

**“It was all about the working class”:  
Norm Gallagher, the BLF and the  
Australian Labor Movement**

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### **Doctor of Philosophy Declaration**

“I, Aidan Moore, declare that the PhD thesis entitled ‘It was all about the working class’: Norm Gallagher, the BLF and the Australian Labor movement, is no more than 100,000 words in length including quotes and exclusive of tables, figures, appendices, bibliography, references and footnotes. This thesis contains no material that has been submitted previously, in whole or in part, for the award of any other degree or diploma. Except where otherwise indicated, this thesis is my own work”.

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## **Abstract**

The deregistration and dismemberment of the Builders Labourers' Federation (BLF), which was executed by Federal and State Labor Governments, was one of the most significant events in Australian industrial relations history. The union and its general secretary, Norm Gallagher, continue to excite passionate debate whenever their names are invoked. Portrayed as the ugly face of trade unionism, Gallagher and the BLF provided national and state Labor Party reformers with a timely mechanism through which they could both assert their dominance over the Party and broaden its electoral appeal. This thesis incorporates BLF activities into the larger story of Labor Party transmutation that occurred between the 1960s and 1980s. By examining these shifts in the Labor Party through the prisms of Gallagher and the BLF, we can better understand Labor's decision to deregister and ultimately destroy the union. The thesis argues that the trajectories taken by the BLF and the ALP were sufficiently divergent that conflict was inevitable. Drawing on a range of key sources, this thesis provides a new assessment of BLF deregistration, the schisms it opened up within both the Labor Party and Conservative interests, and the way in which destruction of a union represented a critical moment in Australian political and industrial history.

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## **List of Abbreviations**

ABC	Australian Broadcasting Commission
ABCE&BLF	Australian Building Construction Employees' and Builders Labourers' Federation
ABS	Australian Bureau of Statistics
ACTU	Australian Congress of Trade Unions
ADF	Australian Defence Force
AEU	Amalgamated Engineering Union
AFCC	Australian Federation of Construction Contractors
AIFS	Australian Institute of Family Studies
ALP	Australian Labor Party
AMP	Australian Paper Mills
AMWSU	Amalgamated Metal Workers and Shipwrights Union
AMWU	Formerly, Amalgamated Metal Workers Union (later, the Australian Manufacturing Workers Union)
ANZAS	Australia and New Zealand Association for the advancement of Science
ARU	Australian Railways Union
ASC&J	Amalgamated Society of Carpenters and Joiners
ASIO	Australian Security Intelligence Organisation
ATUA	Australian Trade Union Archive
AWU	Australian Workers Union
BLF	Builders Labourers' Federation
BWIU	Building Workers Industrial Union
CDRHWU	Coastal Dock Rivers & Harbour Workers Union of West Australia
CFMEU	Construction, Forestry, Mining and Energy Union
CPA	Communist Party of Australia
CPA-ML	Communist Party of Australia (Marxist-Leninist)
CPSU	Communist Party of the Soviet Union
DLP	Democratic Labor Party
DOGS	Defence of Government Schools
EMG	East Melbourne Group
EPA	Environment Protection Authority

EPT	Electric Power Transmission Pty Ltd
EYL	Eureka Youth League
FCU	Federated Clerks Union of Australia
FEDFA	Federated Engine Drivers and Firemen's Association
FIA	Federated Ironworkers Association
FPLP	Federal Parliamentary Labor Party
ICAL	International Combustion Australia Limited
ICI	Imperial Chemical Industries
ILO	International Labor Organisation
IRB	Industrial Relations Bureau
MBA	Master Builders Association
MBAA	Master Builders Association of Australia
MBAV	Master Builders Association of Victoria
MBFA	Master Builders Federation of Australia
MCC	Melbourne Cricket Club
MCG	Melbourne Cricket Ground
MTIA	Metal Trades Industry Association
NBAC	Noel Butlin Archive Centre
NCC	National Civic Council
NLF	National Liberation Front (South Vietnam)
NSW BLF	New South Wales Builders Labourers' Federation
NSW MBA	New South Wales Master Builders Association
NSW TLC	New South Wales Trades and Labor Council
OPDU	Operative Painters and Decorators Union of Australia
OPEC	Organisation of Petroleum Exporting Countries
PGEU	Plumbers and Gasfitters Employees Union
PLP	Parliamentary Labor Party
PROV	Public Records Office Victoria
SBS	Special Broadcasting Service
SDA	Shop Distributive and Allied Employees' Association
SECV	State Electricity Commission of Victoria
SEQEB	South East Queensland Electricity Board
SPA	Socialist Party of Australia

SUA	Seamen's Union of Australia
TUDC	Trade Union Defence Committee (Victoria)
TWU	Transport Workers Union
UAP	United Australia Party
VBIA	Victorian Building Industry Agreement
VCE	Victorian Central Executive (Labor Party)
VPD	Victorian Parliamentary Debates
VTHC	Victorian Trades Hall Council
WWF	Waterside Workers' Federation
YCW	Young Christian Workers



## Chapter One

### Introduction

On 20 August 1981, the Federal and Victorian Conservative Governments of Malcolm Fraser and Lindsay Thompson announced a joint Royal Commission into the affairs of the Building Construction Employees and Builders Labourers Federation (ABCE&BLF), or BLF,<sup>1</sup> as the union was more commonly known.<sup>2</sup> Allegations that the general secretary, Norm Gallagher, had received secret commissions in the form of labour and materials for a holiday home that he was building at McLaughlins Beach, Victoria, provided the *raison d'être* for the inquiry. Pre-empting any findings the Royal Commission might make, Prime Minister Fraser formally commenced what John Cain suggested were 'half-baked deregistration proceedings' against the BLF.<sup>3</sup>

First mooted in February 1981, Fraser's deregistration efforts had been hampered by Liberal Party in-fighting and a paucity of support from employers, for whom an industry free of Gallagher and the BLF might have been an obvious choice.<sup>4</sup> But in running deregistration and Royal Commission actions simultaneously from late-September 1981, Fraser and Thompson hoped both to reinvigorate employer support for their anti-union measures and to amplify the conflict and confusion that such an overlap would produce.<sup>5</sup>

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<sup>1</sup> Except where direct quotes record the name of the union differently, this thesis will use Australian English spelling when referring to the Builders Labourers' Union. The thesis will also refer to the union in terms that ascribe ownership to the labourers, rather than the builders who employed them. The exception will be where direct quotes ascribe ownership to the employers, as in Builders' Labourers Union, or to both, as in Builders' Labourers' Union. When referring to labourers employed by builders, the term used in this thesis will be builders' labourers, or simply labourers.

<sup>2</sup> *Age*, 21 August 1981, p.15; Brian Boyd, *Inside the BLF: a union self-destructs*, Melbourne: Ocean Press, 1991, p.31; John Cain, *John Cain's Years: Power, Parties and Politics*, Melbourne: Melbourne University Press, 1995, p.119. Cain identified the Royal Commission as being instigated in Victoria by the Government of Rupert Hamer. However, Hamer had been replaced as Premier by Lindsay Thompson on 5 June 1981. The decision to hold a Royal Commission may have been made during Hamer's premiership, but was in fact implemented under Thompson.

<sup>3</sup> Cain, *John Cain's Years*, p.119.

<sup>4</sup> For plans to deregister the BLF, see for example, *Age*, 17 February 1981, p.1; *Bulletin*, 17 February 1981, p.22. For the Liberal Party in-fighting and lack of employer enthusiasm that undermined Fraser's attack on the BLF, see Chapter Nine of this thesis.

<sup>5</sup> John Cain, 'The Builders Labourers' Federation – Unions and Government', Unpublished Diary Notes, p.8.

Whilst supportive of Fraser's attack, media outlets such as the *Age* newspaper nevertheless acknowledged that it was cynical, politically-motivated and calculated to boost the Federal Government's flagging electoral stocks.<sup>6</sup> Not even right-wing academic, Frank Knopfelmacher, could condone such actions. He used the letters section of the same newspaper to describe the manoeuvre as a straight-out case of union-bashing.<sup>7</sup> The BLF was being punished, Knopfelmacher insisted, because it had proven too able to 'protect the honor and dignity of the blue-collar strata against [the] social disprivilege and offensive snobberies' that impinged upon them from 'above', and because Gallagher threatened to 'extract the maximum amount of profit' for his members' labour.<sup>8</sup> Knopfelmacher's views resonated with rank-and-file members of the BLF. A concrete finisher and unionist of 25-years standing captured the mood when he stated: 'If they're putting this much [effort] into having a go at us, we must have been doing something right'.<sup>9</sup>

The broader labor movement response was more ambiguous. Somewhat determined along state lines, support for the BLF was strongest in Gallagher's home state of Victoria, and weakest in New South Wales (NSW), where his mid-1970s takeover of the BLF branch had caused serious consternation. In Victoria, those union leaders most committed to Australia's system of arbitration and conciliation had least reason to applaud BLF militancy and Gallagher's uncompromising style. For them, every BLF success was a double-edged sword: their members benefited from and revelled in the gains that builders' labourers made, yet had naturally to ask why it was that their own officials left all or most of the running to Gallagher and his comrades. But if Victorian union leaders harboured resentments towards the BLF and its militant leader – because, for example, arbitration offered a safer, though less rewarding route to incremental wage gains – their enmity was constrained both by the pro-BLF sentiments of their members, and by the viciousness of Fraser and Thompson's assault.

As an open letter penned by Building Workers Industrial Union (BWIU) organiser, Allen Sargent, implied, it was really only when federal and state Labor

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<sup>6</sup> *Age*, 18 February 1981, p.13.

<sup>7</sup> *Age*, 5 March 1981, p.12.

<sup>8</sup> *Ibid.*

<sup>9</sup> *The B.L.* No. 3, March 1981, p.7.

governments took up the cudgels of deregistration that Victorian resistance began to falter and rival union leaders began to override the wishes of their members. Writing in July 1986 – three months after federal and state Labor governments had finally destroyed the BLF in Victoria, NSW and the ACT – Sargent accused the Cain administration of being ‘anti-union’ and ‘anti-worker’ and of having sacrificed the BLF on the altar of electoral popularity. But in making those allegations, Sargent also accused his superiors at the BWIU of aiding and abetting the destruction of a brother union, and of participating in the lowest form of class collaboration.<sup>10</sup>

NSW provided a sharp point of contrast – one that did not hinge on the election of Labor governments, but which was pronounced even as Fraser and Thompson sharpened their swords. In that state, the Australian Workers’ Union (AWU) and the Federated Ironworkers’ Association (FIA) succeeded in having the BLF expelled from the Trades and Labor Council (TLC).<sup>11</sup> Speakers for expulsion – the first in the Council’s 100-year history – tacitly acknowledged the support they were giving both to Fraser’s deregistration action and to the joint federal and Victorian Royal Commission.<sup>12</sup> That was in August 1981. The following month, TLC members unanimously supported AWU/FIA calls to have BLF affiliation with the Australian Congress of Trade Unions (ACTU) suspended.<sup>13</sup> Whilst the national body balked at the suggestion, the vote that had seen the BLF expelled from the NSW TLC – 217 in favour of suspension; 56 against – nevertheless demonstrated just how anathematic unionists in that state found Gallagher and the BLF.<sup>14</sup>

In NSW, hostility towards the BLF turned on at least two axes. Gallagher’s takeover of the NSW branch of his union and the ruthless manner in which he deposed Jack Munday, Joe Owens and Bob Pringle, had led many on the Left to regard him with contempt. It was a situation that Munday was particularly able and willing to inflame

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<sup>10</sup> Sargent’s letter may have applied to deregistration as it occurred under Labor governments, but the point is no less well made that, accepting, assisting or benefiting from the destruction of a brother union was against every principle of the trade union movement. See, *Fight Back*, national newsletter of the ABCE&BLF, Vol.3, July/August 1986, pp.22-4, in Harry Karslake papers, University of Melbourne Archives, Box 7. (Hereafter, Karslake papers)

<sup>11</sup> *Sydney Morning Herald*, 28 August 1981, p.1.

<sup>12</sup> Ibid.

<sup>13</sup> *Age*, 25 September 1981, p.1.

<sup>14</sup> *Sydney Morning Herald*, 28 August 1981, p.2.

relentlessly, and one that grew to incorporate Steve Black – a loyal Gallagher supporter, who had risen to lead the NSW BLF into the 1980s. But if the anger generated by Gallagher's unscrupulous action – he was accused of acting under licence from and with the financial backing of the NSW Master Builders Association (NSW MBA) – was to some degree justified, it was an antagonism that was somewhat confused.

Angered by the massive loss of earnings that stemmed from BLF-imposed green ban actions – the pretext on which Gallagher moved into NSW – unionists to the Left and Right of the political spectrum had done relatively little to defend the NSW BLF from federal intervention.<sup>15</sup> But the passage of time and a growing awareness of environmental issues had, by the early 1980s, caused many left-wingers in particular to regard Munday, Owens and Pringle not only as victims of Gallagher's supposedly treacherous action, but indeed as industrial, political and ecological heroes.

Those opinions are not in dispute insofar as this thesis is concerned. The efforts that Munday, Owens, Pringle and other NSW BLF members and officials made to protect Sydney's ecological and historical integrity are beyond reproach, as are their achievements in rescuing their branch of the union from the clutches of gangsters and right-wing forces.<sup>16</sup> Similarly irreproachable are the attempts that Munday and Owens made to break the shackles of conservative trade unionism and thereby provide workers with greater opportunities, both to shape the societies in which they lived, and to share in the wealth that they produced. Gallagher's takeover of the NSW branch and the manner in which it was resisted by forces loyal to Munday, Owens and Pringle will not be recapitulated in this thesis. That aspect of BLF history has been well documented elsewhere.<sup>17</sup> But it is arguable that in NSW, at least, left-wing hostility towards Fraser's

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<sup>15</sup> At their peak, BLF-imposed Green Bans led to the cancellation or deferral of upwards of \$3 billion worth of developments in NSW, most particularly in Sydney. See for example, Liz Ross, *Dare to Struggle, Dare to Win!: Builders Labourers fight deregistration, 1981-94*, Melbourne: The Vulgar Press, 2004, p.169.

<sup>16</sup> For defeat of the Right in the NSW BLF, see for example, Paul True, *Tales of the BLF...Rolling the Right! The battle of the Builders Labourers Rank and File in New South Wales, 1951-1964*, Parramatta, NSW: Militant International Publications, 1995; Jack Munday, *Green Bans & Beyond*, Sydney: Angus & Robertson Publishers, 1981.

<sup>17</sup> See for example, Jack Munday, *Green Bans & Beyond*, Sydney: Angus & Robertson, 1981; Meredith Burgmann & Verity Burgmann, *Green Bans, Red Union: Environmental Activism and the NSW Builders Labourers' Federation*, Sydney: UNSW Press, 1998.

anti-BLF measures was greatly tempered by memories of what had happened in the mid-1970s, and by Munday's ability to articulate a pro-NSW/anti-Gallagher narrative.<sup>18</sup>

Right wing elements of the labor movement had other reasons to loathe Gallagher and the BLF. That enmity was fiercest in NSW and most clearly evident where unions such as the FIA and the AWU were concerned. But whilst NSW was home to some of Gallagher's most ferocious enemies, it was in Victoria that many of the greatest battles involving Gallagher, the BLF and their industrial and political rivals in the FIA and the AWU were fought. Indeed, as Chapters Six and Seven of this thesis will demonstrate, it was at the giant Loy Yang power station and the Omega navigational facility in Gippsland, Victoria, that right-wing forces, including federal and state governments, employer organisations, and the FIA converged to establish the conditions necessary to deregistration of the BLF. And as Chapter Eight will argue, it was as a consequence of Gallagher's victories at those sites that Thompson overrode the entreaties of senior advisers and hitched Victoria to Fraser's deregistration crusade.

In joining with governments, employers, and authorities such as the State Electricity Commission of Victoria (SECV), union leaders such as Laurie Short (FIA), and Charlie Oliver (AWU), hoped to lock Gallagher and the BLF out of the burgeoning mining and energy sectors of the Australian economy – areas that Short and Oliver considered to be their own. But in pushing deeper into Victoria, these officials also sought to expand their industrial power and influence. For Oliver's union, it was an opportunity to regain and improve upon the standing that it had once enjoyed in the labor movement and the Australian Labor Party (ALP). And nor could the showdowns with Gallagher harm FIA aspirations to re-affiliate with and re-orient Labor Party affairs – an outcome that, in the final analysis, helped to ensure that the BLF would not survive.<sup>19</sup>

If left-wing unions were complicit in expelling the BLF from the NSW TLC, and if they similarly supported moves to have the union ousted from the ACTU, those actions also foreshadowed the convergence of agendas that was to follow, once Labor had been elected federally and in states such as Victoria. Pat Clancy, national secretary of the

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<sup>18</sup> The pro-Munday/pro-NSW narrative continued/continues to be reiterated long after the BLF passed into history, see, for example, Meredith and Verity Burgmann, *Green Bans, Red Union: Environmental activism and the New South Wales Builders Labourers' Federation*, Sydney: UNSW Press, 1998.

<sup>19</sup> FIA re-affiliation with the ALP and the impact that had on BLF chances of survival will be discussed in Chapter Eleven of this thesis.

BWIU, refused to testify before the Royal Commission. Like George Crawford of the Plumbers Union (PGEU), he claimed that whilst he did not always agree with Gallagher's leadership style or industrial tactics, a Royal Commission was not the appropriate forum in which to comment on the policy and internal affairs of another union.<sup>20</sup> However, the BWIU was among those organisations that had formed an eight-union alliance centred around Trades Hall in Sydney – an alliance that was led by Short's Ironworkers, and which included several other right-wing unions. Moreover, it was the BWIU that ultimately gained most from the BLF's demise.

Clancy's refusal to testify before the Royal Commission belied the history of conflict that he and Gallagher shared. That conflict was primarily of an industrial nature: both men wished to dominate the building and construction industry. But it also included differences that related to the issue of Communism. Gallagher had left the Communist Party of Australia (CPA) in 1963 to help form a Peking-aligned organisation, the Communist Party of Australia, Marxist-Leninist (CPA-ML). A loyal devotee of Soviet-style Communism, Clancy had left the CPA in 1971 to become president of the newly-formed Socialist Party of Australia (SPA). Admittedly, these political differences played a secondary role in shaping BLF-BWIU relations, and cannot therefore be invoked to explain why the carpenters' union ultimately supported the elimination of the BLF. But the Communist question and the tensions that it created throughout the labor movement are implicitly important to the BLF saga and to this account of it. Indeed, it would be naïve to think that Laurie Short's eagerness to testify before the Royal Commission was not at least partly informed by his own anti-Communism and the extent to which that philosophy pervaded the BLF leadership.<sup>21</sup>

The political wing of the Australian labor movement reacted to Fraser and Thompson's anti-BLF measures with what appeared to be significant solidarity. Victorian ALP leader, Frank Wilkes, described the situation as one of double jeopardy, whilst Federal leader, Bill Hayden, promised that any deregistration of the union would be

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<sup>20</sup> See Boyd, *Inside the BLF*, pp.41-59.

<sup>21</sup> Susanna Short claimed that her father's testimony had been 'determining factor' in the BLF being outlawed in Victoria, NSW and the ACT. Susanna Short, *Laurie Short: A Political Life*, Sydney: Allen & Unwin, 1992, p.260.

reversed immediately upon the election of a Labor government.<sup>22</sup> Nor was Cain, who replaced Wilkes as ALP leader in Victoria in September 1981, enamoured with the idea of using public money to prosecute the labourers' union. He described the Royal Commission and deregistration actions as political stunts.<sup>23</sup> Moreover, he told Parliament that subjecting the BLF to a Royal Commission, deregistration and associated law suits would not achieve solutions to industrial disputes.<sup>24</sup>

Cain upheld his promise on deregistration. He withdrew Victoria from that process within weeks of coming to power in April 1982, thereby setting a precedent that newly-elected Labor governments in West Australia and South Australia were swift to follow. But as this thesis will demonstrate, he was also quick to grant Royal Commissioner, John Winneke QC, additional time in which to prepare a case against Gallagher, and he was speedy, too, in appointing a Crown Prosecutor whose brief it was to act on Winneke's findings and recommendations. Moreover, claims of bias and collusion could not persuade Cain that the case finally brought against Gallagher had been unjustly prosecuted, either during the committal or trial stages. In refusing to countenance those claims, the Premier/Attorney-General arguably reneged on the promises that he had made in the Parliament and elsewhere.

As Leader of the Opposition, and later as Premier of Victoria, Cain appeared to limit both what could be said about Gallagher and the BLF, and which members of his party could say it. His purpose was seemingly pragmatic. By limiting what could be said and by whom, Cain was, first, able to ensure that BLF-related matters did not harm his party's tilt at power and, second, able to prevent those issues from impinging on Labor's chances of retaining office in Victoria. But if such actions made good political sense, the severity with which Cain ultimately dealt with Gallagher and the BLF was, this thesis will argue, emblematic of a new type of Labor Party and Labor Party leader.

The commonly accepted explanation for Cain's *volte face* – he changed from condemning deregistration in 1981-82 to permanently eradicating the BLF in 1986 – is one in which Gallagher misused trade union muscle as a means of having corruption

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<sup>22</sup> For Wilkes' comments, see *Age*, 21 August 1981, p.15. Hayden's objections to deregistration of the BLF were aired whilst opening a BLF convention centre in Carlton, in June 1981. See *Age*, 19 June 1981, p.3; *Sun*, 30 June 1981, p.41. See also, Boyd, *Inside the BLF*, pp.32-48.

