Trade Union Movement with their Employers outside the Commission and subsequently for negotiations within the Commission.
>
> In other words, the Executive of the A.C.T.U. . . .pointed up the inadequacies of complete reliance on the Arbitration Commission. It indicated the need for action outside the Commission and it provided the initial leadership in giving effect to that policy.
>
> The Executive thereby set standards of achievement for the rest of the movement and as you know those standards of the $6.50, the extra week's annual leave, and the loading of annual leave became standards which were successfully pursued throughout industry.[163]

Industrial Action outside the Commission: the 35 Hour Week

Industrial action outside the Commission, conducted with the Executive's approval and support, achieved other objectives of A.C.T.U. policy. Congress had decided that the achievement of the 35 hour week was most urgent in coalmining, but throughout the sixties there had been no progress made in shortening weekly hours in that industry. Employment in coalmining in New South Wales dropped to 11 300 in 1964. From then, with the completion

of an increasing number of contracts with Japanese Steel manufacturers, employment rose until by December 1970 there were over 14 000 men working in the open-cut coal mines of New South Wales.[164]

In these circumstances, the Miners' Federation and the A.C.T.U. saw a real chance of securing the 35 hour week in coalmining. In February 1970, the Executive offered the Federation the assistance of its officers; in May it endorsed its plans for a State-wide stoppage and made arrangements to prevent the handling of coal at grass. In July, the Coal Industry Tribunal, noting that 'direct action in the form of strikes and threats of strikes rather than resort to arbitration was being used as the means for obtaining reduced ordinary hours for mine workers', gave judgement for the reduction of the standard working hours in coalmining to 35 hours.[165] The success of the Miners' Federation was followed by that of the W.W.F., which succeeded in negotiating a 35 hour week for some of its members who worked in container terminals.

But 35 hours was not to be obtained so readily in other industries, and negotiating large disputes on major issues outside the Commission raised the perennial question of control. The Oil Industry Dispute of 1972 produced a series of strains on relations between unions that were discussed with some sharpness at the Executive meeting in August.

The dispute began in March. The companies proposed reverting to pre-1970 conditions by agreement. The unions wanted a 35 hour week, an increase in wages and annual leave loading. Failure to reach agreement led to stoppages by the Metal Unions and an attempt by the Companies to make use of the new penal clause procedures. At the request of the unions, the A.C.T.U. took over the dispute in July, but the dispute was not settled until more than a month later. The unions got a substantial pay rise, and a 17.5 per cent leave loading; they did not get the 35 hour week.[166]

At the Executive meeting which reviewed the dispute, Delegate Marsh declared that the dispute would go down in history as the worst conducted for many years. Unions whose interests were seriously affected were never consulted and provisions for the supply of oil and petrol to essential services were practically non-existent. It was imperative that future disputes be controlled in accordance with the A.C.T.U.'s rules and procedures.[167]

Industrial Compromise

Delegate Marsh and other members of the Right were not happy with the industrial policies of the Executive, but neither were some sections of the Left. For Delegates Devereux and Clancy, the decisions of the Executive were not forceful enough, and did not give enough scope for mass action. They believed that the unions should serve demands on employers for the 35 hour week and if they were rejected, simply refuse to work more than 35 hours. They also argued that the correct form of protest against an adverse decision in the National Wage Case, and the appropriate form of campaigning to press unions' claims for a substantial increase in the National Wage, was

a 24 hour stoppage. The motions they put to the Executive along these lines were defeated.[168]

Despite the success of the Left at the Congress of 1969, sections of it had to accept compromise. In his address to the Congress of 1971, President Hawke said that there had been:

> a realisation that we as an Executive had a responsibility to arrive at decisions which would be both in the interest of the Trade Union Movement and most likely, in the form passed by us, to secure the approval of our affiliates . . . Now necessarily in the adoption of the approach there has been a preparedness to compromise, a word of which, if not applied to your basic principles, no one in this movement need be ashamed. Indeed, without a preparedness to compromise, all that one can envisage is the sterility of polarised camps, exhausting all their energies in hating one another, and leaving the employers and the Governments of this country free to exploit present and past wage earners without the effective protection of the functioning Trade Union Movement.[169]