<sup>23</sup> Boyd, *Inside the BLF*, p.57.

<sup>24</sup> *Ibid.*, p.51.

charges against him dropped.<sup>25</sup> A bitter demarcation dispute at the Melbourne Cricket Ground (MCG) provided what Cain suggested was the final straw. It was, he argued, proof that the BLF question could never be settled by reason and conciliation.<sup>26</sup> But as Chapter Ten of this thesis demonstrates, the convergence of agendas that had for some time been brewing within the labor movement had already prompted Cain, Bob Hawke, NSW Premier, Neville Wran, and ACTU secretary, Bill Kelty, to begin planning for the elimination of the BLF. That was in mid-1983 – several months before bans were imposed at the MCG, and a full year before matters there actually came to a head.

The timing of Hawke's participation in that planning process is vital to understanding just how it was that federal and state Labor governments came to wage such ferocious war on Gallagher and the BLF. The meetings – in which the recently elected Prime Minister, the ACTU secretary and two state premiers established the framework for Labor's elimination of the BLF – began just two months after Federal Labor had been elected to office, seven months before Hawke actually made good on Hayden's promise to withdraw from or reverse the Conservatives' 'half-baked' deregistration action, and similarly, seven months before Hawke and Cain finally agreed that it was time to crush the Left in the councils of the ALP.<sup>27</sup> Given Cain's later claims that the BLF question provided an opportunity for his government to re-write the rules on (Labor) Government-party relations, it is reasonable to argue – as this thesis does – that Gallagher and his union are excellent prisms through which shifts in the Labor Party and the broader labor movement can be discerned.<sup>28</sup>

As the following literature review suggests, those shifts involved a transformation in which Labor moved from being a mass party, primarily drawn from the Australian working class, to a catch-all organisation for which electoral success became the primary consideration. Begun under Whitlam, this transformation (or, what historians, political scientists and others have termed the middle-classing of the ALP), was some two decades

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<sup>25</sup> Boyd, *Inside the BLF*; Cain, *John Cain's Years*; Ross, *Dare to Struggle, Dare to Win!* Whilst considerably more sympathetic to Gallagher than Boyd or Cain, Ross nevertheless thought him responsible for the union's demise. She accused Gallagher of acting in a political manner, and of having 'blurred the line between himself and the union'. Unable to separate himself from the union that he had done so much to create, Gallagher had, according to Ross, rather selfishly taken it down with him. p.262.

<sup>26</sup> Cain, 'The Builders Labourers', p.24.

<sup>27</sup> For Hawke's exhortation to destroy the Left, see Cain, *John Cain's Years*, pp.92-3.

<sup>28</sup> *Ibid.*, p.118.



in the making. But if it had been interrupted by Whitlam's dismissal and the subsequent re-evaluation process within the ALP, it was with the rise of men such as Hawke, Keating, Wran and Cain that the metamorphosis was made complete.

Wran and Keating play supporting roles in the BLF history that this thesis explores. That is because it was in Victoria that efforts to destroy the union were most forcefully deployed, and because it was in that state that Gallagher and the BLF mounted their strongest defence. But it is also because of the history that Hawke and Gallagher shared, particularly whilst Hawke was leader of the ACTU, and because it was Hawke who ultimately issued the call for the Left to be destroyed. Wran's impact on the BLF was somewhat less important. His ability to curtail the union in NSW was diminished by the federal award under which most BLF members in that state worked, and it was really only from April 1986 – when the union was outlawed federally – that his deregistration action of January 1985 came into full effect.<sup>29</sup> Keating's role in bringing about the type of Labor Party capable of destroying an affiliated union cannot be denied. But his involvement in BLF-related matters was somewhat limited by the role that he played in the Hawke-Keating administration. Indeed, the BLF as an organisation had passed into history by the time Keating had risen to be Prime Minister of Australia in 1991.

Liz Ross has cited the general rightward trend in world politics – of which the Hawke Government was undoubtedly a part – as one explanation for why, as she puts, Labor administrations turned on their own and smashed Australia's most militant trade union in the interests of neo-liberalism. Like Victorian Trades Hall secretary and former BLF organiser, Brian Boyd, she traced the beginnings of Gallagher's woes back to his 1974 takeover of the NSW BLF. They agreed that Gallagher's activities then had come back to haunt him and to isolate the BLF just as federal and state governments lined up with capital to destroy them. But where Boyd seemed intent on blaming the downfall of the BLF on Gallagher's failure to separate his personal issues (charges arising out of the Royal Commission) from those affecting the union more generally (deregistration), Ross was sympathetic to the analysis of BLF organiser, John Cummins, that a convergence of

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<sup>29</sup> Wran's deregistration of the BLF is discussed and analysed in Chapter Eleven of this thesis.

agendas involving employers, governments and rival trade unions was responsible for the BLF's fate.<sup>30</sup>

By focusing on the period 1981 to 1994, Ross missed an opportunity to fully trace this convergence of agendas back to an important historical juncture from which BLF history could be silhouetted against that of the political wing of the Australian labor movement. Similarly, whilst other historians have examined shifts in the ALP and the industrial wing of the labor movement, their use of a trade union as a prism through which those changes might be discerned has failed to advance beyond relatively short journal articles.<sup>31</sup> As we shall see in the next chapter, other than fleeting references there has been no attempt to examine the BLF question by backgrounding it against longer-term shifts in the labor movement.<sup>32</sup> It is this historiographical gap that my thesis seeks to fill.

This thesis begins with Whitlam's ascension to the ALP leadership and concludes in September 1985. By that time, federal and state Labor governments had legislated the BLF out of existence and charges arising out of what had been a much denigrated, Conservative-initiated Royal Commission, had seen Gallagher sentenced to more than four years in prison. Anti-BLF legislation was sanctioned by the Australian Conciliation and Arbitration Commission on 4 April 1986; the intervening months had been used to cannibalise the union's membership by rival organisations. So when builders' labourers reported for work on the morning of Wednesday, 16 April 1986, they were confronted with a police-enforced ultimatum: resign from the BLF, take out membership of alternative organisations, or leave the building and construction industry.<sup>33</sup> But whilst Victorian Labor had played its part in destroying what had was perhaps Australia's most

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<sup>30</sup> Ross, *Dare to Struggle, Dare to Win!*, p.118.

<sup>31</sup> See Terry Irving & Sean Scalmer, Historical Debate 'The Rise of the Modern Labour Technocrat': Reply, *Labour History*, No. 79, Nov 2000, pp.185-8; Tom Bramble, Historical Debate 'The Rise of the Modern Labour Technocrat': Response, *Labour History*, No. 79, Nov 2000, pp.179-84.

<sup>32</sup> See, for example, Rick Kuhn, 'Labor in Power', *Arena*, Vol. 88, 1989, pp.135-43; Gwynneth Singleton, *The Accord and the Australian Labour Movement*, Carlton, Victoria: Melbourne University Press, 1990, p.71. Kuhn suggested that in destroying the BLF, Hawke and his Industrial Relations Minister, Ralph Willis, sought to deliver an object lesson to other unions tempted to buck the ALP-ACTU Accord. Singleton's reference to the BLF was also made in the context of the Accord, but related more to the consequences for militant unions when they lose ACTU support, and what the withdrawal of such support means for the ability 'to represent the whole union movement.'

<sup>33</sup> Statement by the Full Bench [Australian Conciliation and Arbitration Commission], 4 April 1986, in Brian Boyd papers, University of Melbourne Archives, Box 66, 15/12-15/15. (Henceforth, Boyd papers).

militant union it was prepared, for some time afterwards, to continue accepting BLF affiliation fees.<sup>34</sup>

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<sup>34</sup> Australian Labor Party – Victorian Branch, State Secretary's Report, 6 February 1987, in Boyd papers, Box 58, 10/1-13/2.

## **Chapter Two**

### **Literature Review**

The following literature review will proceed in three stages. Stage one will examine what historians and others have written about the transformations that occurred in the Federal Labor Party between the mid-1960s and the early 1990s. The Victorian ALP and the way in which shifts at that level mirrored those that were occurring in the federal arena will also be discussed. A thoroughgoing analysis of concomitant shifts in the industrial wing of the labor movement is beyond the scope of this thesis. But those shifts are nevertheless germane to the overarching hypothesis: that elimination of the BLF was made possible by a convergence of agendas involving Labor governments, capital and sections of the trade union movement, and that Gallagher and the BLF provide excellent lenses through which changes in the labor movement can be discerned. For that reason, stage two of the literature review centres on what Sean Scalmer and Terry Irving on one side, and Tom Bramble on the other, have referred to as ‘The Rise of the Modern Labour Technocrat’. BLF historiography is the subject of the third and final stage of the literature review.

#### **The Australian Labor Party (ALP)**

ALP historiography is complicated by the fact that it exists, like the party itself, at different levels. There are, for example, histories dealing specifically with the federal party, the Victorian ALP and the NSW branch of the party. At the federal level, further complications are added by the existence of different strands of history.<sup>1</sup> As Dean Jaensch has suggested, unpacking all of this ‘is not an easy task’.<sup>2</sup> Where this project is

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<sup>1</sup> Stuart Macintyre, ‘Who are the True Believers? The Manning Clark Labor History Memorial Lecture’, delivered at the ALP National Conference, Hobart, 28 September 1994 and published in *Labour History*, No. 68, May 1995, p.158. Macintyre pointed to the existence of ‘three distinct strands of Labor Party history’; that which criticises the Party’s betrayal of its socialist past; that which has arisen since the early 1980s to defend what has been posited as a tradition of pragmatism; and that which Macintyre claims was best elucidated by Manning Clark in which socialism and the capture of political power are recognised as dual founding characteristics of the ALP, and in which pragmatism is also acknowledged as an original attribute, though painfully so.

<sup>2</sup> Dean Jaensch, *The Hawke-Keating Hijack: The ALP in Transition*, Sydney: Allen & Unwin, 1989, p.2.

concerned, the primary focus is on shifts that occurred in the party between the late 1960s and early 1990s and the extent to which those shifts were likely to result in the destruction of a militant union such the BLF.

What might be called the 'betrayal thesis' looms large in ALP historiography, and histories of Federal Labor in particular. Stuart Macintyre has traced its existence from Vere Gordon Childe through Brian Fitzpatrick, Ian Turner, Russel Ward, Miriam Dixon, Bob Gollan, Lloyd Churchwrd, Ken Buckley, Eric Fry and on to the students they influenced in the 1970s.<sup>3</sup> For some, such as Childe, the party had by the early 1920s already degenerated from 'a band of inspired Socialists...into a vast machine for capturing political power' that it did not know how to use, other than 'for the profit of individuals'.<sup>4</sup> For others, such as Fitzpatrick, Macintyre suggests, the ALP had been 'reformist from the beginning'.<sup>5</sup> More recently, Dean Jaensch has suggested that Labor had 'never been a socialist party in any sense other than a very loose rhetorical commitment to something that some people in the party thought was something near socialism'.<sup>6</sup>

Humphrey McQueen was not prepared to allow even that much. For him, the suggestion that Labor had ever been a party of socialism was an absurdity, since those who had given it life – Australian workers of the late nineteenth century – had been petit-bourgeois through-and-through.<sup>7</sup> McQueen may have moderated his stance regarding Australian workers in later editions of his book *A New Britannia* by suggesting that the type of capitalism under which they had formed the Labor Party of the 1890s had been much harsher than that which prevailed a couple of decades earlier, but he continued to insist that Labor had never been a party of socialism.<sup>8</sup>

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<sup>3</sup> Macintyre, 'Who are the True Believers?', p.161.

<sup>4</sup> Vere Gordon Childe, *How Labour Governs: a study of workers' representation in Australia*, Parkville Victoria: Melbourne University Press, 1964, p.181.

<sup>5</sup> Macintyre, 'Who are the True Believers?', p.160.

<sup>6</sup> Jaensch, *The Hawke-Keating Hijack*, p.95.

<sup>7</sup> Humphrey McQueen, *A New Britannia*, Ringwood, Victoria: Penguin Books, 1970; Humphrey McQueen, 'Laborism and Socialism' in Richard Gordon (ed.) *The Australian New Left: Critical Essays and Strategy*, Melbourne: William Heinemann Australia, 1970, pp.43-65.

<sup>8</sup> Humphrey McQueen, *A New Britannia*, 4<sup>th</sup> ed., St Lucia, Queensland: University of Queensland Press, 2004, pp.258-81. McQueen acknowledged in this edition of *A New Britannia* that Australian workers faced a much different type of capitalism – monopolizing capitalism – at the time that Labor was founded to that which had confronted them – freer trade capitalism – earlier in the 19<sup>th</sup> Century.

That such a range of views exist about whether and to what extent Labor has ever been a party of socialism is, Graham Maddox has suggested, testament to the diversity of conceptions that exist about the meaning of the term socialism.<sup>9</sup> Whilst for him socialism ‘has always incorporated ideas about how to realise and improve upon democratic ideals...in a capitalist society’, for others it equates to collectivism and/or nationalisation and for more still it necessarily involves revolution.<sup>10</sup>

The socialist question persists in ALP historiography. Don Rawson long ago suggested that part of the reason for the continued attention to Labor’s socialist credentials lay in the use its political opponents have made of the alleged connections between the party and socialism. By abandoning attempts to domesticate the beast, Labor had, Rawson suggested, handed the ‘socialist tiger’ tag ascribed to it in the very early twentieth century by Conservative leader Sir George Reid to ‘genuine radicals and revolutionaries’.<sup>11</sup> In doing so, Rawson argued, Labor had allowed socialism to become an even greater weapon with which it could be attacked.<sup>12</sup> In more recent accounts of the Federal Labor Party, the socialist question has come to be considered in the context of broader shifts in the party in which Labor is held to have abandoned its mass party origins for an electorally more rewarding catch-all or even cartel party shape. Implicit in this debate, which focuses on the late-1960s to early 1990s period is the question of whether such a transformation amounted to or involved a betrayal of Labor’s working class base.

In his book *The Hawke-Keating Hijack: The ALP in Transition*, Dean Jaensch used a thematic approach to trace Labor’s transition from mass to catch-all status. He argued that Labor’s 1966 election defeat and the subsequent elevation of Edward Gough Whitlam to the leadership position provided the trigger and catalyst for a process of change that would reach its zenith under Bob Hawke and Paul Keating.<sup>13</sup> Jaensch concurred with Don Rawson’s assessment of Labor as a party whose ambiguity about its class basis and objectives had enabled it to straddle class boundaries, even from its

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<sup>9</sup> Graham Maddox, *The Hawke Government and Labor Tradition*, Ringwood, Victoria: Penguin Books, 1999, pp.155-6.

<sup>10</sup> Ibid.

<sup>11</sup> Don Rawson, *Labor in Vain? A Survey of the Australian Labor Party*, Croydon, Victoria: Longmans, 1966, p.71.

<sup>12</sup> Ibid.

<sup>13</sup> Jaensch, *The Hawke-Keating Hijack*, 1989, pp.3-42.

earliest days.<sup>14</sup> However, in writing almost thirty years after Rawson's assessment had been published, Jaensch was able to point not only to Labor's electoral dexterity, but also to a party which, under Hawke and Keating, had changed so much and so rapidly that it was now Labor 'in name only'.<sup>15</sup> Indeed, he argued, the transformation process had gone so far by 1987 that it had 'gone beyond "catch-all"'.<sup>16</sup>

Jaensch asked why internal reactions to the transition he described had not been as divisive as might have been expected when it involved de-emphasising the party's ideology, its programmes and its syndicates.<sup>17</sup> The answer, he suggested, was multi-dimensional: Whitlam's reorganisation of the party in 1967 had 'laid the groundwork for the even more radical reforms of the 1980s'; a 'determined party elite had maintained the pressure' ever since; the Left had declined in all areas of the party; the ACTU had taken on a new style and substance; and a national party machine had arisen to keep the reform program rolling.<sup>18</sup> Moreover, Jaensch suggested, the electoral success that Hawke and Keating provided could be 'a remarkable moderator of internal dissent'.<sup>19</sup>

Jaensch made many of the same arguments in a shorter format when he contributed a chapter to Ian Marsh's edited collection *Political Parties in Transition?*<sup>20</sup> There, Jaensch noted that whilst Labor's 'internal maps' – branches, conferences, caucus and union affiliations – remained 'essentially as they were' when the party had been founded, and whilst party rules continued to invest National Conference with 'supreme governing authority', there had nevertheless been a radical transformation of the party in terms of who actually held and wielded power.<sup>21</sup> Under Whitlam, Hawke and Keating 'the relationship of platform and policy in the Labor Party' drew closer to that which existed in the Liberal Party, with the parliamentary leadership coming more and more to be the locus of power and policy making.<sup>22</sup>

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<sup>14</sup> D. W. Rawson, 'Labour, Socialism and the Working Class', *Australian Journal of Politics & History*, May 1961, Vol. 7, No. 1, pp.75-94.

<sup>15</sup> Jaensch, *The Hawke-Keating Hijack*, p.154.

<sup>16</sup> *Ibid.*, p.157.

<sup>17</sup> *Ibid.*, pp.154-5.

<sup>18</sup> *Ibid.*, p.156.

<sup>19</sup> *Ibid.*

<sup>20</sup> Dean Jaensch, 'Party structures and processes' in Ian Marsh (ed.) *Political Parties in Transition?*, Sydney: The Federation Press, 2006, pp.24-45.

<sup>21</sup> *Ibid.*, pp.25-6.

<sup>22</sup> *Ibid.*, p.34.

In making only passing reference to the BLF, and then only to say, as Rick Kuhn has also suggested, that its dismemberment had served as an object lesson to other unions tempted to buck the ALP-ACT Accord, Jaensch has simultaneously illuminated and ignored the mechanism that Gallagher and the BLF provided for Labor's smooth transition from mass to catch-all status, particularly as that process accelerated.<sup>23</sup> His failure to pursue this line of inquiry, whilst understandable given the entirely political emphasis of his work, nevertheless leaves a gap which this thesis seeks to fill.

For many, the occupational changes that occurred in Australian society are, together with the compositional changes that occurred in Labor membership and support from the late 1960s onwards, key to understanding how and why the party shifted ground. Andrew Scott drew on census data from various Australian states to demonstrate how party membership assumed a disproportionately middle-class hue between the 1960s and mid-1980s. In New South Wales and Victoria, where their proportion of the adult populations respectively increased by three and four per cent in the two decades after 1961, professionals and para-professionals grew their ALP membership from nine to 24 per cent and 10 to 28 per cent respectively.<sup>24</sup> Over the same time period, four and five per cent drops in the proportion of manual workers in the adult populations of NSW and Victoria paled against their decline in ALP membership from 46 to 21 per cent in the former and 45 to 13 per cent in the latter.<sup>25</sup> Moreover, whilst the shift towards a services economy had seen a decline in the numbers of people employed in blue-collar industries, the corresponding increases in the number of routine white-collar workers failed to find expression in party membership.<sup>26</sup>

Michael Thompson argued from the self-proclaimed perspective of a former builders' labourer and genuine member of the working class. He shared Scott's belief that Left politics came to be redefined by the middle-class, tertiary-educated professionals and para-professionals who streamed into the ALP following Whitlam's ascension to the

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<sup>23</sup> Ibid., p.77; Kuhn, 'Labor in Power', p.141.

<sup>24</sup> Andrew Scott, *Fading Loyalties: The Australian Labor Party and the Working Class*, Leichardt, NSW: Pluto Press, 1991, pp.36-8.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.



leadership role.<sup>27</sup> Like Scott, Thompson regarded this redefinition of the ALP as having been at the expense of the bread-and-butter concerns of the working class, and in favour of the broader policy concerns of the already privileged sections of the population.<sup>28</sup>

References to the trade union movement are absent from the books that Scott and Thompson produced respectively as a warning and reflection on Labor's fall from power in 1996. But they provide valuable insights about the way in which the ALP deliberately or otherwise misapprehended its own increasingly middle-class membership and the occupational changes that were occurring in the labor force, both as evidence that the working class was disappearing, and that that the party consequently needed to shift its emphasis and orientation. The dichotomy that Scott and Thompson alluded to is well explained by contrasting their work with that of Jaensch.

For Jaensch, the post-World War Two influx of migrants and women into the Australian labor force and the expansion in white-collar job numbers lent a certain inevitability to Labor's change in direction.<sup>29</sup> According to Scott and Thompson, such a view is premised on too narrowly based conceptions of who actually constitutes the working class. They argued that if the working class is understood as tradespeople, plant and machine operators, drivers, labourers and associated workers – i.e. blue-collar workers – then it might be argued that the working class was in decline and that Labor consequently needed to cast its net ever more broadly in order to remain electorally competitive.<sup>30</sup> However, when 'clerks, bank tellers...shop assistants', personal service workers and others engaged in 'non-manual' work are counted as working class – both by dint of the routine nature of their work and the incomes they derive from it – the problem becomes, Scott and Thompson contended, not one of a shrinking working class, but rather one of a Labor Party which, in its haste to reject 'class' as the paradigm through which society could be understood, chose to relate to people along single-issue political lines.<sup>31</sup>

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<sup>27</sup> Michael Thompson, *Labor without class: The gentrification of the ALP*, Annandale, NSW: Pluto Press, 1999, pp.ix-77; Scott, *Fading Loyalties*, p.47.

<sup>28</sup> Thompons, *Labor without class*, pp.67-77.

<sup>29</sup> Jaensch, *The Hawke-Keating Hijack*, pp.46-8.

<sup>30</sup> Scott, *Fading Loyalties*, p.10.

<sup>31</sup> *Ibid.*, pp.20-3; Thompson, *Labor without class*, pp.69-86.

In mounting his critique of modern Labor and the way in which it had been captured by what he suggested were non-Labor forces, Thompson referred to Meredith Burgmann and Andrew Milner's incisive book chapter 'Intellectuals and the new social movements'.<sup>32</sup> Although not strictly within the framework of ALP historiography, this contribution to the Rick Kuhn and Tom O'Lincoln edited book *Class & Class Conflict in Australia* nevertheless points to important issues in the clash that developed between Labor and the BLF.<sup>33</sup>

Paralleling the rise in power and status of the new social movements with the decline of trade unionism in Australia, Burgmann and Milner noted that those who came to lead the new movements – the middle-class, tertiary-educated technocrats that others have identified as simultaneously penetrating the political and industrial wings of the labor movement – quickly moved to undermine the concept of class as an organising principle and analytical tool.<sup>34</sup> Their reasons for doing so, it has been argued, were based not only on a belief that class was 'old hat and boring', but also on the understanding that in order to disguise their own unrepresentative status in the movements they had colonised; in order to conceal their own middle-class origins and thus promulgate the values that they held dearest, it was first necessary to neutralise the centrality of class.<sup>35</sup> According to Burgmann and Milner, a systematic denial of class was essential to the legitimisation of people who had more in common with each other than they had with the interests they purported to represent.<sup>36</sup>

In what lends itself to a new interpretation of Gallagher's criticism of the NSW BLF as pandering to the interests of 'residents, sheilas and poofers',<sup>37</sup> Burgmann and

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<sup>32</sup> Thompson, *Labor without class*, pp.85-6; Verity Burgmann & Andrew Milner (1996), Intellectuals and the new social movements, in Rick Kuhn and Tom O'Lincoln (eds.), *Class & Class Conflict in Australia*, Melbourne: Longman Australia, pp.114-30.

<sup>33</sup> Rick Kuhn & Tom O'Lincoln (eds.), *Class & Class Conflict in Australia*, Melbourne: Longman Australia, 1996.

<sup>34</sup> Burgmann & Milner, Intellectuals and the new social movements, pp.115-20.

<sup>35</sup> Thompson, *Labor without class*, pp.85-6; Burgmann & Milner, Intellectuals and the new social movements, pp.119-22.

<sup>36</sup> Burgmann & Milner, Intellectuals and the new social movements, p.122.

<sup>37</sup> Meredith Burgmann & Verity Burgmann, *Green Bans, Red Union: Environmental activism and the New South Wales Builders Labourers' Federation*, Sydney: UNSW Press, 1998, p.54. The Burgmanns noted how support given by the NSWBLF to middle-class residents of Hunters Hill in Sydney attracted widespread criticism from within the labor movement. In some respects, the accusations that Jack Munday, Joe Owens and Bob Pringle were 'neglecting the interests of...working-class members' in order to safeguard a green area known as Kelly's Bush for middle-class residents were tied to splits in the

Milner suggested that new social movements had, through the intense focus that they placed on issues such as environmentalism, hastened the destruction of labour solidarity.<sup>38</sup> Additionally, and in what points to a further source of conflict between a Communist-led union such as the BLF – for which class and the relationship between capital and labour were critical – and a labor movement increasingly populated by middle-class intellectuals, was the reluctance of the latter ‘to threaten class-based inequalities’ and capitalist interests.<sup>39</sup>

Terry Irving and Sean Scalmer used the concept of a changing public sphere to locate the origins of those shifts in the 1960s.<sup>40</sup> Citing Boris Frankel, they argued that it was under Whitlam that Labor began to divest itself of its close relationship with the working class and began, also, to refer to workers as ‘employees’ in order to attract the burgeoning though (supposedly) politically unaligned white-collar vote.<sup>41</sup> In suggesting that Whitlam’s predecessor Arthur Calwell had sought to eschew the implications of change inherent in the shifting public sphere, Irving and Scalmer support Jaensch’s contention that whilst Labor had long experienced tendencies towards catch-all status, such a transition had been resisted up until 1967.<sup>42</sup> The erosion of resistance, which

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Australian Communist movement and perceptions that their real motivation was to garner middle-class support for a Communist Party of Australia (CPA) tilt at the seat of Sydney in the 1972 Federal Election. Gallagher’s remarks have usually been attributed to crudity.

<sup>38</sup> Burgmann & Milner, *Intellectuals and the new social movements*, pp.120-7.

<sup>39</sup> *Ibid.*, pp.123-4.

<sup>40</sup> Terry Irving & Sean Scalmer, ‘The Public Sphere and Party Change: Explaining the Modernisation of the Australian Labor Party in the 1960s’, *Labour History Review*, Vol. 65, No. 2, Summer 2000, pp.227-46. Irving and Scalmer identified the public sphere as ‘the historical space in which private individuals join together as a public to debate social arrangements and state activities.’ p.228. They argued that the Australian public sphere experienced significant change in the 1960s when a raft of new media emerged to cater to the tertiary-educated members of the professional-managerial class who were then drifting into the ALP. p.231. These new media, used to criticise the ALP as ‘anachronistic, bumbling, inefficient, and authoritarian’, emerged at a time when the Labor press was in decline. pp.230-3.

<sup>41</sup> *Ibid.*, p.228; Boris Frankel, ‘Beyond Labourism and Socialism: How the Australian Labor Party Developed the Model of “New Labour”’, *New Left Review*, 221 (Jan/Feb 1997), p.6. Frankel’s observation was made as part of his argument that British political leaders often took their cue from Australia when seeking to reform their own political parties or re-orient their economies and society. Thus, just as Margaret Thatcher had consulted Malcolm Fraser’s attempts to roll back Whitlam’s social welfare reforms in preparation for her own ascension to power, so Neil Kinnock and Tony Blair had modernised the British Labour Party by reference to the way in which Labor under Whitlam, Hawke and Keating had had redefined and jettisoned their party’s socialist commitments.

<sup>42</sup> Irving & Scalmer, ‘The Public Sphere and Party Change’, pp.234-6; Jaensch, *The Hawke-Keating Hijack*, pp.157-9. Jaensch used the term ‘electoralism’ to describe the driving force behind the Hawke-Keating hijack. He argued that the trend towards electoralism had begun in 1967, prior to which it had been resisted – ‘There have always been electoralists within the Labor Party. There have also always been those in the party who have resisted, as strongly as they could, any such trend.’ p.159.

Irving and Scalmer described as ‘a peculiarly *political* process’, resulted in Whitlam’s elevation to the party leadership position and ultimately to the position of Prime Minister.<sup>43</sup> But it was under Hawke and Keating that resistance was finally and brutally crushed.<sup>44</sup>

The purpose of their paper, Irving and Scalmer contended, was to challenge ‘the dominant explanations of Party modernisation that had arisen in the 1980s and 1990s’, wherein it was claimed that the party had been overly dominated by trade unions; had faced the challenges of economic malaise, stagflation and the vagaries of international capital; and had fallen out of step with a changing society in which class had lost its salience.<sup>45</sup> Implicit in all of this is the suggestion that Labor shifted to the right to claim some of that ground historically occupied by its Conservative opponents.

This shift to the right, or at least to the centre, has figured strongly in Grahaam Maddox’s work. Identified by Tom Bramble and Rick Kuhn<sup>46</sup> as a proponent of the cartel party thesis,<sup>47</sup> Maddox suggested a Labor Party and political landscape in which commitments to the two-party adversarial politics characteristic of Australian democracy were abandoned.<sup>48</sup> In a book in which Gallagher is mentioned only once, and then only in relation to his role in protests against the introduction of an identify card for the Australian populace, Maddox nevertheless illuminated the way in which Labor’s retreat from partisan politics should inevitably have brought it into conflict with those sections

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<sup>43</sup> Irving & Scalmer, ‘The Public Sphere and Party Change’, p.227-8.

<sup>44</sup> Jaensch, *The Hawke-Keating Hijack*, p.159.

<sup>45</sup> Irving & Scalmer, ‘The Public Sphere and Party Change’, pp.228-33.

<sup>46</sup> Tom Bramble & Rick Kuhn, ‘Continuity or Discontinuity in the Recent History of the Australian Labor Party’, *Australian Journal of Political Science*, Vol. 44, No. 2, June 2009, pp.281-2; Tom Bramble & Rick Kuhn, The transformation of the Australian Labor Party, Joint Social Sciences Public Lecture, 8 June 2007, Australian National University, Canberra, Australia, p.1. Available at <http://hdl.handle.net/1885/45410>

<sup>47</sup> For a full explanation of the cartel party thesis, see Richard S. Katz & Peter Mair, ‘Changing Models of Party Organisation and Party Democracy: The Emergence of the Cartel Party’, *Party Politics*, Vol. 1, No. 1, 1995, pp.5-28; Richard S. Katz & Peter Mair, ‘Cadre, Catch-All or Cartel?: A Rejoinder’, *Party Politics*, Vol. 2, No. 4, 1996, pp.525-34. The cartel party thesis articulated by Katz and Mair was developed in the European context but soon adapted by political scientists in Australia to explain shifts under way in the ALP. In tracing the evolution of political parties from cadre through mass party formats and on to catch-all and cartel party forms, Katz and Mair suggested that in the transition from mass to catch-all status, there occurred a role reversal in which the mass organization came to be viewed as supporters of the parliamentary body, a situation which contrasted sharply with traditional understandings in which the parliamentary party was an agent of the mass organization.

<sup>48</sup> Maddox, *The Hawke Government and Labor Tradition*, pp.66-7.

of the party and the broader labor movement who had fought for socialism.<sup>49</sup> Suggesting that there had been ‘a quiet revolution’ in Australian politics, and tying the origins of that revolution to the Whitlam dismissal and electoral defeats of 1975 and 1977, Maddox argued that Labor had, during the Hawke-Keating era, betrayed its socialist, laborist and reformist traditions in numerous ways and at different levels.<sup>50</sup>

In its withdrawal from partisan politics, Maddox contended, Labor had both departed from its traditional role as ‘the internal critic of capitalism’ and abandoned all attempts ‘to explain society in political terms’.<sup>51</sup> He concurred with Jaensch’s suggestion that the ethos of the party – its collectivist, democratic centralism – had been destroyed in the 1980s when the distance Hawke placed between himself and the party finally realised ‘the transfer of authority to the parliamentary wing’ that Whitlam had sought.<sup>52</sup> For Maddox, the key to Labor’s denial of its working class heritage was consensus. Through the illusion that consensus provided, he suggested, Hawke had ‘attempted to blur party differences and to convince the Australian public that it could ride...across the social, economic and political sand-bars’.<sup>53</sup>

As alluded to earlier in this literature review, Boris Frankel is yet another contributor to the debate about shifts in the ALP and their implications for the Australian labor movement and society more generally. In his journal article ‘Beyond Labourism and Socialism: How the Australian Labor Party Developed the Model of “New Labor”’, Frankel suggested that under Hawke and Keating ‘the old socialist project finally died’.<sup>54</sup> Paralleling events in Australia with those in Thatcher’s Britain, Frankel noted that ‘The Hawke and Keating Governments presided over the dismantling of economic and institutional practices that had shaped Australian socio-political conditions during the

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<sup>49</sup> Jaensch, *The Hawke-Keating Hijack*, p.155. Jaensch suggested that the transformation of Labor from mass to catch-all status was bound to bring the party into conflict with ‘those sections of the party which have fought for socialism.’

<sup>50</sup> Maddox, *The Hawke Government and Labor Tradition*, pp.12-65. Maddox suggested that the Whitlam dismissal had ‘cracked the party’s foundations and opened up a breach that all but severed its traditions.’ p.65. Arguing that the party’s psyche had been shattered by the 1975 dismissal and subsequent electoral defeats, Maddox described those who came to lead Labor in the 1980s as being ‘too deeply conscious of what those...socially and economically more powerful than themselves’ could do if they stepped ‘one centimetre out of line.’ p.13.

<sup>51</sup> *Ibid.*, pp.163-79.

<sup>52</sup> Jaensch, *The Hawke-Keating Hijack*, pp.125-67; Gaham Maddox, *The Hawke Government and Labor Tradition*, 66-73.

<sup>53</sup> Maddox, *The Hawke Government and Labor Tradition*, p.25.

<sup>54</sup> Frankel, ‘Beyond Labourism and Socialism’, p.24.

twentieth century'.<sup>55</sup> They had, he argued, dispensed with the traditional nation-building strategies of previous Labor governments, preferring instead to subject Australian institutions such as the public service to modernisation regimes governed by 'the dictates and standards of international market forces'.<sup>56</sup>

Concurring with Maddox's argument that consensus had been used to conceal class divisions in Australia, Frankel also pointed to the ways in which Hawke and Keating used 'anti-conservative socio-cultural policies' and rhetoric to create a 'coalition of interests' capable of keeping them in power and capable too, of promulgating a new national identity closely associated with themselves.<sup>57</sup> Overlaying all of this, Frankel suggested, was the ALP-ACTU Accord – an incomes policy entered into and doggedly defended by an ACTU leadership and Left union officials. Upon realising (too late) that it would never deliver the political unionism or transition to socialism that they believed it capable of, ACTU leaders and Left union officials had, according to Frankel, been left vulnerable to the even harsher neo-liberal reforms that the destruction or collapse of the Accord would entail.<sup>58</sup>

Like Jaensch, Frankel pondered why the re-orientation of ALP policy and ideology did not result in trauma and splits in the party and within the broader labor movement. Echoing Thompson, Scott, Burgmann and Milner, he suggested that an embrace of anti-conservative socio-cultural policies embodied by a raft of new social movements had soothed troubled waters, as had the use of radical nationalist rhetoric around issues such as multiculturalism and the republic.<sup>59</sup> In answering his own question, Frankel also noted that whilst they would not have 'tolerated the extensive market rationalisation' pushed through by Hawke 'had it been implemented by the Liberal-National Coalition', ACTU leaders and union officials (and Left forces within the ALP)

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<sup>55</sup> Ibid., p.15.

<sup>56</sup> Ibid., p.18.

<sup>57</sup> Ibid., pp.9-26; Maddox, *The Hawke Government and Labor Tradition*, pp.11-25. In addition to his argument that Hawke used consensus as a mechanism to blur differences between Labor and opposition parties, Maddox also suggested that consensus became 'a surrogate for Australianness – a cry to national unity bordering on the jingoistic...'

<sup>58</sup> Frankel, 'Beyond Labourism and Socialism', pp.6-30. The left wing of the party, including the union left lived with the fear that they would be subjected to the same ravages that Thatcher had visited upon British workers, should the Accord collapse, the ALP lose power and the right-wing Liberal Party gain ascendancy.

<sup>59</sup> Ibid., pp.24-6.

were ultimately unwilling to give up the ‘spoils and influence’ that derived from their association with the Government.<sup>60</sup> Whilst Frankel made no reference to Gallagher or the BLF, his accounts of Labor and the union movement of the 1980s nevertheless support the convergence of agendas theory advanced by Cummins and repeated in Ross’s book *Dare to Struggle, Dare to Win!*<sup>61</sup>

Some historians are less convinced about the extent to which shifts identified by Jaensch and others amounted to a qualitative transformation of Labor from the late-1960s onwards. In journal articles and public lectures, Bramble and Kuhn used similar analytical tools to those employed by Jaensch, but arrived at strikingly different conclusions. Compositional and policy changes notwithstanding, they argued, Labor had in its practices and policies continued to be the same capitalist workers party it had always been.<sup>62</sup> The party continued to be led and controlled by politicians who, ‘as a social group represent the interests of capitalists within the labour movement’, and by union officials who continued to use their position in the party to advance their own ‘fundamentally pro-capitalist’ interests.<sup>63</sup> In an assessment that contradicts the Hawke-Keating hijack theory, Bramble and Kuhn even went so far as to suggest that if any transformation had occurred in Labor ranks in the 1980s, it was one in which the left wing of the party abandoned long-held illusions that Labor could be won for socialism.<sup>64</sup>

In the public lecture and journal article referenced above, Bramble and Kuhn sought to rebut claims that Labor had transformed itself into the kind of cartel party first hypothesised by Katz and Mair in the mid-1990s.<sup>65</sup> This by-passing of the problem identified by Jaensch as the transformation of the ALP from a mass party to a catch-all

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<sup>60</sup> Ibid., p.30.

<sup>61</sup> Ross, *Dare to Struggle, Dare to Win!*, p.118.

<sup>62</sup> Bramble & Kuhn, ‘Continuity or Discontinuity?’, pp.281-92.; Bramble & Kuhn, *The transformation of the Australian Labor Party*, pp.1-14.

<sup>63</sup> Bramble & Kuhn, ‘Continuity or Discontinuity?’, p.2.

<sup>64</sup> Bramble & Kuhn, *The transformation of the Australian Labor Party*, pp.9-11.

<sup>65</sup> Katz & Mair, ‘Changing Models of Party Organisation’, pp.5-28; Katz & Mair, ‘Cadre, Catch-All or Cartel?’, pp.525-34. Katz and Mair differentiated between cartel and previous types of parties (catch-all, mass, cadre) by reference to what they saw as their greater propensity for self-reference, their greater emphasis on managerial skills and efficiency, their appeal to different constituencies, their increasing reliance on state funding and their tendency to be agents of the state rather than say, delegates of a particular section of society in its relationship with the state. According to Bramble and Kuhn, the cartel party thesis was taken up in Australia by those seeking to suggest ‘a fundamental discontinuity in Labor’s history.’ Bramble & Kuhn, ‘Continuity or Discontinuity?’ p.281.; Bramble & Kuhn, *The transformation of the Australian Labor Party*, p.1.

party does not make Bramble and Kuhn any less useful, since many of the issues initially explored by Katz and Mair, and later taken up by political scientists in Australia, are common to both debates. Less relevant, perhaps, is the effort that Bramble and Kuhn have made to portray Labor as always having been ‘a capitalist workers party, rather than a socialist workers party’.<sup>66</sup> As suggested earlier, the ‘socialist question’ takes on less significance when comparatively recent ALP history is considered than would be the case if party history was considered in its entirety. Similarly unconvincing is Bramble and Kuhn’s argument that the 1980s marked just another turn in a left-right-left history of the ALP.<sup>67</sup> For it is not whether Labor turned to the right that is in question, but why and how the party chose to make such a turn, and why that turn was so sharp that the destruction of the BLF was one of its consequences.

### **The ALP in Victoria**

John Cain’s Labor Government played a pivotal role in the removal of Gallagher and the BLF from the industrial landscape. Yet much of the literature recounting Cain’s time in office exhibits a paucity of references to Gallagher, the BLF and its demise at the hands of Victorian Labor. The literature nevertheless illuminates shifts in Labor in Victoria that were consistent with those which took place at the federal level. In a chapter he contributed to *Essays on Victorian Politics*,<sup>68</sup> for example, James Jupp identified numerous breaks with tradition, most of which had to do with the increasingly middle-class hue that Victorian Labor assumed as a consequence of being infiltrated by tertiary-educated professionals.<sup>69</sup>

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<sup>66</sup> Bramble & Kuhn, ‘Continuity or Discontinuity?’, pp.282-3.

<sup>67</sup> Ibid., p.290. Bramble and Kuhn argued ‘Labor’s policies and practice have consistently reflected the interplay of the forces that make up the Party’s material constitution – its working class base, the trade union officials and parliamentary representatives, and the pressure on the Party’s leadership from the capitalist class and the state machine within which Labor’s parliamentarians are embedded and whose interests they promote. Tension between these various elements has given rise to factional disputes and, at times, outright splits. These factors have pushed the Party to the left at some points, to the right at others.’

<sup>68</sup> Peter R. Hay, John Halligan, John Warhurst & Brian Costar, *Essays on Victorian Politics*, Warrnambool: Warrnambool Institute Press, 1985.

<sup>69</sup> James Jupp, ‘The Australian Labor Party: Past, Present, Future’ in Peter R. Hay, John Halligan, John Warhurst & Brian Costar, *Essays on Victorian Politics*, Warrnambool: Warrnambool Institute Press, 1985, pp.122-5.



As others have done, Jupp pointed to changes in Australian society – a growing middle class; expanded tertiary education; decreased numbers employed in manufacturing and correspondingly greater numbers of white-collar workers; the emergence of single issue politics and the contraction of old Labor strongholds – as factors contributing to shifts which, he argued, had also occurred in the union movement.<sup>70</sup> This decreasingly proletarian character of the ALP in Victoria translated into a parliamentary party which, under Cain, consisted of representatives of seats ‘east of the Yarra’ (once Liberal strongholds); derived its financial and other supports increasingly from white-collar unions; and appealed increasingly to sectional interests such as women’s and gay rights and environmentalism. ‘In its policies, as in its personnel’, Jupp observed, ‘the Cain Government fully reflected trends in the “new” ALP which had arisen since 1971’.<sup>71</sup>

Mark Considine, Brian Costar, Robert Murray and Kate White have pointed to the increasingly technocratic nature of Labor in Victoria.<sup>72</sup> Suggesting that Cain and his ministers had a fetish for managerialism and a penchant for advancing reforms drawn up by the Liberal regime they had replaced, Considine portrayed Labor under Cain as being ever more reliant on technical expertise. It was, Considine argued, a reliance which resulted in increasingly narrowed systems of control, the proliferation of technocratic advisers and shifts away from the kinds of ideology traditionally associated with Labor.<sup>73</sup> Together with Costar, Considine reasserted the view that (Cain) Labor Government leaders were characteristic of a ‘new elite of professionals with skills in economic management’ and middle-class backgrounds.<sup>74</sup> Suggesting that Cain had failed to draw the union movement and other movements commonly understood to be natural allies of

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<sup>70</sup> Ibid.