The Oil Industry Dispute of 1972 demonstrated some of the difficulties involved in effecting such a compromise. By the time it was settled, another complication in the making of compromise was drawing near. For 23 years, the Commonwealth Government had been an anti-Labor Government. In December 1972, a Labor Government took office; its election would raise once more the problem of resolving the competing interests of the political and industrial wings of the labour movement.

Notes

1 *Labour Reports,* 1949; 1971.
2 ibid.
3 ibid.
4 Based on *A.C.T.U. Executive Report* figures, 1955; 1971.
5 Based on *A.C.T.U. Executive Reports* 1955, 1971, and *Official Year Book of Australia,* 1957, 1972.
6 Not to be confused with the A.C.T.U.'s Industry Groups.
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9 ibid.; R. Gollan, *Revolutionaries and Reformists: Communism and the Australian Labour Movement* 1920-1955, ANU Press, Canberra, 1975, p. 282.
10 Murray, op. cit., pp. 20-22.
11 D.W. Rawson, *Unions and Unionists in Australia,* Allen and Unwin, Sydney, 1978, p. 105.
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13 Statement by A.E. Monk on Bill to Dissolve Australian Communist Party, *A.C.T.U. Special Congress Minutes,* 1950.
14 ibid.
15 *A.C.T.U. Interstate Executive Minutes,* 7 September 1950.
16 ibid.
17 *A.C.T.U. Congress Minutes,* 1951.
18 A.E. Monk Report to 1949 Congress, *A.C.T.U. Congress Minutes,* 1949.
19 *A.C.T.U. Congress Minutes,* 1951.

20 *A.C.T.U. Executive Report,* 1953.
21 *A.C.T.U. Interstate Executive Minutes,* 8 September 1950.
22 *A.C.T.U. Congress Minutes,* 1949.
23 *A.C.T.U. Executive Report,* 1951.
24 *Miners' Federation Information Bulletin,* no. 4, 1951.
25 *A.C.T.U. Interstate Executive,* 7 February 1951.
26 *A.C.T.U. Interstate Executive Minutes,* 7 February 1951.
27 *A.C.T.U. Executive Report,* 1951.
28 *Miners' Federation Information Bulletin,* no. 6, 1951.
29 *A.C.T.U. Executive Report,* 1951.
30 *Labour Report,* 1949, p. 123; *Official Year Book of the Commonwealth of Australia,* 1953.
31 See *'The A.C.T.U., The Court and the Commission',* Part Two, 1927-49
32 *A.C.T.U. Federal Unions Conference Minutes,* 28 February 1950.
33 *A.C.T.U. Emergency Committee Minutes,* 17 March 1950.
34 See p. 289.
35 *Federal Unions Conference Minutes,* 8 February 1952.
36 The membership of the A.S.E. is doubtful, based on correspondence with A.M.W.S.U.
37 *A.C.T.U. Interstate Executive Minutes,* 4 March 1952.
38 See p. 319.
39 H. Bland, Interview, 7 May 1979.
40 *A.C.T.U. Interstate Executive Minutes,* 16 March 1951.
41 J. Garland, Interview, 22 July 1979.
42 For details see *'The Unions and the A.C.T.U.'* Part Three; 1949-72
43 *A.C.T.U. Congress Minutes,* 1951.
44 ibid., 1952.
45 See *'Context',* Part Three.
46 Rawson, op. cit., p. 214.
47 A.L.P. Federal Conference 1955, quoted in Murray, op. cit., p. 229.
48 For a discussion of the Industrial Groups and the Movement, see Murray, op. cit.; Rawson, op. cit.
49 ibid.
50 *Guardian,* 3 April 1949.
51 See *'The Unions and the A.C.T.U.'* Part Two, 1927-49.
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53 H.E. Weiner, 'The Reduction of Communist Power in Australian Trade Unions', *Political Science Quarterly,* vol. 69, September 1954, p. 409.
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57 *A.C.T.U. Interstate Executive Minutes,* 5 March 1952.
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59 ibid.
60 *A.C.T.U. Federal Unions Conference Minutes,* 2 May 1955.
61 *A.C.T.U. Congress Minutes,* 1953.
62 *A.C.T.U. Interstate Executive Minutes,* 17 September 1957.
63 *A.C.T.U. Congress Minutes,* 1957.
64 *Official Year Book of the Commonwealth of Australia,* 1957, p. 197.
65 See Appendix.
66 Murray, op. cit., p. 18.
67 ibid., pp. 336-337.
68 *News Weekly,* 4 April 1973.
69 Murray, op. cit., p. 354.
70 *News Weekly,* 4 April 1973.
71 Statement of the 81 Parties Meeting, Sydney, 1960.
72 *A.C.T.U. Executive Report,* 1961.
73 *A.C.T.U. Congress Minutes,* 1959.