<sup>71</sup> Ibid. p.127.

<sup>72</sup> Mark Considine, ‘Labor’s Approach to Policy Making’ in Mark Considine and Brian Costar (eds.) *Trials in Power: Cain, Kirner and Victoria 1982-1992*, Melbourne: Melbourne University Press, 1992; Mark Considine & Brian Costar, ‘Conclusion: Federalism, Social Democracy and the Trials of State Reform’ in Mark Considine and Brian Costar, *Trials in Power: Cain, Kirner and Victoria 1982-1992*, Melbourne: Melbourne University Press, 1992; Robert Murray & Kate White, *The Fall of the House of Cain*, Melbourne: Spectrum Publications, 1992, pp.13-16. Murray and White characterised the Cain Government as one which came to power with a strange mix of ‘left’ ideas forged in the 1970s – ‘participatory democracy, pacifism, radical feminism and various strands of “liberation”’ – and ideas more commonly attuned to the economic ‘right.’, ‘such as an attack on entrenched bureaucracy and a belief in the wonders of modern management.’

<sup>73</sup> Considine, ‘Labor’s Approach to Policy Making’, pp.187-98.

<sup>74</sup> Considine & Costar, ‘Conclusion: Federalism, Social Democracy and the Trials of State Reform’, p.284.

Labor 'into a mature working relationship', they also portrayed Labor as a party which sought and won re-election in Victoria by outflanking their opponents to the right, and by abandoning their social democratic principles.<sup>75</sup>

Like Considine and Costar, White and Murray appeared unconcerned with how shifts in the ALP might have affected unions such as the BLF. However, they pointed to a Cain Government 'unlike any other Victoria had known'.<sup>76</sup> What set the Cain Government apart from previous governments, and therefore from previous forms of the Labor Party, White and Murray implied, was the extent to which it was determined to reshape Victorian society through the efforts of high salaried technocrats and political and other 'advisors' that were brought in to replace career public servants and those who had traditionally guided government ministers.<sup>77</sup>

John Alford characterised shifts in Victorian Labor as ones in which the party, through its unambiguous support for the Accord, switched its concern from issues of equity to issues of efficiency.<sup>78</sup> It was, his work suggests, that unambiguous commitment to the Accord and the emphasis on efficiency that it entailed that explained, in part at least, Cain's strategy towards the BLF.<sup>79</sup> In defeating the BLF, Cain was able to realise 'tangible employment gains from an unprecedented building boom' and shore up an Accord goal in which union discipline could be ensured through 'a solidaristic, collective approach to industrial relations'.<sup>80</sup> But whilst the Accord promised a 'framework in which...weaker sections of the union movement' would be 'assisted by the stronger sections', Alford's work suggests that in reality, the 'labour flexibility' agenda that had always been present in the Accord – but which only came to the fore after 1986 (when the BLF had been dismembered) – provided a more accurate picture of a process in which the

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<sup>75</sup> Ibid., pp.284-6.

<sup>76</sup> Murray & White, *The Fall of the House of Cain*, p.134.

<sup>77</sup> Ibid., pp.16-26. Murray and White identified the 'advisors' brought into ministerial offices as people with 'backgrounds in the unions, teaching, academia and elsewhere.' They suggested that in 'routinely appointing outsiders to senior jobs in many Departments', the Cain Government 'revolutionised the Public Service', thereby alienating and driving-out staff who had dedicated their working lives to public service. The underlying reason for these actions was that Cain and his team did not trust a public service that had served Liberal Governments for the previous twenty-seven years.

<sup>78</sup> John Alford, 'Industrial Relations: Labor's Special but Difficult Relationship' in Mark Considine and Brian Costar (eds.) *Trials in Power: Cain, Kirner and Victoria 1982-1992*, Melbourne: Melbourne University Press, 1992, p.147.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid., p.149.

balance between ‘conceptions of equity and efficiency’ shifted significantly towards the latter.<sup>81</sup>

Whilst Cain’s autobiographical account of his time in office dedicated half of one chapter and a smattering of other references to the war that developed between his government and the BLF, he made no attempt to relate that struggle to shifts that had occurred in his party or in the union movement. Nor might he be expected to make such an attempt, since the purpose of his book was to explain how he had managed to keep Labor in power in an inherently conservative state for an unprecedented period of time, whilst all the time battling a selfish and recalcitrant union movement at home, and a marauding neo-liberal regime in Canberra. Yet, in Cain’s account of his determination to establish Labor as the natural party of government in Victoria, and in the efforts that he made to ensure that Labor would not be a one-term government, it is possible to see the same electoralism that Jaensch attributed to Federal Labor.<sup>82</sup> If elimination of the BLF was a step towards greater longevity for Labor in power, this thesis will suggest, Cain was willing to take that step.

## **Industrial Labor**

The penetration of the ALP by middle-class professionals is a dominant theme in accounts of that party for the late 1960s to early 1990s period. As my review of associated literature demonstrates, the ‘embourgeoisification’ of Labor’s organisational and political wings by middle class professionals has been viewed as critical to the ALP’s shift away from its mass party heritage.<sup>83</sup> The influx of professionally trained people into the industrial wing of the labor movement has generated a much smaller body of

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<sup>81</sup> Ibid., pp.147-9.

<sup>82</sup> Cain, *John Cain’s Years*, pp.37-62; Jaensch, *The Hawke-Keating Hijack*, pp.157-8. Jaensch used the term electoralism to describe what he perceived to have been Labor’s ‘almost exclusive focus on the voters, on a responsive rather than an expressive mode.’ It demanded, he argued, that Labor be cautious, instigating change ‘only when it seems apparent that the electorate is at least not actively opposed to such a change.’ Moreover, he suggested, ‘Electoralism demands a passionless party, one willing and able to abandon causes, claims, appeals, policies, programmes if there is evidence that by pursuing them, votes may be lost.’

<sup>83</sup> Jaensch, *The Hawke-Keating Hijack*, pp.62-3. Jaensch used the term ‘embourgeoisification’ to describe what he saw as the middle-classing of Australian society. He suggested that, in view of Australian society becoming more middle class, it was imperative that Labor broaden its appeal beyond its traditional and declining working class base. Others suggested that the middle-classing of the ALP had been highly disproportionate to the middle-classing of society.

literature. However, this does not make the shifts associated with those professionals and identified in the literature any less important. In view of Cummins' proposal that the BLF had fallen victim to a convergence of agendas, and in view of the fact that removal of the BLF from the industrial landscape profited rival unions, the rise of intellectually trained people in the union movement and the potential they had to shape the movement's direction in accordance with the wishes of capital and the State is germane to this thesis.

Bramble on one hand and Irving and Scalmer on the other, occupied different positions in the literature concerned with shifts in the ALP. For Bramble, the shifts that occurred were qualitatively unremarkable since, in his opinion (and that of Kuhn, his collaborator) Labor continued to be the same capitalist workers party it had always been.<sup>84</sup> By contrast, Irving and Scalmer suggested that Labor had experienced fundamental shifts, which were to a large degree facilitated by the changing nature of the Australian public sphere.<sup>85</sup> Those shifts, promoted through a host of newly emerging media forms, including the still relatively new media of television, saw Labor become 'a more centralised, professional, expert and parliamentarist political institution'.<sup>86</sup> In describing the rise of professional-managerial classes within and without the ALP, and in backgrounding their growing influence against changes in the Australian public sphere of the 1960s, Irving and Scalmer also drew attention to the way in which there had been a contemporaneous collapse in the 'working-class public sphere'.<sup>87</sup> Whilst 'the capitalist media was becoming increasingly concentrated and powerful', they argued, the Labor press was declining, 'requests for socialist reading material from the branches of the Labor Party were being refused by Party officials', and political education of the working class was fast disappearing.<sup>88</sup>

Irving and Scalmer stopped short of condemning as Machiavellian the way in which Whitlam and his tertiary-educated supporters within and without the ALP used the new media to bring him to power and modernise the party.<sup>89</sup> But they warned against

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<sup>84</sup> Bramble & Kuhn, 'Continuity or Discontinuity'; Bramble & Kuhn, *The Transformation of the Australian Labor Party*.

<sup>85</sup> Irving & Scalmer, 'The Public Sphere and Party Change'.

<sup>86</sup> *Ibid.*, pp.227-42.

<sup>87</sup> *Ibid.*, p.230.

<sup>88</sup> *Ibid.*

<sup>89</sup> *Ibid.*, p.229. Irving and Scalmer suggested that rather than modernisation of the ALP being a necessary response to economic change or changes in 'the structural dependency of the state on capital', it was in fact

accepting the claims that were made by those who succeeded, just because they had succeeded. Furthermore, Irving and Scalmer warned both against accepting that the party had been ‘deficient precisely in the ways’ the victors claimed and against accepting that the victory of Whitlam and his supporters had been ‘somehow preordained’.<sup>90</sup>

The scepticism that Irving and Scalmer expressed in relation to shifts in the political wing of the labor movement is absent from their account of the rise of the ‘Modern Labour Technocrat’ in the industrial wing, or at least where those technocrats/intellectuals – the terms are interchangeable – in the Amalgamated Metal Workers’ Union (AMWU) were concerned. By contrast with the intellectuals pushing for change in the political wing and taking advantage of a declining labor public sphere to bring those changes about, the tertiary-educated professionals who made their way into the union movement in the late 1960s and early 1970s promised to revive the labor/working-class public sphere.<sup>91</sup> That the project failed, and that intellectuals came not to encourage activism but to constrain workers through the Accord process was, Irving and Scalmer suggested, consequent on changes in the political landscape rather than a conspiracy to subvert the workers’ struggle or some ‘inevitable and linear process’.<sup>92</sup>

According to Irving and Scalmer, intellectuals moving into the union movement from the late 1960s onwards experienced an evolutionary process in which they went from being research, education and media officers to being the theoretical brains of the unions they inhabited and, ultimately to being dominant actors, ‘independent, powerful...technically adept’ and removed from the workers they were hired to serve.<sup>93</sup> This process, in which benign intellectual forces in the union movement became increasingly technocratic, dominant and hostile to worker activism was, it has been

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part of ‘a long-standing strategy of Party leaders to entrench their control through careful exploitation of the mass media.’ They also contested suggestions that modernisation had been necessary because the ALP had been overly dominated by trade unions.

<sup>90</sup> Ibid., p.242. The authors argued that Labor had not been modernised ‘because it was overly dominated by trade unions, because society had changed, or because class was no longer central’, but because modernisation had been part of a long-standing strategy designed to bring Whitlam to power.

<sup>91</sup> Scalmer & Irving, ‘The Rise of the Modern Labour Technocrat’, pp.67-70.

<sup>92</sup> Terry Irving & Sean Scalmer, Historical Debate: ‘The Rise of the Modern Labour Technocrat’: Reply, pp.185-8. The authors argued that in the 1960s, those intellectuals moving into the labor movement had two possible futures – technocratic or activist. How the future unfolded, it has been suggested, was out of their control.

<sup>93</sup> Scalmer & Irving, ‘The Rise of the Modern Labour Technocrat’, pp.64-75.

suggested, hastened by the signing of the ALP-ACTU Accord wherein the hierarchical relationship between technocrat and union member was reversed, so that the former assumed primacy over the latter.<sup>94</sup>

Although Bramble agreed with Irving and Scalmer as to the constraining influence that intellectuals/technocrats exerted over previously militant workers, he disputed their claim that technocrats in the union movement had become independent and ‘capable of forging an autonomous role for’ themselves.<sup>95</sup> Rather, Bramble suggested, they had been deliberately established as an arm of union bureaucracy by officials eager to erect a buffer between themselves and the members they served.<sup>96</sup> In so far as their number, power and influence increased, Bramble argued, it was harnessed by those upon whom the technocrats were politically reliant – the officials who brought them into the movement – and enthusiastically supported by employers and governments keen to undermine militant unionism.<sup>97</sup>

Regardless of which interpretation is accepted, the shift in direction that occurred as a result of or in line with the entry of intellectuals into the industrial wing of the labor movement bears close resemblance to the way in which the political wing had shifted direction following its colonisation by middle-class, tertiary-educated professionals.<sup>98</sup> Notwithstanding suggestions that Bramble’s article was essentialist and that he had appropriated Irving and Scalmer’s work on the rise of intellectuals in the union movement to support ‘his own approach to unionism and left politics’,<sup>99</sup> there is much in

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<sup>94</sup> Ibid., p.75.

<sup>95</sup> Bramble, Historical Debate: ‘The Rise of the Modern Labour Technocrat’, p.183.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid., pp.182-3. Bramble noted that the Hawke-Keating regimes had provided unions with grants in excess of \$50 million, ‘most of which was tied to the employment of labour technocrats.’

<sup>98</sup> Jaensch, *The Hawke-Keating Hijack*, pp.75-7; Scalmer & Irving, ‘The Rise of the Modern Labour Technocrat’, pp.64-7. Jaensch implied that an early 1980s debate ‘on whether the ALP should disconnect itself from the unions’ failed to gain traction because pragmatic forces in the party had realised that there was little point in destroying ‘the existing unique unity of the party’ when ‘the union movement itself appeared...to be changing.’ There was a realisation that ‘The national leadership of the labour movement, notably in the ACTU, but also in state Trades and Labour councils, had become increasingly technocratic and “hard-nosed.”’ Scalmer and Irving explicitly linked the rise of intellectuals in the political and industrial wings of the labor movement by suggesting that the ALP had, from 1972 onwards seriously set about re-making trade unions in its own technocratic, modernised image. Moreover, they suggested that the technocratic view of modern unionism advanced by the ALP envisioned labour experts / intellectuals occupying central roles in the unions.

<sup>99</sup> Irving & Scalmer, Historical Debate: ‘The Rise of the Modern Labour Technocrat’: Reply, pp.186-7. According to Irving and Scalmer, Bramble believes ‘that unions are essentially conservative, rooted as they are in capitalist wage-labour relationships; their leaders form a separate bureaucratic stratum with its own

both his work and Irving and in Scalmer's article that highlights areas of divergence between the BLF and pro-Accord unions such as the AMWU.

Both sides of the 'Modern Labour Technocrat' debate have identified the central role that the CPA played in the development and implementation of the ALP-ACTU Accord.<sup>100</sup> Scalmer and Irving contrasted the support given by the CPA to the technocrats' penetration of the union movement with the hostility of other Communists who viewed their rise as 'a strategy of "big business" unionism designed to stifle democracy, emasculate the fighting strength of the unions, and limit all activity to the conference table'.<sup>101</sup> Scalmer and Irving failed to identify those other Communists. However, suggestions that Gallagher and the BLF were removed from the scene in order to discourage other unions from bucking the Accord help considerably in narrowing the field.<sup>102</sup>

Since both sides of the debate were entirely focused on the rise of intellectuals and the potential they had to shape union policy and practice, they naturally failed to develop beyond allusion the way in which technocratically-induced shifts in the industrial wing of the labor movement resulted in divisions between unions generally, and between the BLF and pro-reform unions in particular.<sup>103</sup> Nor did they explore the way in which internecine warfare then under way in the Australian Communist movement intersected with and shaped divisions in the union movement.<sup>104</sup>

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interests which are "alien" to those of the union's members; and that "labour intellectuals" are just one arm of this union bureaucracy.'

<sup>100</sup> Bramble, *Historical Debate: 'The Rise of the Modern Labour Technocrat'*, pp.181-2; Scalmer & Irving, 'The Rise of the Modern Labour Technocrat', p.75.

<sup>101</sup> Scalmer & Irving, 'The Rise of the Modern Labour Technocrat', p.65.

<sup>102</sup> Jaensch, *The Hawke-Keating Hijack*, p.77; Rick Kuhn, 'Labor in Power', p.141.

<sup>103</sup> Scalmer & Irving, 'The Rise of the Modern Labour Technocrat', p.73. Scalmer and Irving noted in relation to AMWU efforts to implement its 1970s strategy of intervention, in which unions would encroach upon managerial prerogatives had been hampered by a lack of cooperation from 'more conservative unions.'

<sup>104</sup> Whilst communism and the Communist movement in Australia have now passed into history, the battle for supremacy between the various Communist factions was very much alive in the 1970s and 1980s. The CPA, CPA-ML (Communist Party of Australia Marxist-Leninist) and SPA (Socialist Party of Australia) each hoped to establish themselves as *the* party of the workers' movement. Scalmer and Irving noted that in their battle to have intervention taken up as mainstream union policy, AMWU technocrats and officials had dismissed as simplistic 'immediate socialist responses to the encroaching economic crisis' of the late 1970s. Scalmer & Irving, 'The Rise of the Modern Labour Technocrat', pp.70-1.

## BLF Historiography

As this literature review suggests, Gallagher and the BLF have rated very little attention in historiographies of the ALP and the industrial wing of the labor movement. In neither case has there been any attempt made to use them as prisms through which shifts discussed in the literature might be examined. Nor have the histories discussed so far made any attempt to examine the ways in which shifts in the political and industrial wings of the labor movement contributed to the demise of the BLF. This failure to locate the demise of the BLF within the context of shifts in the political and industrial wings of the labor movement and/or use Gallagher and the union as windows onto those shifts has been repeated where BLF historiography is concerned.

With the exception of Humphrey McQueen's long-range contributions – *Framework of Flesh: Builders' Labourers Battle for Health & Safety*, and *We Built this Country: Builders Labourers and their Unions, 1787 to the Future* – histories of the BLF have tended to be localized and given to highlighting divisions within the organization.<sup>105</sup> Highly partisan accounts of the union have, even in that version most sympathetic to Gallagher – Ross's *Dare to Struggle, Dare to Win!* – inclined towards the Great Man of history scenario in which responsibility for the traumatic and divisive end of the BLF has been sheeted home to Gallagher's personal decisions and actions.

This tendency towards biased accounts of the BLF is perhaps unsurprising given the polarising nature of the personalities and issues involved: as Cain remarked, Gallagher was for many in the community, 'ready-made as an example of the unacceptable face of trade unionism'.<sup>106</sup> NSW leaders, Munday, Owens and Pringle have, by contrast, been characterised as enlightened, democratic eco warriors whose values and principles positioned their branch of the BLF at the vanguard of social movement unionism.<sup>107</sup> As might be expected, the contrasts in personality highlighted by Cain and

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<sup>105</sup> Humphrey McQueen, *Framework of Flesh: Builders' Labourers Battle for Health & Safety*, Port Adelaide: Ginninderra Press, 2009; Humphrey McQueen, *We Built this Country: Builders' Labourers and their Unions, 1787 to the Future*, Port Adelaide: Ginninderra Press, 2011.

<sup>106</sup> Cain, *John Cain's Years*, p.119.

<sup>107</sup> Meredith Burgmann & Verity Burgmann, *Green Bans, Red Union*, pp.4-5. Pat Fiske, *Rocking the Foundations [videorecording]: a history of the New South Wales Builders Labourers' Federation 1970-1974*, Sydney: Bower Bird Films, 1985. The Burgmanns suggested that through its green ban actions, the NSWBLF became 'a prototype for the social-movement unionism of the 1990ss, which was characterised



others have been similarly stressed in Munday's autobiographical *Green Bans & Beyond*.<sup>108</sup> And they are there, too, in Boyd's book *Inside the BLF: a union self-destructs*, in which he shares with Ross a view that Gallagher's personal failings were, like his alienation from other union leaders, rooted in his controversial take-over of the NSW branch of the BLF in 1974.<sup>109</sup>

Ross and Boyd both offer sound chronological accounts of the deregistration process experienced by the BLF in the 1980s, and their work is mutually supportive in a number of ways. They agreed that Gallagher had been personally targeted as a means of attacking the union, and that attacking the BLF had been part of a broader agenda of bringing the working class to heel.<sup>110</sup> They also concurred in their analysis of the Royal Commission into the activities of the BLF, which Boyd described as a 'fishing expedition',<sup>111</sup> and in their assessment of Gallagher's corruption, which Ross described as being greatly exaggerated and Boyd assessed as petty.<sup>112</sup> There was also agreement that Gallagher precipitated deregistration and dismemberment of the BLF by issuing a 'declaration of war' on the steps of the Supreme Court building in Melbourne, in October 1985<sup>113</sup> and that by focusing so intently on saving his own skin, Gallagher precluded the development of strategies capable of saving the BLF.<sup>114</sup>

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internationally by militancy, internal democracy, an agenda for radical social and economic change, a determination to embrace the diversity of the working class in order to overcome its fragmentation, and a capacity to appeal beyond their memberships by using union power to lead the fight for everything that affects working people in their communities and the country.' They characterised social-movement unionism as being 'a rehearsal for emancipation from below.'

<sup>108</sup> Munday, *Green Bans & Beyond*.