74 *A.C.T.U. Executive Minutes,* 24 October 1960; 15 February 1961.
75 *News Weekly,* 4 April 1973.
76 *A.C.T.U. Congress Minutes,* 1961.
77 Pat Clancy, Interviews, 1979.
78 *A.C.T.U. Congress Minutes,* 1963.
79 *A.C.T.U. Executive Minutes,* 6 September 1963.
80 C. Dolan, Interview, 12 September 1979.
81 E. Williams, A.W.U. President, at A.W.U. Annual Conference, *The Worker,* 22 February 1967.
82 *The Worker,* 26 February 1966.
83 *A.C.T.U. Executive Minutes,* 27 February 1967.
84 *A.C.T.U. Congress Minutes,* 1965.
85 *A.C.T.U. Executive Minutes,* 25 August 1958.
86 *A.C.T.U. Congress Minutes,* 1959.
87 *A.C.T.U. Federal Unions Conference Minutes,* November 1962.
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90 ibid, 1955.
91 ibid., 1961.
92 *A.C.T.U. Executive Minutes,* 9 July 1964.
93 *A.C.T.U. Congress Minutes,* 1955.
94 ibid., 1957.
95 For example, Delegate Short, *A.C.T.U. Congress Minutes,* 1955.
96 For example, Delegate Riordan, *A.C.T.U. Executive Minutes,* 7-8 July 1965.
97 *A.C.T.U. Executive Minutes,* 9 August 1964.
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99 For example, Delegates Wright (Sheet Metal) and Cameron (Miscellaneous) Congress 1957; Docker (W.W.F.) and Brown (A.R.U.) Congress 1961; Docker (W.W.F.) and Malone (Builders' Labourers) Congress 1963; Bevan (Boilermakers) and Wright (Sheet Metal) Congress 1965.
100 *A.C.T.U. Executive Minutes,* 9 August 1964; *A.C.T.U. Congress Minutes,* 1963.
101 *A.C.T.U. Congress Minutes,* 1959.
102 ibid., 1957.
103 *Joint Coal Board Annual Report,* 1960-61.
104 ibid.
105 *A.C.T.U. Congress Minutes,* 1959.
106 *A.C.T.U. Executive Minutes,* 9 February 1961; 4 July 1962.
107 ibid., 22 March; 29 October 1962.
108 ibid., 2 May 1963.
109 ibid., 29 October 1962.
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112 National Conference on Problems in the Stevedoring Industry: Report of the Working Party, quoted in *A.C.T.U. Executive Report,* 1963.
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117 *A.C.T.U. Executive Report,* 1963.
118 ibid., 1965.
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120 ibid.
121 *A.C.T.U. Executive Minutes,* 24 November 1966.
122 ibid., 28 September 1966.
123 *Labour Reports,* 1967; 1969.
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127 No Date—approximately January 1968.
128 See forward p. 128.
129 *A.C.T.U. Executive Minutes,* 20 February 1968.
130 *A.C.T.U. Industrial Disputes Committee Minutes,* 13 February 1968.
131 *A.C.T.U. Executive Minutes,* 22 February 1968; A.C.T.U. Executive Statement, 23 February 1968.
132 See forward p. 128.
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134 ibid., 21 May 1969.
135 ibid., 30 November; 13 December 1967; 21 February; 7 May; 7 August 1968.
136 ibid., 17 March 1969.
137 ibid., 4 March 1966.
138 See forward p. 294.
139 See p. 255.
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141 *A.C.T.U. Congress Minutes,* 1969.
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143 ibid.
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147 *A.C.T.U. Executive Minutes,* 18 November 1970.
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150 ibid., 29 August-2 September 1966.
151 ibid., 17-21 November 1969.
152 *A.C.T.U. Congress Minutes,* 1963.
153 *A.C.T.U. Executive Report,* 1965.
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156 W. Higgins, 'Restructuring Australian Communism', in *The Socialist Register,* 1974.
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158 *A.C.T.U. Congress Minutes,* 1969.
159 ibid., 1971; See p. 000.
160 R.J. Hawke, A.C.T.U. President, Address to A.C.T.U. Congress, 1971.
161 *A.C.T.U. Executive Report,* 1971.
162 Memorandum of Agreement, 7 April 1970, included in *A.C.T.U. Executive Minutes,* 18 May 1970.
163 R.J. Hawke, A.C.T.U. President, Address to A.C.T.U. Congress, 1971.
164 Joint Coal Board, *Annual Report,* 1970-71.
165 *A.C.T.U. Executive Minutes,* 27 February; 19 May 1970; Coal Industry Tribunal Judgement Number 67 of 1970.
166 *A.C.T.U. Executive Minutes,* 21 August 1972.
167 ibid.
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169 R.J. Hawke, A.C.T.U. President, Address to A.C.T.U. Congress, 1971.