<sup>109</sup> Boyd, *Inside the BLF*, pp.9-57; Ross, *Dare to Struggle, Dare to Win!*, pp.88-170. For Boyd, Gallagher's personal failings, stemming as they did from his acceptance of financial support from the Master Builders Association of New South Wales when seeking to overthrow the NSWBLF leadership team, appear to have been enormously important. For Ross, the fall-out from Gallagher's actions in NSW in 1974 was to be seen in the deep divisions assaults on the union in the 1980s caused in the CPA where there was, alongside the desire to prevent a brother union from going under, such deep hostility towards Gallagher that the CPA and associated unions could not in good conscience support him and his union against those assaults.

<sup>110</sup> Ross, *Dare to Struggle, Dare to Win!*, pp.49-263; Boyd, *Inside the BLF*, pp.3-58.

<sup>111</sup> Boyd, *Inside the BLF*, p.53; Ross, *Dare to Struggle, Dare to Win!*, p.46. Ross suggested the Royal Commission had been made necessary because 'Earlier police enquiries into Gallagher's affairs had drawn a blank.'

<sup>112</sup> Ross, *Dare to Struggle, Dare to Win!*, pp.49-50; Boyd, *Inside the BLF*, pp.4-41.

<sup>113</sup> Boyd, *Inside the BLF*, pp.233-241; Ross, *Dare to Struggle, Dare to Win!*, pp.123-4. (Ross misdated Gallagher's 'declaration of war' to 7 October 1986) The 'declaration of war' concerned Gallagher's promise that his members would soon enjoy a 35-hour working week. See for example, *Sydney Morning Herald*, 9 October 1985, p.2.

<sup>114</sup> Ross, *Dare to Struggle, Dare to Win!*, pp.172-262; Boyd, *Inside the BLF*, pp.283-4. Ross suggested that Gallagher's inability to develop a plan capable of getting the union through its post-deregistration phase –

Whilst Boyd and Ross agreed on many aspects of the deregistration saga, they nevertheless disagreed in some important respects. They diverged, for example, where support for Gallagher's use of industrial muscle in his own fight was concerned. Boyd, whose book was written mostly from diaries he had kept during his time as a BLF official (he had been Gallagher's propaganda officer), argued persistently throughout that Gallagher had misused BLF firepower in trying to have corruption charges against him dropped and that he had, moreover, kept his membership in the dark about what he was doing.<sup>115</sup> By contrast, Ross, whose book relied heavily on interviews with former labourers and BLF officials, suggested not only that Gallagher had been correct in wielding union power against a clearly capitalist assault, but that in doing so he had enjoyed the support of a majority of BLF members.<sup>116</sup>

Whilst Ross made it clear early on in her book that Gallagher should have done more to imbue his membership with revolutionary potential, it was only his failure to plan for post-deregistration and his refusal to make way for John Cummins that prompted her condemnation of him.<sup>117</sup> Regardless of the points on which they agreed or disagreed, however, in their attempts to explain the final phase of BLF history, Boyd and Ross failed to go beyond fleeting references to shifts in the industrial and political wings of the labor movement. Where those attempts were made, they were generally confined to shifts in political thinking as they occurred in the 1980s.<sup>118</sup> They did not trace those shifts in political thinking back to their origins in the late 1960s.

Since the NSW BLF and its commitment to environmentalism and a new concept of unionism was the primary focus of their book, *Green Bans, Red Union: Environmental*

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an inability borne out of a further inability or unwillingness to separate himself from the union – ultimately led to a split in the union and his own expulsion. Whilst Boyd's argument can be found on the pages referenced above, Gallagher's inability to separate his personal affairs from those of the union was the major theme of *Inside the BLF*.

<sup>115</sup> Boyd, *Inside the BLF*, pp.4-53. Boyd reiterated his argument on pages 79, 84, 90, 104, 109, 113, 117, 120-3, 129-130, 134-135, 144-5, 159, 233-5, 260, 273.

<sup>116</sup> Ross, *Dare to Struggle, Dare to Win!*, pp.91-2.

<sup>117</sup> *Ibid.*, pp.20-283.

<sup>118</sup> *Ibid.*, p.273-6; Boyd, *Inside the BLF*, p.260. Ross noted that shifts in political thinking during the early 1980s led the ALP, the ACTU and many unions to move away from identification with class and towards an emphasis on national interest. She saw those shifts in terms of a world-wide trajectory to the right in which Thatcherism and Reaganism were highly influential. Boyd's references to shifts in the political and industrial landscapes remained relatively vague, but he did note that 1985 saw the launch of a series of anti-union campaigns, one of which was the assault on the BLF. In his opinion, Gallagher had 'exaggerated the scenario' by conflating the attack on the BLF with his own personal problems and, rather than allowing the union to deal with those issues in an appropriate way, he had 'urged on the "big clash."'

*activism and the New South Wales Builders Labourers' Federation*, Meredith and Verity Burgmann had little cause to illuminate the way in which shifts in the ALP were impacting upon the union of the early to mid-1970s.<sup>119</sup> Nor did they have reason to relate differences within the BLF or between the BLF and other unions to the broader issue of shifts in the labor movement and the way in which those shifts were being influenced by a new breed of labor experts. However, the Burgmann sisters did give some space to the ways in which splits in the Australian Communist movement reverberated in industrial circles.<sup>120</sup> For them, the New Left alignment that developed between the NSW BLF and the post-1971 CPA was evidently attractive, in that it appeared more democratic and embraced a range of issues from environmentalism to gay rights, Indigenous rights and women's rights.<sup>121</sup> Where Gallagher was mentioned, it was naturally in relation to his takeover of the NSW BLF and in ways that demonised him as an ideologue and corrupt individual whose comeuppance was finally realised in the 1980s.<sup>122</sup>

In view of the drama that Cain, Gallagher, and the BLF shared during the 1980s, it might be expected that Cain would pay considerable attention to the latter in his autobiographical *John Cain's Years: Power, Parties and Politics*. However, of that chapter in his book entitled 'Living with the Trade Unions: The Struggle with the BLF', little over half focused directly on the union.<sup>123</sup> Cain's time as Premier of Victoria did not, of course, revolve solely around the BLF and its activities. However, he has limited his discussion of Gallagher and the union to highlighting their intractability and his own integrity. Indeed, Cain sought to preclude any revision of that view by suggesting that the union and people around it would continue to sling mud at his government in general and at him in particular.<sup>124</sup>

Cain made no effort to relate the Gallagher-BLF question to broader issues, such as transformations underway in the labor movement. He did, however, identify himself

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<sup>119</sup> Burgmann & Burgmann, *Green Bans, Red Union*, p.81. The Burgmanns did note that BLF leaders in New South Wales had been ambivalent towards Whitlam's victory in 1972, fearing that it would make workers complacent and that the relationship Whitlam in power might develop with the ACTU, then led by Bob Hawke, would be so cosy as to further undermine the workers' struggle.

<sup>120</sup> *Ibid.*, pp.22-6.

<sup>121</sup> *Ibid.*, pp.18-266.

<sup>122</sup> *Ibid.*, pp.267-75.

<sup>123</sup> Cain, *John Cain's Years*, pp.113-26.

<sup>124</sup> *Ibid.*, p.126.

with the forces of transformation, noting that he and other ALP luminaries had come together in the 1960s in a group known as the Participants and that their purpose had been to open up the party in Victoria ideologically and in terms of membership.<sup>125</sup> He also implied that whilst he tried to talk Hawke out of his plan to smash the Left ‘in the councils of the party’ when they met to discuss the matter at the Southern Cross Hotel in Melbourne in December 1983, he had nevertheless signalled his willingness to take on the ‘extremists’ on the Left.<sup>126</sup> In suggesting that the BLF issue ‘proved to be the dispute in which Labor rewrote the rules on government-party relations’, and that it had given the party the ‘strength and capacity to defy its own base’, Cain also pointed to the mechanism that Gallagher and the BLF provided for a transformation of the ALP that was then reaching its zenith.<sup>127</sup>

In his unpublished thesis ‘The Australian Building Construction Employees & Builders Labourers Federation and the New South Wales Building Industry’, John Richard Elder backgrounded the divisions that opened up within the BLF against the close associations that the NSW branch of the union developed with a range of protest movements rooted in the social, sexual and political upheavals of the 1960s and 1970s.<sup>128</sup> In doing so, Elder suggested that the NSW branch had been captured by New Left radicals who, along with students on the extreme Left had formed a class of hard-core protestors actively seeking alliances with other groups protesting for or against whatever social issues were prevalent at the time.<sup>129</sup> Elder’s analysis of the NSW BLF as a ‘testing vehicle, and vanguard flag-bearer of the CPA and its ultra-left policies’ is useful to understanding the role that ideological differences played in Gallagher’s takeover of the NSW branch. But his failure to locate that event in the broader context of shifts in the labor movement does little to dispel notions that Gallagher was a pawn of the Master Builders Association of New South Wales.

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<sup>125</sup> Ibid., p.9. Cain included among those with whom he joined to urge on federal intervention in Victoria, Richard McGarvie, John Button, Michael Duffy and Barry Jones.

<sup>126</sup> Ibid., pp.92-3.

<sup>127</sup> Ibid., p.118.

<sup>128</sup> John Richard Elder, *The Australian Building Construction Employees & Builders Labourers Federation and the New South Wales Building Industry – An Employer’s Perspective of an Industry in Crisis, 1970-1974*, MA thesis, School of Industrial Relations, University of Sydney, 1994, available at <http://ses.library.usyd.edu.au/handle/2123/2155>

<sup>129</sup> Ibid., p.111.

Gallagher's alleged betrayal of the NSW branch also infused Caroline Graham's highly partisan Honours Year thesis, *Anatomy of a Revolutionary Union: A Post Mortem on the Builders' Labourers' Federation, 1968-1975*.<sup>130</sup> Written from the perspective of one who had been close to events in NSW – she claimed, for example, to have been 'thoroughly involved in the struggle against Gallagher' – Graham's work is most useful to understanding how internecine warfare in the Communist movement affected the NSW BLF and its relations both with Gallagher and with other unions.<sup>131</sup> But whilst she noted Bob Hawke's temporary leftward shift – encouraged by 'the combination of inflation and job security' that had prompted a more general, late-1960s movement in that direction – Graham chose not to explore the impact of longer-term shifts in the labor movement (CPA-influenced, notwithstanding), either on the NSW BLF, or on the federal organisation.<sup>132</sup> Her failure to examine that terrain may be explained by the timing of her work – it was completed in October 1975 – and by the focus of her study: the revolutionary characteristics of the NSW BLF and its charismatic leader, Jack Munday. But it is also explained by the ease with which Gallagher could be blamed, albeit on what Graham acknowledged had been circumstantial evidence, for the downfall of the NSW BLF.<sup>133</sup>

McQueen's contributions to BLF historiography are starkly different to those discussed above. *Framework of Flesh* focuses squarely on the working conditions and perils that builders' labourers have faced and battled hard to overcome from the late nineteenth century through to the present day. Indeed, a quick glance through the index section of the book confirms that McQueen's interest lay much more with issues such as asbestos, scaffolds, on-site amenities and the myriad of other factors that shape the day-to-day lives of builders' labourers, than (in this instance, at least) with the way in which shifts in the labor movement or the Labor Party contributed to the demise of the BLF. *We Built this Country* certainly illuminates the struggles that shaped BLF relations with other

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<sup>130</sup> Caroline Graham, *Anatomy of a Revolutionary Union: A Post Mortem on the Builders' Labourers' Federation, 1968-1975*, Department of Government, University of Sydney, October 1975. A copy of Graham's thesis may be located in Brian Boyd's personal papers at the University of Melbourne. Box 57, 8/4-9/3.

<sup>131</sup> Ibid., pp.2-3.

<sup>132</sup> Ibid., p.32.

<sup>133</sup> 'Though the evidence was purely circumstantial', Graham 'was convinced that Gallagher was being actively supported by the Master Builders Association and its cohorts'. Ibid., p.3.

unions, but it does so in an almost purely industrial sense. Thus battles between the BLF and unions such as the Operative Plasterers' and Plaster Workers' Federation, or the BWIU, are recounted in terms of the long-range push to develop a single building and construction industry union, such as that which emerged as the Construction, Forestry, Mining and Energy Union (CFMEU).

This thesis does not dispute the polarising effect that Gallagher brought to BLF or broader trade union politics. It does, however, suggest that by continuing to focus on his shortcomings, historians have missed the opportunity to use the particularly revealing window that Gallagher and his union provide onto the transformation of the political and industrial wings of the labor movement. It also suggests that by focusing so intently on Gallagher's transgressions, historians have denied the significant contribution he made to militant unionism. This thesis will not attempt to hide from Gallagher's failings. Rather, it will articulate a history of the BLF in which his contributions weigh against his failings.

## Chapter Three

### Whose Party Was It?

According to some commentators, the dismissal of the Whitlam Government in 1975 and Labor's subsequent poor electoral performance prompted a shift in the Australian labor movement, wherein the ALP and union leaders 'drew right-wing conclusions about how to win reforms within the system'.<sup>1</sup> This rightward trajectory has in turn been presented as an explanation for why, in the 1980s and 1990s, federal and state Labor governments combined with union leaders opposed to Gallagher and the BLF to dismantle that union and incorporate its members into rival organisations.<sup>2</sup> Whilst such contextualisation of BLF history is sound, its potency has been weakened by a failure to extend it beyond allusion or to explain the contribution that embourgeoisification of the ALP made to relations between Labor, Gallagher and the BLF.<sup>3</sup> By examining the ways in which embourgeoisification of the ALP pushed the party to the right and by juxtaposing that trend with the direction in which politically active left-wing unions such as the BLF were moving, this chapter will provide a context in which later conflicts between Labor, Gallagher and the BLF can be better understood.

The middle-classing of the ALP was a process most obvious during the 1960s.<sup>4</sup> By reflecting on that decade through a number of lenses, it is both possible to trace the embourgeoisification of the party, and to see how a pattern was established in which obstacles to the creation of a new Labor order were removed. These lenses are: the Vietnam War, unity tickets and State-aid for non-Government schools. A brief reference to the White Australia policy is also useful. The use of such lenses is, of course not new. However, they have not previously been amalgamated to form an overall picture of the

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<sup>1</sup> For example, Ross, *Dare to Struggle, Dare to Win!*, p.69.

<sup>2</sup> Jaensch, *The Hawke-Keating Hijack*, p.77; Ross, *Dare to Struggle, Dare to Win!*, pp.69-82.

<sup>3</sup> The term 'embourgeoisification' has been used by Jaensch to describe what he understood to be the middle-classing of Australian society through 'years of unprecedented growth and prosperity' in the 1950s and 1960s. According to Jaensch, the ALP of the 1950s and 1960s 'remained firmly within its labourist style and mode, expressing, and appealing to, the declining number of the "working class" at a time when the working class were absorbing middle-class values and pursuing middle-class ideals. Jaensch, *The Hawke-Keating Hijack*, pp.32-3. In the context of this thesis, the term 'embourgeoisification' is used to describe what others have pointed to as the middle-classing of the ALP.

<sup>4</sup> John Daniel Fitzgerald, *Federal intervention in the Victorian Branch of the Australian Labor Party, 1970*, MA thesis, Department of History, La Trobe University, 1975, p.65

ALP as a party moving inexorably towards the kind of movement that would willingly amputate a living component of its own form in order to safeguard its electoral success and advance Australia on the road to neoliberalism.

That Labor's embourgeoisification ultimately led to the destruction of impediments to what the party now represents was articulated by Jenny Hocking in her biography of Gough Whitlam.<sup>5</sup> Referring to Whitlam's intervention into the affairs of the Victorian branch of the ALP in 1970, she argued:

*Events in Victoria illuminated the way in which the new political agenda created by Labor's policy work of the previous decade was intricately linked to the party's restructuring and the influx of a broader membership with modern social concerns.*

Because the 'Old Guard' – the Victorian Central Executive (VCE) and the militant trade unions that underpinned it – had little time for the 'modern social concerns' associated with 'the influx of a broader membership' – a euphemism for the influx of middle-class members that occurred under Whitlam – it had to be eliminated. Demonstrating that Gallagher and the BLF had to be removed from the political and industrial landscape lest they derail a later step in the transformation of the ALP is a central argument of this thesis. The legitimacy of such an argument rests on parallels being drawn between the elimination of the BLF and the dismissal of the Victorian branch in 1970. It can also be done by extending the link that historians and others have identified, between the events of 1955 and the sacking of the Victorian branch in 1970 to the elimination of Gallagher and the BLF in the late 1980s and early 1990s.<sup>6</sup>

### **The 1960s: Labor's changing face**

Having been split asunder in the previous decade, the ALP entered the 1960s with a new leadership team, an opportunity to heal old wounds and, following its narrow defeat in

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<sup>5</sup> Jenny Hocking, *Gough Whitlam: A Moment in History: the biography*. Vol. 1, Melbourne: Melbourne University Publishing, 2009, p.356.

<sup>6</sup> For connections between the Labor Party split of 1955 and federal intervention in Victoria in 1970, see, for example, Hocking, *Gough Whitlam*, p.356. Hocking traced the genesis of federal intervention into the affairs of the Victorian branch in 1970 back to 'the unresolved divisions of the split that had been deeper, more polarised and more irreparable [in Victoria] than in any other state.'



the credit squeeze election of 1961,<sup>7</sup> the promise of better times ahead.<sup>8</sup> H.V. Evatt – the source of so much unrest in the party – had made a dignified exit from politics to take up his position as Chief Justice of the Supreme Court of NSW.<sup>9</sup> In his stead, Arthur Calwell and his deputy, Edward Gough Whitlam, gave Labor an anchor to its proudest traditions and a link to the future. Together, they provided the ALP with the gravitas and energy necessary to new beginnings and new opportunities.<sup>10</sup> By 1970, however, this optimism had withered in the face of a bitter leadership struggle between Calwell and Whitlam, and the party, beset by a series of divisions on issues as diverse as the White Australia Policy, State aid for non-government schools, unity tickets and the war in Vietnam, appeared as divided as ever. In almost every instance, it was Victoria, where the consequences of the split had been most severely felt – and where BLF power was concentrating and expanding – that the lines along which Labor continued to divide were most apparent.

Formed as a mass party to express the aims and interests of the organised working class, the ALP has always rested on the twin supports provided by union affiliation and local membership branches, with the former traditionally playing a much greater role than the latter.<sup>11</sup> Whilst Labor had never been a party exclusively of the working class, its reliance on the electoral and financial support provided by workers and their unions has never been in doubt.<sup>12</sup> In financial terms, for example, affiliated unions provided on average almost 75 per cent of Victorian ALP income between 1957 and 1970. Across the same time period the average financial contribution from branches was under seven per

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<sup>7</sup> For a discussion of the ‘credit squeeze election’ of 1961 and Labor’s campaign for power, see, for example, Colm Kiernan, *Calwell: A Personal and Political Biography*, Melbourne: Nelson, 1978, pp.217-34.

<sup>8</sup> Laurie Oakes, *Whitlam PM: a biography*, Sydney: Angus & Robertson, 1973, pp.92-3, suggested that Calwell and Whitlam enjoyed a productive relationship in the first few years of their partnership, when the older man evidenced a protective attitude towards the younger; Hocking, *Gough Whitlam*, p.196, argued that ‘the pairing of Arthur Calwell and Gough Whitlam brought renewed optimism. In its personal contrasts it reflected the party’s own transition from the riven party that had existed since the split to a party poised to at last follow Ben Chifley’s advice, “Accept your humiliation and we can go forward.” It was a dynamic of old and new that for a time worked well.’

<sup>9</sup> John Murphy, *Harvest of Fear: A history of Australia’s Vietnam War*, Sydney: Allen & Unwin, 1993, pp.129-130, noted that many in the Labor Party described Evatt’s departure as ‘the end of a nightmare.’

<sup>10</sup> Ross McMullin, *The Light on the Hill: The Australian Labor Party, 1891-1991*, Melbourne: Oxford University Press, 1991, p.291, noted the ‘favourable notice’ initially given to the ‘smooth blend of contrasting attributes’ that Calwell and Whitlam embodied.

<sup>11</sup> *Ibid.*, pp.9-69.

<sup>12</sup> Jaensch, *The Hawke-Keating Hijack*, pp.46-64.

cent.<sup>13</sup> Whilst union contributions steadily increased in this period, however, the percentage of union officials on the Central Executive/Administrative Committee declined from 74 per cent to 45 per cent.<sup>14</sup> Nor can this be related simply to a restructuring of the party in Victoria in 1970, since the percentage of union officials on those bodies had already declined from 74 per cent in 1956 to 52 per cent in 1968. Moreover, this decline in union officials on the Central Executive occurred at a time when professional/business representation rose from four per cent to 26 per cent.<sup>15</sup>

The dichotomous character of Labor's underpinnings – its affiliated unions and the apparently less than democratic nature of their influence over the party on the one hand and the seemingly more democratic but less effectual nature of the local branches on the other – provided in the 1960s what was to be an overarching framework for many of the party's internal battles. An early, though by no means quickly resolved example of these battles was the struggle over the party's White Australia Policy. As Sean Brawley has demonstrated, that struggle serves as an excellent lens through which the increasingly bourgeois character of the ALP can be seen. At one and the same time, it captured tensions in the party between the Old and New Guards, the traditionalists and modernisers, the blue and white collar memberships, the unions and the local branches, the working and middle-class memberships, the intellectuals and anti-intellectuals, the inner cities and the suburbs and, of course, between Calwell and Whitlam as the personifications of the Old and New Guards.<sup>16</sup> It was, therefore, a struggle informed by generational shifts and conflicting visions about Labor's future, a struggle between those

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<sup>13</sup> James Jupp, 'Victoria: Left, Right and Centre' in Andrew Parkin & John Warhurst (eds.), *Machine Politics in the Australian Labor Party*, Sydney: Allen & Unwin, 1983, p.76.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid; Ian Ward, A "new look" ALP?: the middle classing of the Victorian branch of the ALP 1961-1982, PhD thesis, Monash University, 1987, p.7.

<sup>16</sup> Sean Brawley, 'Long Hairs and Ratbags, The ALP and the Abolition of the White Australia Policy', in *A Century of Social Change*, Labor History Essays, Vol. 4, Sydney: Pluto Press Australia in association with the New South Wales Branch of the Australian Labor Party, 1992, pp.202-14. Brawley credited the local branches with responsibility for the push for reform of Labor's immigration policy. It was in the branches, too, that Whitlam, the foremost champion of reform, drew his support. For a discussion of the tensions between traditionalists and modernisers, see also McMullin, *The Light on the Hill*, p.309. McMullin noted that 'nearly all traditionalists disliked and distrusted intellectuals, saw trade unionists as the hallowed core of the party, and advocated a continuation of vigilant machine control over potentially expedient MPs.' Moreover, they regarded the modernisers as 'opportunists hungry for office.'

eager for the change they knew to be inevitable and those who hoped their party could be insulated from that change.<sup>17</sup>

The fault lines thrown up by White Australia were similarly in evidence where the issue of State aid for non-government schools was concerned. But whilst NSW had provided the strongest resistance to changes in Labor's discriminatory immigration policy,<sup>18</sup> it was the Victorian branch of the ALP that presented the greatest resistance and paid the highest price in its struggle to protect Australia's secular education system. The events leading up to and including federal intervention in Victoria and the way in which State aid became the trigger for intervention will be discussed in greater detail later in this chapter. For now, it is sufficient to note that the process was one in which the embourgeoisification of the ALP was not only clearly evident but had reached a point at which it would become critical to the future of the ALP and the labor movement more generally.

### **Middle-classing the ALP**

Discussion of the ALP's increasingly middle-class character had, prior to Ian Ward's sociological analysis of the Victorian branch, been largely anecdotal and/or limited to the public face of the party where the phenomenon was most apparent.<sup>19</sup> Political scientist, L.F. Crisp, for example, observed how his local branch in NSW had changed dramatically in the decades following World War II from having a handful of white-collar members essentially under the control of blue-collar office bearers to the situation in the 1980s when its membership was overwhelmingly white-collar and middle-class.<sup>20</sup> If Crisp's experience in a branch whose locale had in the intervening years become even more heavily blue-collared was repeated across the country, and he provides anecdotal evidence that this was the case, declining local branch membership in Victoria, as

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<sup>17</sup> Brawley, 'Long Hairs and Ratbags', pp.205-13.

<sup>18</sup> Ibid., p.206.

<sup>19</sup> Ian Ward, A "new look" ALP? : the middle classing of the Victorian branch of the ALP 1961-1982, PhD thesis, Monash University, 1987.

<sup>20</sup> L. F. Crisp, 'The Labor Party: Then and Now', in Gareth Evans & John Reeves (eds.), *Labor Essays 1982: Socialist Principles and Parliamentary Government*, Carlton: Drummond Publishing, 1982, pp.70-3.

described by Allan and Jupp,<sup>21</sup> may have been at least partially a response to the arrival of more articulate, white-collar, professionally-trained members with interests and agendas altogether alien to the branches' traditional blue-collar membership.

According to Crisp, the influx of white-collar members and the greater visibility of women in the party so altered the nature of the branches that discussions which had traditionally revolved around issues immediately affecting the branch membership were marginalised by topics of national and international scope.<sup>22</sup> The laborist emphasis once synonymous with local ALP branches had been usurped by a range of radical, big ticket concerns, such as the environment, women's issues and the nuclear debate.<sup>23</sup> Implicit in this change in emphasis was a rise not only in the affluence of the members coming into the party, but also in their educational standards, both of which were echoed at the parliamentary, ministerial and party leadership levels. Whilst the number of Federal Labor politicians with tertiary qualifications had only increased from four to 17 per cent between 1901 and 1941, the following 40 years saw an increase from 17 to 55 per cent. This dramatic change in the educational standards of ALP parliamentarians coincided with a sharp increase in the number of Labor politicians with professional qualifications – up from 11 to 40 per cent between 1901 and 1981 and an even sharper decline in the representation of blue-collar backgrounds from 63 per cent in 1901 to 39 per cent in 1941 and just 12 per cent in 1981.<sup>24</sup> This pattern of embourgeoisification, which was to become even more pronounced in later decades, was repeated amongst those who climbed to ministerial and party leadership levels, with two out of the four men who led the party between 1951 and 1977 having qualified as barristers and another (Calwell)

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<sup>21</sup> Lyle James Allan, *A Party in Disarray: Victorian Labor after the split 1955 – 1965*, Masters Thesis, University of Melbourne, 1981, p.67; Jupp, 'Victoria: Left, Right and Centre', p.71.

<sup>22</sup> Crisp, 'The Labor Party: Then and Now', pp.71-3.

<sup>23</sup> Jaensch, *The Hawke-Keating Hijack*, p.50.

<sup>24</sup> Crisp, 'The Labor Party: Then and Now', p.74; Narelle Miragliotta & Wayne Errington, 'Occupational Profile of ALP, LP and National MHRs 1949-2007: From Divergence to Convergence', *Refereed paper delivered at Australian Political Studies Association Conference, Brisbane, 6-9 July, 2008*, pp.1-17, available at <http://www.polsis.uq.edu.au/apsa2008/Refereed-papers/Miragliotta%20and%20Errington.pdf> accessed 30 June 2010. This survey of the pre-parliamentary occupational profiles of Federal Members of Parliament (House of Representatives) for the period 1949-2007 suggested a narrowing range of and convergence between the occupational backgrounds of Labor, Liberal and National Party parliamentarians. Moreover, it suggested that whilst blue-collar workers entering parliament had fallen from ten per cent in the 1949-69 era to just one per cent in the 1991-2007 era, most of that decline had occurred between 1970 and 1990.

having been a state treasury officer. By contrast, those who led the party prior to 1951 had worked in a variety of decidedly non-professional jobs.<sup>25</sup>

Analysis of Victorian ALP membership records for the years 1961, 1971 and 1981 confirmed a substantial influx of middle-class, tertiary educated professionals.<sup>26</sup> Moreover, not only had blue-collar worker representation in Victorian ALP membership dropped from 57.3 per cent of all members in 1961 to 27.3 per cent in 1981 – a decline not mirrored in the changing Australian workforce – but the greatly increased white-collar and professional membership – up from 14.8 per cent in 1961 to 51.8 per cent in 1981 – had dramatically exceeded the rate at which they had come to be represented in the Victorian workforce.<sup>27</sup> Closer examination of the records indicated that whilst professionals had increased their membership of the ALP from 8.4 per cent in 1961 to 38.4 per cent in 1981, their presence in the Victorian workforce across the same period had only risen from 8.52 per cent to 14.23 per cent.<sup>28</sup>

If Ward has illuminated the middle-classing of the ALP as a phenomenon of the 1960s, others have pointed to Gough Whitlam as the individual most closely connected to if not responsible for that phenomenon.<sup>29</sup> Nor did Whitlam shy away from the perceived

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<sup>25</sup> Crisp, 'The Labor Party: Then and Now', pp.75-6; Jaensch, *The Hawke-Keating Hijack*, pp.51-2; Bramble & Kuhn, *The transformation of the Australian Labor Party*; Hocking, *Gough Whitlam*, p.273. Jaensch observed that by 1981, '80 per cent of the Labor Caucus was middle-class' with professionals accounting for '40 per cent of the members.' He noted further, that whilst professionals occupied 26 per cent of places in Ben Chifley's government, the number had risen to 66 per cent under Whitlam and, under Hawke it rose to 71 per cent. Bramble and Kuhn argued that 'Until the election of Gough Whitlam in 1967, all national Labor Party leaders, apart from H.V. Evatt, had experience as workers at some stage before entering Parliament.' Even Evatt, they argued, 'came from a working class family.' For Bramble and Kuhn, 'The election of Whitlam marked the advent of a new generation of Labor leaders.' Hocking noted that with the election of Whitlam in 1972, Lance Barnard was the odd man out in a leadership team comprising four lawyers. Whitlam, Lionel Murphy and Sam Cohen had all been lawyers prior to entering politics. Barnard had been a teacher.

<sup>26</sup> Ward, A "new look" ALP?, pp.74-8.

<sup>27</sup> Ibid., pp.75-82. The rapid rise in white-collar and professional membership between 1961 and 1981 massively overshadowed their increased representation in the Victorian workforce where their presence increased from 15.9% in 1961 to 18.82% in 1981.

<sup>28</sup> Ibid., p.77-82. Ward suggested that the failure of Clerical Workers to advance or retain representation in ALP membership in line with their presence in the Victorian workforce was tied to the 1955 Party split and their subsequently strong affiliation with the DLP. Whilst Clerical Workers as a group accounted for 13.03% of Victorian workers in 1961, they held only 7.57% of Victorian ALP memberships. Their presence in the ALP had only increased to 8.78% of membership in 1981 even though their proportion of the Victorian workforce had jumped to 17.20%.

<sup>29</sup> See, for example, Oakes, *Whitlam PM*, pp.63-87. Oakes argued that Whitlam's plan to woo middle-class support had been implemented from the moment he achieved the deputy leadership of the Party. Oakes also suggested that a flood of academically trained people had flooded into Parliament on the Labor side in 1969. See, also, Jaensch, *The Hawke-Keating Hijack*, p.50, Jaensch argued: 'From the influence of

need to attract white-collar, middle-class support. At the Newcastle Workers' Club in 1965, for example, he told his audience that rather than resenting their party's reaching out for middle-class support, blue-collar workers and their unions ought to support and embrace such moves.<sup>30</sup> This formula for improving workers' lives through a middle-class takeover<sup>31</sup> of their party was melded to arguments for structural reform of the ALP and the need to remove the VCE that middle-class people found so distasteful or frightening.<sup>32</sup>

Whitlam's ascension, first to the deputy leadership position in 1960 and then to the position of leader in 1967, was viewed with particular contempt and suspicion by those who had come to dominate the party in Victoria. To the VCE, Whitlam's looks, speech and background were not those of real Labor men. Nor was his obvious ambition something to be applauded, since in Labor experience (following the examples set by Hughes and Lyons) ambition had become associated with treachery. In addition, the causes Whitlam came to advocate were causes the VCE considered not just unsound, but 'downright dangerous to the welfare of the party.'<sup>33</sup>

In a party as blue-collared as Labor had been, it was obvious from the beginning that Whitlam's academic prowess and lecturing manner would do nothing to endear him to the many who suspected his motives and found his sincerity hard to take.<sup>34</sup> No doubt, this view of Whitlam as a 'silver-tail' – a view which gained currency well beyond the ranks of the VCE – could only have been confirmed by the 'class traitor' tag ascribed to

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Whitlam and his lieutenants and from the influx of middle-class members into party branches, there has been an injection of a professional and middle-class flavour at the grass-roots level...'; Hocking, *Gough Whitlam*, pp.338-9. Whitlam boasted that at least a third of those occupying the Labor benches following the 1969 elections would be 'new men.' Describing as 'outstanding candidates' the doctors, businessmen and civil servants he had managed to attract to the Party, Whitlam insisted that they provided Labor with its 'greatest [ever] influx of talent and drive.' It was, Hocking argued, 'an expansion...not just in numbers but in background'; a 'culmination of Whitlam's earliest efforts to rebuild the Party from its base up.'

<sup>30</sup> Oakes, *Whitlam PM*, pp.154-5.

<sup>31</sup> Rather than reaching out to the established 'old' middle-class, the landowners and captains of industry, Whitlam encouraged support from the 'new' middle-class: doctors, scientists, journalists, teachers, economists, and other salaried professionals. Oakes, *Whitlam PM*, pp.86-7. For a discussion on and schematic analysis of the different types of middle-class voters attracted to Labor and the Conservatives, see Ward, A "new look" ALP?, pp.52-4.

<sup>32</sup> The middle-class professionals Whitlam sought to attract to the Party were evidently frightened by the 'narrow, left-wing, trade union' domination of the Party in Victoria and the rigidity that domination entailed for the Party's foreign and State aid policies. Oakes, *Whitlam PM*, p.154.

<sup>33</sup> Fitzgerald, Federal intervention in the Victorian Branch, pp.68-9.

<sup>34</sup> Oakes, *Whitlam PM*, pp.11-51.

him by many on the opposite side of politics.<sup>35</sup> Moreover, his ‘crash through or crash’ style was not only in marked contrast to Calwell’s approach to leadership in which the goal was always to preserve party unity; it was also anathema to a party for whom democratic centralism, Conference, Executive, Caucus and the Pledge were sacrosanct.<sup>36</sup>

Arthur Calwell attempted to downplay his animosity towards Whitlam in his autobiographical *Be Just and Fear Not* published in time for Whitlam’s tilt at power in 1972.<sup>37</sup> But his contempt for the man was barely concealed. In what Calwell understood to be a personal slight against him, Whitlam had not only lauded Harold Holt’s electoral success of 1966 as ‘the greatest election victory since federation [sic]’, but had informed the House on the occasion when Holt disappeared that the victory had been made all the greater by the lengthy rule of Holt’s ‘remarkable predecessor’, Sir Robert Menzies.<sup>38</sup>

Such praise for political opponents would hardly have escaped the lips of Eddie Ward, the East Sydney firebrand and Calwell’s preferred candidate for the deputy leadership of the ALP.<sup>39</sup> Nor was the media ever likely to compare Ward favourably with Menzies, as had been the case when Whitlam undertook his first stint as acting leader of the ALP.<sup>40</sup> Ward, who famously refused an invitation to participate in celebrations marking Billy Hughes’s fiftieth year as a parliamentarian by saying that he did not eat cheese, had held Labor rats and non-Labor politicians in equal contempt.<sup>41</sup> Like Calwell,

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<sup>35</sup> Graham Freudenberg, *A Certain Grandeur: Gough Whitlam’s Life in Politics*, Melbourne: Viking, 2009, p.69.

<sup>36</sup> For Whitlam’s leadership style and personality, see, for example, Ross McMullin, *The Light on the Hill*, p.308 & 344-5. For Calwell’s efforts to ensure Party unity at all costs, see, for example, David Stephens, ‘Unity Tickets and the Victorian Branch of the ALP’, *Labour History*, No. 44, May 1983, pp.55-74. For references to the sanctity of Labor’s Conference, Executive and Pledge, see Jaensch, *The Hawke-Keating Hijack*.

<sup>37</sup> Arthur Calwell, *Be Just and Fear Not*, Melbourne: Lloyd O’Neil, 1972.

<sup>38</sup> *Ibid.*, p.233; Hocking, *Gough Whitlam*, p.287, argued that Calwell’s bitterness towards Whitlam had been ‘undisguised and shameless.’ People within and without the Party were convinced that it was only this hatred for Whitlam that kept Calwell in Parliament after he had lost the leadership.

<sup>39</sup> Calwell succeeded H.V. Evatt as leader of the Labor Party when the former retired from politics in 1960. Calwell maintained his preference for Ward over Whitlam had been objectively based and ‘not poisoned by any personal dislike.’ *Ibid.*, p.225.

<sup>40</sup> Oakes, *Whitlam PM*, p.100. Whitlam evidently relished the media’s comparison of him with Menzies, whom he held in high esteem and greatly admired for the way in which he had transformed a rabble United Australia Party into a repeatedly victorious Liberal Party. All he wished, according to Oakes, was that he would not be thought of as a ‘poor man’s’ version of the genuine article.

<sup>41</sup> McMullin, *The Light on the Hill*, 1991, p.269.

Ward had been a trenchant opponent of conscription during World War II, even when it was being pushed by his own party leader and Prime Minister, John Curtin.<sup>42</sup>

Had Ward not died suddenly in July 1963, and had he rather than Whitlam been elected deputy to Calwell, the party and the labor movement might not have experienced the divisions thrown up by Australia's involvement in Vietnam.<sup>43</sup> As it was, however, Calwell and Whitlam were to fall foul of each other not just on the issue of Australia's involvement in that war, but also on when and how Australian forces might be extricated.

## Vietnam

The relationship between Calwell and Whitlam had already broken down by the time Australian combat troops were committed to Vietnam in 1965.<sup>44</sup> Calwell had moved to the left, some argue, because of a need for insulation following an embarrassing blunder he had made three years earlier in relation to Indonesian claims to sovereignty over West New Guinea.<sup>45</sup> Others have explained the schism between the two men by reference to a leaked report that Whitlam had written for the NSW branch of the ALP following the 1963 Federal Elections. In that report, Whitlam gravely insulted Calwell by suggesting that selfish old MPs ought to make way or be dispensed with in order that the party might bring in 'able young candidates'.<sup>46</sup>

Much has been written about this aspect of Whitlam's report. Of perhaps greater significance in the context of this thesis was Whitlam's exhortation for unions 'to trust the Labor Party in formulating policies and to finance the Labor Party in conducting campaigns which will achieve widespread popular support'. Foreshadowing comments he

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<sup>42</sup> Freudenberg, *A Certain Grandeur*, p.12.

<sup>43</sup> McMullin, *The Light on the Hill*, p.306. McMullin credited Ward with being the first Labor politician to 'consistently and publicly' the policies Menzies pursued with regard to Vietnam.

<sup>44</sup> See, for example, Freudenberg, *A Certain Grandeur*, pp.21-3.

<sup>45</sup> According to Freudenberg, relations between Calwell and Whitlam disintegrated in early 1962 when Calwell's ill-advised statements on the situation in West New Guinea - where Indonesia was challenging Dutch rule - were branded 'warmongering' and had to be withdrawn. The fiasco, which had been intended to cause a rupture in the Menzies camp, left Labor divided, confused and embarrassed. It also resulted in Calwell making a 'long lurch leftwards' as a means of seeking protection from Whitlam's inevitable attacks and as a means of stemming criticism from the Left. Freudenberg, *A Certain Grandeur*, pp.19-23; see also Oakes, *Whitlam PM*, pp.111-12. Oakes argued that Calwell's push to the left, having been stimulated by the New Guinea fiasco, became even more acute following the 1963 election when Whitlam began pressing for the leadership.

<sup>46</sup> Oakes, *Whitlam PM*, pp.105-6.



would later make in public,<sup>47</sup> Whitlam suggested that the union movement ought to demonstrate greater loyalty to the party by financing the pursuit of middle-class support and membership and leaving policy setting to the Parliamentary Party.<sup>48</sup>

A third explanation for the increasingly hostile relationship between Calwell and Whitlam and for Calwell's 'long lurch leftwards', may have been that the Left, and the VCE in particular, provided him with a base from which to fight unwanted changes washing over the party and society more broadly.<sup>49</sup> Whatever his motives, the fact remained that the leadership struggle between Calwell and Whitlam provided much of the context in which Labor forged an ambiguous policy on the war in Vietnam and the commitment of Australian troops to that war.<sup>50</sup>

Labor's failure to develop a clear policy on Vietnam and the way in which that failure exacerbated tensions between Calwell and Whitlam have been well documented.<sup>51</sup> Some have argued that their differences were in fact quite marginal and that it was really only the glare of television cameras that brought them to public attention.<sup>52</sup> Yet it might be argued that the differences between the two men mirrored the way in which the party was being transformed from an uncomplicated representation of Australia's working class to a more sophisticated and technocratic political organisation. Against Calwell's relatively straightforward position that all Australian troops should be withdrawn from Vietnam stood Whitlam's more sophisticated position in which support for American

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<sup>47</sup> See earlier reference to Whitlam's speech at the Newcastle Workers' Club in 1965, as cited in Oakes, *Whitlam PM*, pp.154-5. Elsewhere (p.109) in his biography, Oakes labelled Whitlam's remarks in the 'secret' report written for the NSW branch of the ALP as 'the first shot in his campaign for party reform' and as the beginning of an increasingly fierce struggle to topple Calwell from the leadership.

<sup>48</sup> Whitlam's remarks were made in the context of what he saw as a decline in the percentage of workers eligible for trade union membership. *Ibid.*, p.108.

<sup>49</sup> Freudenberg, *A Certain Grandeur*, pp.12-13, suggested that Calwell had 'increasingly...fallen out of sympathy with the kind of Australian society then emerging.' He 'did not like or understand the new Australian society' and viewed the likes of Whitlam and Cairns as upstarts too closely associated with the changes he saw and despised in the ALP, and the Australian nation.

<sup>50</sup> Kim C. Beazley, 'Federal Labor and the Vietnam commitment', in Peter King (ed.) *Australia's Vietnam: Australia in the Second Indo-China War*, Sydney: George Allen & Unwin, 1983, p.46.

<sup>51</sup> See, for example, Oakes, *Whitlam PM*, pp.46-7; Malcolm Saunders, 'The ALP's Response to the Anti-Vietnam War Movement: 1965-1973', *Labour History*, No. 44, May 1983, p.80; John Murphy, *Harvest of Fear*, pp.130-3; Freudenberg, *A Certain Grandeur*, p.65; Ashley Lavelle, 'Labor and Vietnam: A Reappraisal', *Labour History*, No. 90, May 2006, p.122.