In deciding to withdraw from the M.L.A.C., the majority of the members favouring such a withdrawal were actuated by several different factors. These factors were:
1 It is considered that the time had (sic) arrived for a bold political front to be presented to the Menzies-Fadden Government with a view to the return of a Labor Government at the next Federal election.
2 That the Federal Government had failed to take adequate necessary steps to deal with the growing unemployment problem.
3 It failed to deal with the housing problem and ensure sufficient finance being made available for a comprehensive home building programme.
4 That the work of the Council was not of a nature that brought direct material benefits to the Trade Union Movement, and that many of the questions discussed, and papers presented for the consideration of the Council, by the Department of Labour and National Service, were of an academic nature.[22]

The A.C.T.U. withdrew from the M.L.A.C. but the Government did not disband the Committee and consultation between the A.C.T.U. and the Government did not cease. If anything, the contact between Albert Monk and Harold Holt became more frequent. When William McMahon succeeded Holt, the association between President and Minister became even closer. McMahon, as a new man in the portfolio, insisted on consulting Monk before he made any major decision.

Despite this McMahon was a deterrent to the A.C.T.U. resuming representation on M.L.A.C. Members of the Executive—and others as well—believed that he could not keep a confidence, and that if trade unions ever discussed anything seriously with him, the information they supplied would soon be public property. The replacement of McMahon by Leslie Bury in January 1966 removed this objection, and strengthened the position of those members of the Executive who believed that the A.C.T.U. should rejoin.

Meanwhile, in accordance with the I.L.O.'s principle of tripartism the Government had continued to invite the A.C.T.U. to resume membership. After Leslie Bury became Minister, the A.C.T.U. officers began discussions with the Department of Labour and National Service on the principles that should be observed in establishing an advisory body which would succeed M.L.A.C. The Government agreed that the A.C.T.U. should have full right of appointment or withdrawal of its representatives. It also agreed that the Minister should not comment in Parliament on proceedings.[23]

The problem of implementing its policy on automation provided the A.C.T.U. with a reason for again sending representatives to a Ministerial advisory body. Congress had first endorsed the policy on automation in 1957. In 1959, it endorsed the Executive's decision of October 1958:

> We are of the opinion that there is a need for a section of the Commonwealth Deparment of Labour and National Service to be established as a permanent organization, equipped to deal with the effects of automation and mechanisation and to co-ordinate remedial measures that must be taken to replace labour, and overcome the social problems involved.

Congress added:

> The principle which should be pursued is the establishment of an Advisory Committee, consisting of representatives of the Trade Union Movement, employers' organizations and the Federal and State government, and when problems concerning any particular industry are involved, representatives from that industry on an employer and employee basis should be co-opted.[24]

Subsequent Congresses endorsed similar motions.

In May 1966, the Executive authorized a deputation to the new Minister for Labour and National Service to put the A.C.T.U.'s policy on automation to him. He replied that the Department had already conducted considerable research into automation and its effects and announced the establishment of a special section which would carry this work further and study the methods of coping with 'associated employment changes'.[25]

On the establishment of a special tripartite committee, the Minister wrote the Executive a letter which it considered at its meeting in March 1967. The Minister's letter suggested that the proper way for the A.C.T.U. to handle the problem was for it to rejoin M.L.A.C. In May, the Executive agreed to rejoin in principle, subject to satisfactory arrangements being made concerning constitution, agenda, and procedure.In August it accepted the Minister's terms for rejoining, and M.L.A.C. was reborn as the National Labour Advisory Committee (N.L.A.C.).[26]

Penal Sanctions and the Amendment of the Conciliation and Arbitration Act

In its dealings with the Government the A.C.T.U.soon became concerned not so much with the implementation of its policy on automation as with the abolition of the penal clauses of the Conciliation and Arbitration Act. The 'Absorption Battle' of 1967 had led to members of the M.T.I.A. making as much use of the penal clauses as they could. The gaoling of Clarrie O'Shea for contempt in May 1969, revived the issue in dramatic terms.[27]

Every A.C.T.U. Congress from the mid-fifties to the early seventies discussed penal sanctions and their use by employers. Successive Congresses argued against them in the same way. The right to strike was a fundamental right; the imposition of penal sanctions was contrary to the terms of I.L.O. Conventions; even when unions were successful in defending their awards against the insertion of a bans clause, the legal costs of the defence could cripple the union's finances; and the Government's maintenance of penal clauses in the Conciliation and Arbitration Act denied equality before the law. The 1971 Congress elaborated this last argument:

> We say that these penalties are immoral in that they constitute a double standard which operates against wage and salary earners and their unions. Workers and their organizations are concerned with selling labour. The buyers of this labour are employers who must recognise the human dignity of the workers. As sellers we desire to obtain that price which represents a proper return for skills, talents and energies which we wish to sell. That position is not only allowed to all other sellers in the Australian market economy:it is the fundamental article of faith of the buyers of our labour . . .

> The Government shares this article of faith with employers in their capacity as sellers–but it does not extend the same right to us. It denies that right by imposing discriminatory penalties upon us. This double standard can have no moral justification . . .[28]

Successive Congresses resolved that the penal sanction clauses should be repealed and that unions should not pay any fines imposed on them as a result of proceedings under the penal clauses.