<sup>52</sup> Oakes, *Whitlam PM*, p.149, noted that Whitlam's remarks had gone unnoticed when they appeared in the *Sydney Daily Mirror* a week earlier than they were made on television.

intervention in Indo-China could be used to garner electoral support for Labor and influence the outcome of the war.<sup>53</sup>

The party's original position on Vietnam, its support for Operation Rolling Thunder<sup>54</sup> and its acquiescence to the commitment of Australian advisers, had been arrived at in a state of ignorance.<sup>55</sup> But if Menzies' concealment of the true implications of Australian support for America's war in Vietnam could excuse Labor's initial passivity, there appears little excuse for the failure of the party's 1965 Federal Conference to resolve how and in what context Australian forces would be withdrawn from the conflict.

It was this absence of a clear position that allowed Whitlam to seek some political manoeuvrability in the run-up to the 1966 Federal Elections by suggesting that Australian conscripts would be withdrawn 'as soon as possible' and that pending consultations with the Americans, South Vietnamese and/or the United Nations, Australian regulars might remain in Vietnam. Beazley has excused Whitlam's interpretation as an attempt to deflect Government accusations that withdrawal of conscripts would both endanger Australian regulars remaining in Vietnam and sow discord between them and their American allies.<sup>56</sup> Freudenberg went further, legitimising Whitlam's remarks by arguing that the party had deliberately not 'set out a fixed schedule for withdrawal of Australian troops' from Vietnam.<sup>57</sup> Yet, in the context of Whitlam's struggle for supremacy and the war he was waging against the Victorian branch of the ALP – from which the greatest Labor opposition to the war in Vietnam came – it seems reasonable to suggest that his deviation from Calwell's position had ulterior motives.<sup>58</sup>

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<sup>53</sup> For a discussion of Whitlam's more sophisticated approach, see Hocking, *Gough Whitlam*, p.330

<sup>54</sup> Operation Rolling Thunder was the American military's code name for its aerial bombardment of North Vietnam, a bombardment supposedly undertaken in the interests of shortening the war in Vietnam.

<sup>55</sup> Beazley, 'Federal Labor and the Vietnam commitment', p.46. For a detailed account of the duplicitous way in which Menzies secured Australian participation in the war in Vietnam and the motives underpinning the Conservatives' desire for participation, see Freudenberg, *A Certain Grandeur*, pp.43-59.

<sup>56</sup> Beazley, 'Federal Labor and the Vietnam commitment', p.50. Beazley excused Whitlam's attempts to clarify Labor's ambiguous position on Vietnam as a means of deflecting Government accusations that the withdrawal of conscripts would both endanger the regulars who remained in Vietnam and cause conflict between them and their American allies.

<sup>57</sup> Freudenberg, *A Certain Grandeur*, p.65.

<sup>58</sup> For discussions on the consistently strong support given the Anti-Vietnam War Movement by the Victorian branch of the ALP see Saunders, 'The ALP's Response', pp.75-91; Malcolm Saunders, *The Vietnam Moratorium Movement in Australia: 1969-1973*, PhD Thesis, School of Social Sciences, Flinders University, South Australia, 1977.

Arguing that little real difference existed between the positions adopted by Calwell and Whitlam, Hocking nevertheless described the deputy leader's entry into the debate just a week out from the 1966 Federal Election as 'politically disastrous'.<sup>59</sup> Whilst this does not explicitly state that Whitlam's deviation from his leader's position cost Labor the election – an accusation neither Calwell nor other Victorian delegates to the December 1966 Federal Executive meeting were hesitant to make<sup>60</sup> – it nevertheless underscores the appearance of disunity that Whitlam brought to the party in the midst of an election campaign. Although he had 'strong misgivings' about the primacy given to Labor's position on Vietnam<sup>61</sup> and conscription, and whilst he had professed a belief that the party would be better served by concentrating on domestic issues, there seems little reason why Whitlam would have chosen to enter the debate so late in the piece if it was not to undermine Calwell and the party's Left-Wing.<sup>62</sup> At the time, his actions were evidently viewed by the Government as opportunistic: he had realised the futility of opposing a popular war and did not wish to be yoked with the stigma of opposition once he had relieved Calwell of the leadership.<sup>63</sup> Nor was the Government to be the only source of such accusations. It was also a charge levelled against Whitlam by the VCE.<sup>64</sup>

Whitlam replaced Calwell as leader of the ALP on 8 February 1967. As deputy, he had sought political manoeuvrability on the Vietnam issue and had pushed for the party's stance to be moderated in favour of a greater emphasis on domestic issues. Nor was he alone in his misgivings about the wisdom of pinning Labor's colours to the anti-war movement. In what foreshadowed the pragmatic approach Labor would pursue under his leadership, Bob Hawke considered Calwell's stance to have been admirable but too

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<sup>59</sup> Hocking, *Gough Whitlam*, p.271.

<sup>60</sup> Saunders did suggest that Whitlam's actions irreparably damaged Labor unity on the Vietnam issue and possibly its electoral chances as well. Labor went on to suffer 'the heaviest defeat in its history.' Saunders, 'The ALP's Response', p.80. According to Fitzgerald, Calwell and the Victorians explicitly blamed Whitlam for the Party's defeat when the Federal Executive met in December 1966. On that occasion, Whitlam was 'severely criticised' for his actions. Fitzgerald, *Federal intervention in the Victorian Branch*, p.53.

<sup>61</sup> Fitzgerald, *Federal intervention in the Victorian Branch*, p.51, noted that Calwell had declared himself willing to 'live or perish politically on the issue of conscription'; Saunders, 'The ALP's Response', p.78. Calwell's decision to 'live or perish' politically on the conscription issue effectively tied Labor's political fortunes to opposition to the war in Vietnam.

<sup>62</sup> Hocking argued that Whitlam had attempted unsuccessfully to persuade Calwell to focus instead on 'housing, education, northern development, drought relief, inflation, income policy and poverty.' *Ibid.*, p.270.

<sup>63</sup> Oakes, *Whitlam PM*, p.150.

<sup>64</sup> Fitzgerald, *Federal intervention in the Victorian Branch*, 1975, pp.56-7.

costly at the ballot box.<sup>65</sup> It was in this context that Whitlam, as leader of the ALP, shifted the party's policy on Vietnam to the right. It was also in this context, of making Labor more electorally appealing to middle-class voters, that the policy would swing back again, once public support for the war had dissipated.<sup>66</sup>

Immediately upon his ascension to the leadership, Whitlam sought to limit Labor's engagement with the Vietnam debate, both internally and externally.<sup>67</sup> This rightward turn, which naturally drew fire from anti-war campaigners within and without the labor movement, was apparent in a number of ways. Firstly, Whitlam appointed himself party spokesman for Foreign Affairs whilst giving his faithful deputy, Lance Barnard, the shadow Defence portfolio. In this way, Whitlam sought to impress upon middle-class voters that views expounded by Jim Cairns and other left-wingers in the party were in fact minority views.<sup>68</sup> That same month, he described as 'academic' the question of withdrawing troops prior to securing an armistice or settlement in Vietnam.<sup>69</sup>

At the party's Federal Conference held in Adelaide in August 1967, Whitlam secured a heavy dilution of the immediate and unconditional withdrawal line used by Calwell. In its stead, it was agreed that a Labor government would withdraw troops from Vietnam unless America met certain conditions: cease bombing North Vietnam, recognise the National Liberation Front (NLF) as a party to negotiations for an end to the war and transform the war into a 'holding operation'. Whilst not giving Whitlam the absolute latitude he desired, the new position nevertheless gave him far greater manoeuvrability than had previously been the case.<sup>70</sup>

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<sup>65</sup> Saunders, 'The ALP's Response', p.80.

<sup>66</sup> Murphy, *Harvest of Fear*, pp.206-10; Saunders, 'The ALP's Response', pp.81-8; Saunders, *The Vietnam Moratorium Movement*, pp.45-8; Hocking, *Gough Whitlam*, pp.330-2; Oakes, *Whitlam PM*, pp.168-87.

<sup>67</sup> Whitlam's desire to avoid Vietnam was predicated not only on the lost election of 1966, but also on the fact that roughly 50% of Labor supporters also supported the war. Opposing the war would therefore alienate not only half of Labor's own supporter base, but also the vast majority of Conservative voters who favoured intervention in Vietnam. Murphy, *Harvest of Fear*, pp.206-7.

<sup>68</sup> Beazley, 'Federal Labor and the Vietnam commitment', pp.49-51, argued that in seeking to modify their Party's policy on Vietnam, Whitlam and the Right were seeking to make Labor more attractive to middle-class voters. Part of this strategy involved marginalising the way in which the media would portray viewpoints expressed by people such as Cairns; Lavelle, 'Labor and Vietnam', pp.122-4 echoed the moderating intentions of the rightward shift outlined by Beazley but also suggested that the shift effectively removed the electoral option Labor had hitherto provided for the anti-war movement. See, also, Saunders, 'The ALP's Response', p.81; Murphy, *Harvest of Fear*, pp.207-8, Hocking, *Gough Whitlam*, p.276.

<sup>69</sup> Murphy, *Harvest of Fear*, p.208.

<sup>70</sup> See, for example, Oakes, *Whitlam PM*, p.168; Murphy, *Harvest of Fear*, p.208.

Two months later he refused a Government offer to debate a second increase in troop deployments to Vietnam, a refusal which again drew heat from the Left.<sup>71</sup> One year after taking over the leadership of the party, Whitlam accused Calwell of having ‘debauched’ the Vietnam debate during the most recent Federal Election campaign. Having reluctantly agreed to the policy hammered out in Adelaide the previous August, Whitlam informed Australians through an interview with the *Age* newspaper in February 1968 that troops would be withdrawn if America failed to take notice of the conditions prescribed at Adelaide. In typical Whitlam style, he left undefined what actually constituted ‘taking notice’, thereby arranging for himself far greater manoeuvrability than the policy actually allowed.<sup>72</sup>

Perhaps because Whitlam had been so liberal in his interpretation of policy, Federal Conference agreed in 1969 to a dilution in which a Labor government would immediately inform America of its intention to withdraw Australian forces from Vietnam. There was, of course, a world of difference between informing the Americans of an intention to disengage from the war and actually setting out a schedule for withdrawal.<sup>73</sup> Whilst some have denied that Whitlam’s attempts to lessen the political impact of Vietnam were of a slippery nature, others were inclined to view them not only as shifty, but also as betrayal.<sup>74</sup>

All of this is not to suggest that Whitlam was alone in his efforts to minimise the impact that Vietnam had on Labor’s political fortunes, or that he was alone in seeking to avoid undue contact with the anti-war movement. Attitudes to the war and opponents of it differed from state to state. They were and often continued to be informed by the intense anti-Communist sentiment running through various state ALP branches. Thus, whilst the Queensland, West Australian and South Australian branches could be cautious rather than critical in their approach, their counterparts in NSW and Tasmania remained consistently and vehemently hostile.<sup>75</sup> Conversely, the Victorian branch provided consistently strong support for the anti-war movement. That the peace movement attracted such muscular encouragement from the Victorian branch and equally consistent enmity from NSW and

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<sup>71</sup> Saunders, ‘The ALP’s Response’, p.81.

<sup>72</sup> Beazley, ‘Federal Labor and the Vietnam commitment’, p.53

<sup>73</sup> Saunders, ‘The ALP’s Response’, p.84; Saunders, *The Vietnam Moratorium Movement*, p.13.

<sup>74</sup> See for example, Murphy, *Harvest of Fear*, p.209.

<sup>75</sup> Saunders, *The Vietnam Moratorium Movement*, pp.367-8; Saunders, ‘The ALP’s Response’, pp.82-91.

Tasmania was a consequence of left-wing union influence in the first and continued Grouper/Movement influence in the latter two.<sup>76</sup>

The Tet Offensive of late January 1968 has been widely acknowledged as marking the turning point in public opinion on the war in Vietnam. This was equally true in Australia and the United States. Following Tet, the peace movements in both countries experienced an upsurge in support and, by late August of the following year, a majority of Australians were in favour of a complete withdrawal of troops from Vietnam. Four years earlier, 52% of survey respondents had given their support to the war, whilst 37% were opposed. In surveys conducted in August 1969, 55% of respondents called for withdrawal of Australian troops whilst 40% favoured continued involvement. The much lower percentage of people undecided about the issue in 1969 (5% compared with 11% in 1965) demonstrated how polarising the war had become.<sup>77</sup>

This reversal in public opinion prompted a change in direction in Whitlam's thinking and an about-face in Labor Party policy. Suddenly, opposition to the war was not only morally defensible, but electorally beneficial. It was in this context that Whitlam campaigned for the October 1969 election with a promise to withdraw Australian troops from Vietnam by the middle of the following year.<sup>78</sup> It was in this context, too, that he finally agreed to make the Federal Parliamentary Labor Party (FPLP) the nation-wide focus of opposition to the war. With Jim Cairns and the Vietnam Moratorium Movement gaining momentum, there was every reason for Whitlam to capitalise both personally and in a party sense from the political capital that such a movement brought.<sup>79</sup>

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<sup>76</sup> The Victorian branch of the ALP came to be dominated by the Trade Union Defence Committee, an organisation largely drawn from a group of 26 'rebel' unions. Saunders, *The Vietnam Moratorium Movement*, p.49.

<sup>77</sup> 'Attitudes to the Vietnam War', Shrine of Remembrance Education Program, pp.13-15. Available at <http://www.shrine.org.au/files/documents/VCE-Vietnam.pdf> Accessed 25 August 2010.

<sup>78</sup> Oakes, *Whitlam PM*, pp.187-9.

<sup>79</sup> Saunders, *The Vietnam Moratorium Movement*, pp.46-7. Whitlam refused a December 1969 request for him to 'lead a movement of dissent against the war' in Vietnam, but with momentum building behind Cairns and the Moratorium movement, he agreed in February 1970, to make the FPLP the nation-wide focus of opposition to the war. Whilst Cairns' moderating influence during the Vietnam Moratorium era and his ultimate support for Federal intervention in Victoria in 1970 would take some of the shine off the hero status he had attained, there is every reason to believe that Whitlam's decision to come in behind the peace movement in late 1969 was at least partially in response to Cairns' popularity. For a discussion of the way in which various elements of the Left responded to Cairns' moderating influences during the Vietnam Moratorium era and to his support for intervention in Victoria, see Paul Strangio, *Keeper of the Faith: A biography of Jim Cairns*, Melbourne: Melbourne University Press, 2002, pp.173-224.

## Where are we going?: The DLP Shadow

In the interim, Calwell had maintained the rage, accusing Whitlam at one stage of planning a rapprochement with the hated Democratic Labor Party (DLP), formed by those who had been expelled or who had left the ALP in the mid-1950s Split and its aftermath.<sup>80</sup> Thundering that Labor should not seek election 'at any cost', Calwell charged that Senator Pat Kennelly and Deputy Leader, Lance Barnard, had met secretly with Jim Brosnan of the DLP to discuss a merger between that party and the right wing of the ALP. In this scenario, Cairns would be left behind to lead a politically and electorally isolated ALP left wing.<sup>81</sup>

Given the suspicion with which Whitlam had been treated from his earliest days in the party, such conspiracy theories were easily made.<sup>82</sup> But it was certainly a fear close to the hearts and minds of those who had come to dominate the party in Victoria since the mid-1950s. At that time, it is estimated up to two thirds of all branches had defected in support of what would eventually become the DLP.<sup>83</sup>

The Split, which had its roots in the post-WWII establishment of ALP Industrial Groups and the infiltration and control of those groups by the secretive Catholic 'Movement', had created an opportunity and a perceived need for left-wing unions to assert their latent power.<sup>84</sup> To those who inherited the party in Victoria, the need to protect its integrity and their own control over it was motivated by the constant fear that

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<sup>80</sup> Hocking, *Gough Whitlam*, pp.310-11 and Oakes, *Whitlam PM*, p.169 agreed that it was this accusation, made while Calwell was visiting London, that prompted Whitlam to hit back with the charge that Calwell had 'debauched' the Vietnam debate during the 1966 election campaign.

<sup>81</sup> Hocking, *Gough Whitlam*, pp.310.

<sup>82</sup> Ibid., pp.310-11. Hocking argued that such rumours had been grist to the mill since the mid-1950s split. She also inferred that the rumour in question was a figment of Calwell's poisoned relationship with Whitlam. Conversely, Strangio believed the notion of a covertly planned rapprochement between the ALP and the DLP to have been widely held on the Left, particularly around the time of Whitlam's dramatic resignation and re-contestation of the Party leadership in April 1968, Strangio, *Keeper of the Faith*, p.174.

<sup>83</sup> Ward, A "new look" ALP?, p.69; Sean Scalmer, 'The Affluent Worker or the Divided Party? Explaining the Transformation of the ALP in the 1950s', *Australian Journal of Political Science*, Vol. 32, No. 3, 1997, pp.401-18. Scalmer suggested that upwards of 240 of the more than 300 branches in Victoria had defected in support of the DLP or Anti-Communist Labor Party, as it was initially known. It was, he suggested, 'only the assistance of trained and experienced Communists that kept the ALP afloat.' p.414.

<sup>84</sup> Scalmer, 'The Affluent Worker', p.409. Scalmer described the Movement as 'a service organization for the Industrial Groups, providing candidates for office, catholic votes, cars to meetings, financing printing costs, legal advice, literature distributions and advocating support for the Groups inside the ALP.'

Groupers continued to exist in the party, or that they would return to it.<sup>85</sup> This fear, which manifested itself in increasingly sectarian form, was underpinned by the knowledge that Grouper forces had deliberately remained in the party in NSW with the express intention of ‘white-anting’ the ALP.<sup>86</sup> Under what came to resemble siege conditions, sectarianism hardened so that party affairs within Victoria and between the Victorian branch and its interstate and federal counterparts came to be dominated by mistrust, fear and suspicion.<sup>87</sup>

The need for unions to assert their power seems all the more plausible if, as some have suggested, the Split and events around it had resulted in internal party democracy being subverted to the extent that traditional bottom-up channels of power were being replaced by top-down arrangements.<sup>88</sup> Scalmer located this subversion of internal party democracy in the pre-Split battles for control over the ALP that Grouper and Communist forces had played out. These struggles had, he suggested, ‘diverted attention away from the control of politicians’, thus enabling ‘independently-minded leader[s] [such as] Doc Evatt to sidestep party control.’<sup>89</sup>

The 1955 Split, and the federal intervention into the affairs of the Victorian branch that precipitated it, had resulted in an intensification of federal control and the power of the federal body to intervene where it thought fit. As a consequence, Scalmer argued, there was a subversion of customary conventions in which sentiments and ideas had travelled upwards from the branches through state institutions until they reached the party’s federal councils.<sup>90</sup> In addition to giving the federal organisation the confidence to successfully intervene in the affairs of state branches – something Fitzgerald argued had been previously absent – the move into Victoria in 1954-55 had created a situation wherein federal and state executives became preoccupied with fighting themselves and each other. According to Scalmer, this preoccupation, which was most clearly evident

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<sup>85</sup> Fitzgerald, *Federal intervention in the Victorian Branch*, pp.27-9.

<sup>86</sup> *Ibid.*

<sup>87</sup> *Ibid.*, pp.28-9.

<sup>88</sup> Scalmer, ‘The Affluent Worker’, pp.410-14.

<sup>89</sup> *Ibid.*, p.410. Scalmer cited the ways in which Evatt ‘presented policies to the electorate which had not been officially endorsed’ and his appearance before the Petrov Royal Commission as evidence that the split and events around it had created a situation in which ‘the principles of democracy and control [within the ALP] had lost all meaning.’

<sup>90</sup> *Ibid.*, p.414.



where Victoria was concerned, helped Labor parliamentarians slip the bonds of supervision and control under which they had traditionally operated.<sup>91</sup>

If Scalmer's contention is correct – that the upward transmission of power and communication between affiliated unions and Labor parliamentarians had been reversed by the Split and the battles that presaged it – the years between the split and 1970 could be viewed, particularly where Victoria was concerned, as ones in which trade unionists attempted to reassert their historical role and centrality in the ALP. With those on the Right defecting en-masse to the DLP there was an opportunity for left-wingers to act on what they saw as Labor's increasingly conservative stance by insisting upon a return to the party's socialist traditions. In this context, the assertion of left-wing control over the Victorian branch was both an instinctive response to the lingering threat that Grouperism posed and an attempt to reinvigorate the party's left-wing perspective.

With the end of the Cold War not only unknowable but seemingly unlikely, it is perhaps unsurprising that efforts to make the ALP a genuinely left-of-centre organisation were frequently met with exaggerated claims that the party in Victoria was in danger of becoming a Communist front.<sup>92</sup> One of those involved in seeking to overthrow the Central Executive under which this supposed lurch towards Communism took place was John McLaren.<sup>93</sup> Whilst he maintains that many of those who came to dominate the party through the VCE were indeed sympathetic to Communist causes, McLaren nevertheless argues that left-wing control of the ALP in Victoria amounted rather more to anti-capitalism than Communism.<sup>94</sup>

If McLaren's recollection highlights the way in which exaggerated claims of Communist influence were used to break down left-wing control over the ALP in Victoria, he and others have also cast doubt on another common misconception: that left-wing control over the Victorian branch was a complete and immediate consequence of

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<sup>91</sup> Ibid., p.410.