Although the penal clauses had been in the Act since 1947, employers made no sustained or co-ordinated use of them until the end of the fifties. Then from 1959 to 1963, their action resulted in the levying of 100 fines to total value of £30 710. In the single year, 1964, employers succeeded in having the Industrial Court impose fines that almost equalled that amount.[29]

In April 1964, the A.C.T.U. Executive convened a Federal Unions' Conference which requested the Executive to arrange a deputation to the Prime Minister to put the A.C.T.U.'s policy on penal clauses. The deputation was unsuccessful but the Minister for Labour and National Service announced that the Government was prepared to amend the Conciliation and Arbitration Act,[30] by adding Section 109A which provided that before the Industrial Court could commence the hearing of an application to enjoin an organization or person from committing a breach of an award, it had to be satisfied that certain conditions had been fulfilled. A commissioner or a presidential member of the Commission had to be notified that a breach was likely to occur and 14 days or more had to elapse after the notification was made.[31]

This provision did have the effect of reducing for a while the number of actions taken against unions under the penal clauses. But it left a loophole. Orders made under Section 109 still operated and some of them had been made for a number of years. Many employers therefore had no need to proceed by way of Section 109A. Hence they were as free as they had ever been to have the unions fined, and the Absorption Battle of 1967 and its aftermath provided them with an occasion.[32]

After the gaoling and release of O'Shea,[33] the A.C.T.U. joined a Working Party on the amendment of the Conciliation and Arbitration Act set up by the Department of Labour and National Service. The Working Party's discussions were the first of a long and complex series which involved the A.C.T.U., the Minister for Labour and National Service, the Attorney-General, and the National Employers' Policy Committee. These discussions had three results: the amendment of the penal clauses of the Conciliation and Arbitration Act in 1970, the adoption of a document on procedures for the settlement of disputes by the A.C.T.U. and the N.E.P.C., and an overhaul of the Conciliation and Arbitration Act in 1972.

The amendments to the Conciliation and Arbitration Act in 1970, involved the repeal of Section 109A and the amendments of Sections 109 and 111. The Government also inserted into the Act two new Sections, 32A and 33A.

Amendments to Section 109 meant that in effect it was no longer possible to proceed for contempt as a result of breach of a bans clause in an award. Section 109 retained provisions for penalizing breaches of the Act, but these were more specific in their operation and less severe in the penalties they provided. Section 33A provided that a bans clause applied for under Section 32A could only be inserted in an award, or deleted or varied by a presidential member of the Commission who had to inquire into the case to see whether circumstances merited its insertion. Enforcement of the clause also required the decision of a Presidential member.

These amendments made it far more difficult for employers to get bans clauses either inserted or enforced. They also had another effect. Employers who sought the insertion of bans clauses found that hearings before a Full Bench opened up the possibility of unions arguing a case for wage increases and that in practice they were 'always under pressure to concede something'.[34] Employers made very sparing use of bans procedures in the early seventies, despite a rapid increase in the number of days not worked by strikes. There was no further *cause celebre* like the Absorption Battle or the gaoling of O'Shea.

The second result of the discussions was agreement between the A.C.T.U. and the N.E.P.C. on dispute settling procedures. The Department of Labour and National Service and the Department of the Attorney-General together drew up a draft document which outlined procedures which might, if adopted, settle:

> disputes which might otherwise lead to direct action . . . without there being any occasion for resort to the sanctions of the Act as they now stand or in whatever form they might take in the event of the Act being amended.[35]

Employers and unions which were prepared to observe the principles in resolving industrial disputes might consider having them incorporated in their awards. The A.C.T.U. Executive endorsed the procedures in May 1970.

The Government's reasoning seems to have resulted from its acceptance that nothing would prevent unions (encouraged by the A.C.T.U.) from moving away from formal conciliation and arbitration processes towards collective bargaining. The best thing it could do, if it wished to keep as much control as possible over wage fixing, was to regulate the process. Guided encouragement of this kind also offered a way of avoiding the serious disputes which application of the penal clauses, even in their weakened form, might provoke. The Government was not prepared to remove penal clauses completely from the Act, as the A.C.T.U. wished. But given the changed leadership of the A.C.T.U., the stronger bargaining position of the unions and its own political insecurity, the Government was not prepared to make an issue of retaining them.

By 1971, however, it was prepared to attempt to amend the Conciliation and Arbitration Act in such a way as to weaken the unions' capacity to bargain. Like its predecessor, the McMahon Government believed that inflation resulted from rising wages. It seems to have been determined to