<sup>92</sup> See, for example, Oakes, *Whitlam PM*, p.120, on Whitlam's warnings about Victorian Labor being subverted by Communist forces.

<sup>93</sup> Personal conversation with John McLaren, 13 July, 2010.

<sup>94</sup> Ibid.

the party Split.<sup>95</sup> According to Lyle Allen, for example, the process of left-wing domination passed through three distinct phases.<sup>96</sup>

In the first instance, Allan suggests, the ‘new’ VCE elected in 1955 to replace the ‘old’ Grouper dominated body had contained few readily identifiable members of the party’s ‘extreme left.’<sup>97</sup> Free of Catholic domination, the ‘new’ Executive was indeed more representative of unionists than its predecessor with 11 of the 22 positions held by union officials. But it was considered in its initial phase (1955 to 1958) to be sufficiently broadly representative in that it included officials from the Victorian Trades Hall Council (VTHC) and the ACTU as well as parliamentarians and officials from a broad range of unions.<sup>98</sup> In the second phase (1958-1963) the emphasis was on preventing a right-wing recapture of the labor movement and this was achieved through the use of unity tickets and the creation of a Trade Union Defence Committee (TUDC)<sup>99</sup> whose brief included the promotion and defence of the VCE and its policies. Only thereafter, Allan claims, did leftwing domination of the VCE come to be absolute.<sup>100</sup>

By charting issues and events leading up to federal intervention in 1970, it is possible to see how and why left-wing domination of the Victorian branch intensified after 1963. As previously alluded to, Whitlam’s responses to the war in Vietnam were deemed opportunistic and indicative of a leader who, in his efforts to capture middle-class votes, would pull Labor, if not further and further to the right, then at least

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<sup>95</sup> Left-wing domination of the Victorian branch has usually been associated with the Trade Union Defence Committee (TUDC) and described as ‘a mirror image of the former secretive control’ exercised by the Movement. Hocking, *Gough Whitlam*, p.356, for example, suggested that ‘since then [1955], power in the Victorian branch had been concentrated in and through the Trade Union Defence Committee...’ and that ‘the nature of the TUDC’s control through the party machine was absolute and had been enabled by the completeness of the split that had left an authoritarian structure in place...’ McLaren, by contrast, concurred with arguments suggesting that the TUDC’s control over the Victorian branch intensified over time. *Ibid.*

<sup>96</sup> Personal conversation with Lyle Allan, 17 & 18 November 2010.

<sup>97</sup> *Ibid.*

<sup>98</sup> *Ibid.* These arguments have also been made in Allan’s thesis, *A Party in Disarray*, pp.44-71.

<sup>99</sup> Plowman & Plowman located the origins of the TUDC in the early 1960s. The TUDC’s primary role was ‘to counteract a resurgence of grouper activity.’ In addition to publishing the newspaper *Scope*, the TUDC also provided union officials with financial and other support in order that they might see off grouper candidates contesting their elected positions and in order, too, that the right of unionists to vote for non-ALP candidates might be advanced. David Plowman and D.H. Plowman, ‘Unions in Conflict: The Victorian Trades Hall Split, 1967-1973’, *Labour History*, No. 36, May, 1979, p.50; Unity tickets helped Communists gain the leadership of key unions such as the Australian Railways Union (ARU) and the Waterside Workers’ Federation (WWF).

<sup>100</sup> Personal conversation with Lyle Allan, 17 & 18 November 2010; Allan, *A Party in Disarray*, p.73.

increasingly away from its working-class origins. Whilst proposed changes to the White Australia policy met fiercer resistance in NSW than in Victoria, they were, in being a consequence of middle-class pressure, similarly indicative of a party drifting away from its working-class origins and out of working-class control. Unity tickets – the practice of collaboration between ALP and Communist Party members in trade union elections – became yet another flashpoint for competing visions of what and who the Labor Party should represent. They might not have given the party cause for worry or prompted calls for intervention in earlier decades when they had been routinely used to bring Communist officials to office in key trade unions, but in a political world inhabited by the DLP and a Federal Labor Party increasingly preoccupied with winning elections, unity ticket practices were a much different matter.<sup>101</sup>

### Unity Tickets

That the Victorian branch should find itself at odds with its federal and NSW counterparts on the issue of unity tickets was, of course, a measure of the influence that Communist-led unions such as the BLF were starting to enjoy in Victoria. But as David Stephens has demonstrated, it was also a consequence of decisions made at the time of the party Split, since in withdrawing its support for Industrial Groups Labor had signalled that it would no longer interfere in the affairs of its affiliated unions.<sup>102</sup>

In Victoria, where the Executive came to be dominated by the Left, this decision on non-interference was literally applied to the extent that intervention into the affairs and elections of affiliated unions would only occur if it could be demonstrated that Labor and Communist Party members had colluded to the detriment of ALP candidates or interests.<sup>103</sup> In the absence of such evidence, the Victorian branch refused, for example, to act against persons accused of unity ticket practices in Waterside Workers' Federation

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<sup>101</sup> D.W. Rawson, *Labor in Vain? A Survey of the Australian Labor Party*, Melbourne: Longmans, 1966, p.97, suggested that 'it was those who appeared on unity tickets, rather than those who wished to prevent them from doing so, who were in accord with the party's (sic) traditional attitudes.' Whilst he argued that Labor should not allow other parties to operate within its own ranks, Rawson nevertheless noted that intervention to stop unity ticket practices was a notion that gained currency only after the appearance of the Movement.

<sup>102</sup> Stephens, 'Unity Tickets', pp.56-66.

<sup>103</sup> Ibid.

(WWF) elections in 1964.<sup>104</sup> Conversely, in NSW, where Grouper sympathies continued to exist, Labor members were considered to be in violation of party rules and liable for expulsion if they in any way helped establish or strengthen within their own organisation the interests or influence of other parties.<sup>105</sup> Indeed, the party in that state was not averse to taking pre-emptive action, as occurred, for example, when allegations surfaced about the use of unity tickets in BLF elections. Then (1964), state ALP secretary, W. R. Colbourne, intervened to support an all-ALP ticket.<sup>106</sup>

It was in the context of such different interpretations of party rules that unity tickets became the genesis of Whitlam's war with the Victorian branch of the ALP.<sup>107</sup> He did not explicitly join the chorus calling for federal intervention in Victoria in the aftermath of the 'credit squeeze' election of 1961 even though it was widely believed that the stigma of Communist association had cost Labor vital Victorian seats.<sup>108</sup> Perhaps out of a sense of loyalty to Calwell, with whom his relationship was still fresh, or because he did not believe the time for intervention in Victoria to be yet ripe, Whitlam then confined himself to calling for the VCE to be censured and for a tightening of the rules around unity tickets.<sup>109</sup> However, when the issue flared again in the mid-1960s, Whitlam was clearly in a different frame of mind *vis-à-vis* his relationship with Calwell and his readiness to challenge for the party leadership.

In a series of television and other public appearances, he railed against what he claimed was a betrayal of party principles. Brandishing union journals in which he claimed there was incontrovertible proof that unity tickets were being used, Whitlam warned that Labor would get nowhere by collaborating with Communists and that the

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<sup>104</sup> Oakes, *Whitlam PM*, p.120.

<sup>105</sup> Stephens, 'Unity Tickets', p.57.

<sup>106</sup> Oakes, *Whitlam PM*, p.120.

<sup>107</sup> Hocking, *Gough Whitlam*, p.221.

<sup>108</sup> Allan, *A Party in Disarray*, pp.152-5; Stephens, 'Unity Tickets', p.67.

<sup>109</sup> It has been suggested that Calwell's hatred of the DLP - reinforced by the treatment he received at the hands of fellow Catholics at his local church - transcended any misgivings he may have had about unity tickets. Preparations for a Parliamentary Budget debate had kept Calwell from the August 1961 Federal Executive meeting at which Whitlam brandished copies of an *Australian Railways Union Journal* said to contain evidence of unity ticket activity. Whilst Whitlam went against Calwell's wishes in calling for the Federal Executive to denounce the use of unity tickets and in calling for the Victorian branch to be censured for its toleration of such practices, he nevertheless stopped short of supporting calls from his fellow FPLP members, Kennelly and McKenna, for the dismissal of the Victorian branch. For Calwell's hatred of the DLP and the way in which that hatred influenced his attitudes to unity tickets, see Stephens, 'Unity Tickets', pp.67-8. For Whitlam's actions at the Federal Executive meeting of August 1961, see Hocking, *Gough Whitlam*, p.221.

party was, through the irresponsible actions of certain individuals, being exposed to the dangers of subversion.<sup>110</sup> At the Newcastle Workers Club, he informed his audience that, in their desperation to safeguard the Labor Party from the perceived threat posed by B.A. Santamaria's resurgent Movement/NCC, a number of misguided members had allowed themselves to be seduced into collaborating with Communist forces in trade union elections. Toleration of such practices could only lead to subversion of the ALP itself, Whitlam warned.<sup>111</sup>

Such views were not universally shared in the ALP. For example, Jim Cairns was then arguing that in 'doing the same things for the same ends', Labor and Communist Party members would inevitably share much of the same ground; that Labor should be building and maintaining broad alliances 'to combat [the] prevailing assumptions of the political Right'; and that the ALP should be unafraid of 'the exaggerated dangers of falling prey to exploitation by Communists'.<sup>112</sup> But Whitlam's warnings about the dangers of unity tickets and his insistence that action would have to be taken against their practitioners came at a time when his animus towards his leader and his impatience for the ALP leadership were building. They came, too, at a time when the Victorian branch was readying itself to mount a challenge to party bans on such practices. With Calwell wedged on the issue because he was a Victorian delegate to the Federal Executive, 1965 was therefore an opportune time to go in 'with [all] guns blazing'.<sup>113</sup> Significantly for all involved, a faction known as the Participants was by then beginning to take shape in the Victorian branch.<sup>114</sup>

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<sup>110</sup> Oakes, *Whitlam PM*, pp.120-1.

<sup>111</sup> *Ibid.*, p.120.

<sup>112</sup> Strangio, *Keeper of the Faith*, pp.119-20.

<sup>113</sup> Oakes, *Whitlam PM*, p.126. As a Victorian delegate, Calwell was duty bound to support that branch's call for the ban on unity tickets to be lifted. As Party leader, he was duty bound to uphold Party policy: the ban that had been reaffirmed by Federal Party Conferences of the late 1950s. In order to save Calwell from inevitable accusations that he was sympathetic to Communism, and in order, too, that he might be saved from the leadership challenge that would accompany such challenges, and which Whitlam would in all likelihood win, the Victorians abandoned their plan to call for a lifting of the ban on unity tickets. For reaffirmation of Labor's ban on the use of unity tickets, see Hocking, *Gough Whitlam*, p.221. For Calwell being trapped by the issue and the Victorians' consequent decision to abandon their plan of calling for a lifting of the ban on unity tickets, see Oakes, *Whitlam PM*, p.126.

<sup>114</sup> James Jupp, *Party Politics: Australia 1966-1981*, Sydney: Allen & Unwin, 1982, p.95, traced the formation of the Participants to 1965, from which time there was seemingly constant contact between that group and Whitlam.

## **The Participants and the Victorian Trades Hall Split (1967-1973)**

A Participant himself, John McLaren described that group as being comprised of mostly middle-class professionals. Its membership, he recalled, included ALP luminaries and fellow-Victorians John Button, Race Mathews, Richard McGarvie, Xavier Connor and John Cain Jr. McLaren also listed Clyde Cameron, Tom Burns and Mick Young as members of this group that became so instrumental in bringing on federal intervention into the affairs of the Victorian branch of the ALP. It was, he acknowledged, a faction whose membership belied its Victorian Fabian Society origins; a force operating within the Victorian branch of the ALP, but with membership, significance and influence that stretched well beyond Victorian borders.<sup>115</sup>

The Participants' middle-class backgrounds hindered their connections with and influence over the party's affiliated unions.<sup>116</sup> With ALP factions traditionally forming along trade union lines, this absence of relationships with the unions posed a major obstacle to the Participants' hopes of reforming the party or seizing control over it.<sup>117</sup> Their job was made doubly hard by the fact that they shared little common social, intellectual or ideological ground with party officials such as Bill Hartley, George Crawford, Bill Brown, Glyde Butler or Sally Johnston.<sup>118</sup> Rather, and like Whitlam, their powerbase lay in the increasingly middle-class local branches whose claims for greater representation were mostly ignored by the VCE.<sup>119</sup> Thus unable to gain traction in the party of their own accord, or even with the support of interstate and federal allies such as Whitlam and Barnard,<sup>120</sup> the Participants turned their attention to right-wing unions that were at that time defending their domination of the VTHC.

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<sup>115</sup> Personal conversation with John McLaren, 13 July 2010.

<sup>116</sup> Cameron and Young had been Australian Workers Union (AWU) officials in South Australia, but this did not necessarily translate into influence in the Victorian union movement.

<sup>117</sup> Allan, *A Party in Disarray*, pp.120-1.

<sup>118</sup> Jupp, *Party Politics*, p.94.

<sup>119</sup> Allan, *A Party in Disarray*, p.135, argued that despite their rising presence in the Party, the Victorian branch remained unresponsive to middle-class claims to greater representation. Unless they were willing to provide the ruling forces with uncritical support, Allan argued, middle-class members were denied the 'opportunity to participate in the Party except at the lowest levels.'

<sup>120</sup> Jupp, *Party Politics*, p.96, suggested that the Participants had operated almost clandestinely prior to Whitlam's ascension to the leadership of the FLP in February 1967. Before that time, Jupp argued, 'No Victorian federal or state politicians, municipal councilors or major trade-union officials gave open support to the "participants".' Barnard was Deputy Leader of the Federal Labor Party.

Despite the power they wielded at Trades Hall, these right-wing unions were, like the Participants, largely ineffectual when it came to influencing the trajectory of the Victorian ALP. Together, however, the two groups could be an effective force and one which would persistently agitate for federal intervention into the Victorian branch.<sup>121</sup> Ian Ward cited this increasingly persistent and vociferous agitation for reform of the Victorian branch and the Participants' role in promoting it as evidence that the Labor Party of the latter 1960s was becoming increasingly embourgeoisified.<sup>122</sup>

The Participants' inability to secure a presence on the VCE from which they could shape party direction had been a consequence of the post-Split mechanism established to select ideologically sound party candidates and officials.<sup>123</sup> With an inner committee of 13 persons selecting candidates to the liking of those 40 unions who came to inherit the party after the Split, and with annual conferences controlled by those same unions overwhelmingly endorsing the selections made by the 13 person committee, there was precious little opportunity for the Participants or other 'out groups' to break through.<sup>124</sup> Nor was their cause helped by the fact that those who controlled the levers of power found the Participants' middle-class backgrounds and careers anathematic to their own visions of the ALP as an exclusively working-class, trade union party.<sup>125</sup> But the Participants were ultimately able to take advantage of divisions in the union movement

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<sup>121</sup> Allan, *A Party in Disarray*, pp.129-34, identified two further groups attempting to bring about change in Victoria in the 1960s – a multicultural group centred around the Jewish New Australian Council (NAC) and an increasingly right-wing Melbourne University ALP Club, neither of which succeeded in gaining more than a minimum of influence within the Party or the union movement.

<sup>122</sup> Ward, *A New Look ALP?*, p.72.

<sup>123</sup> It has been suggested that the left-wing unions who came to inherit the Party as a result of the mid-1950s split simply took advantage of a voting system inherent in the Party's constitution and that it this aspect of the constitution was as much to blame for any lack of democracy that developed as 'underrepresentation of Party branches or the overrepresentation of trade union delegates at Annual Conference.' Allan, *A Party in Disarray*, p.126.

<sup>124</sup> Fitzgerald, *Federal intervention in the Victorian Branch*, p.31; John L. Anderson, *The Socialist Left in the Victorian Branch of the Australian Labor Party 1970-1980*, Fourth Year Honours Thesis, Politics Department, La Trobe University, 1980, pp.1-3; Allan, *A Party in Disarray*, pp.69-95. Allan noted that pre-selection methods used to determine Party candidates and officers between 1955 and 1970 had begun life as a temporary measure, but that they had persisted because of persistent fears of Grouper infiltration.

<sup>125</sup> Allan, *A Party in Disarray*, p.136. Ward, *A "new look" ALP?*, pp.204-27, devoted a chapter of his thesis to the question of how Labor's middle-classing had created tensions between the incoming middle-class members and the Party's traditional blue-collar, working-class membership. He concluded that whilst 'longstanding suspicion of ALP recruits who were intellectuals had abated', and although tertiary-educated professionals had 'come to account for a very substantial proportion of Labor's rank and file membership', such people were not always 'entirely comfortable within the ALP.' Nor, he argued, were they always made welcome. See, pp.225-6.

when a dispute over representation, affiliation fees and, most importantly, control over industrial disputes precipitated a split on the VTHC.<sup>126</sup>

The VTHC split of 1967-1973 and events around it were, in many ways, an inverse reflection of the power-plays underway in the Victorian branch of the ALP. They were, moreover, a reflection of the political importance that Trades Hall and control over it came to assume at a time when Labor's absence from parliamentary power was growing increasingly longer.<sup>127</sup> Under J.V. (Vic) Stout, the Council had enjoyed a relatively even-handed leadership<sup>128</sup> – so much so, in fact, that whilst it had provided much of the terrain over which Grouper-anti-Grouper battles of previous decades had been fought, the VTHC had nevertheless managed to avoid the kind of disastrous rupture experienced in the political wing of the Victorian labor movement.<sup>129</sup> Within months of Stout's death in March 1964, however, the Right had quickly seized the opportunity to dominate the THC and exclude left-wing influence from the organisation's Executive, Council, and other decision-making bodies.<sup>130</sup> Overseen by Mick Jordan – whose elevation to the secretary's position had relied upon heavy support from right-wing unions, some of which were affiliated with the DLP – this factional realignment in the

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<sup>126</sup> Ibid., pp.132-34; Cathy Brigden, 'Reassessing the Victorian Trades Hall 'Split' of 1967-73', *Labour History*, No. 96, May 2009, pp.136-7; Plowman, 'Unions in Conflict', pp.47-54.

<sup>127</sup> Jupp, 'Victoria: Left, Right and Centre', p.75

<sup>128</sup> Stout was Trades Hall Secretary for more than a quarter of a century. Plowman, 'Unions in Conflict', p.51; Brigden, 'Reassessing the Victorian Trades Hall Split', p.136. Cathy Brigden, 'The Melbourne Trades Hall and the Split', in Brian Costar, Peter Love & Paul Strangio (eds.), *The Great Labor Schism: A Retrospective*, Melbourne: Scribe Publications, 2005, p.149, noted that by 1953, 'Stout's vehement opposition to the Groupers and their influence in the party and the union movement [had] paralleled his earlier resistance to outside organisational control over trade unions, as illustrated by his anti-Communist position in the late 1940s.'

<sup>129</sup> Given the simultaneous presence of activists in the political and industrial wings of the Victorian labor movement, and given 'the capacity for fundamental tension [that exists] between the unions and the ALP over the application of' their broadly shared ideology, it was perhaps surprising that only two affiliates, the Clerks' Union and the Amalgamated Society of Carpenters and Joiners (ASC&J), defected to the newly created DLP. See Brigden, 'The Melbourne Trades Hall', pp.154-6.

<sup>130</sup> Plowman, 'Unions in Conflict', pp.49-52. Plowman suggested that Stout's death and the ensuing election for the Secretary and Assistant Secretary positions (the latter won by Jordan's preferred candidate, Ken Stone) had energized right-wing forces at Trades Hall and, thus energized, they threw their support behind Mick Jordan. p.51; Brigden, 'Reassessing the Trades Hall Split', p.136, argued: 'The exclusion of the Left from the key decision-making bodies, the executive and the disputes committee, was extended by the end of 1964 as the Right then gained control of the two presidential positions, the executive and the elected membership of the disputes committee. The Left went from a position in which it was at least partly able to affect both organisation power [power over THC affiliates] and collective movement power [power for THC affiliates] to being excluded from positions of influence.' See also, Cathy Brigden, 'Analysing Internal Power Dynamics in Peak Unions: A Conceptual Framework', *Journal of Industrial Relations*, Vo. 49, No. 4, 2007, p.490.



industrial wing of the Victorian labor movement produced a situation in which left-wing and moderate unions in control of the VCE were even more inclined to exercise absolute control over that body.<sup>131</sup>

The issues leading up to the THC split – more equal representation on the Council's decision-making bodies and the freedom for left-wing unions to act without fear of reprisal from an increasingly conservative Disputes Committee<sup>132</sup> – were clearly grounded in ideology and competing visions of the path that should be followed by the Victorian labor movement.<sup>133</sup> On the left, unions saw a role for themselves in defining the nation's political future. This meant a tendency to act outside of the industrial parameters normally ascribed to trade unions, and it was evident in the participation of Left unions in protests against the war in Vietnam<sup>134</sup> and the apartheid regime in South Africa, as well as in their support for women's rights, Aboriginal land rights, conservation and a raft of other issues.<sup>135</sup> Conversely, for those on the right, there was a sense that, rather than concerning themselves with challenging the prevailing socio-political order, unions should confine themselves to improving pay and conditions within the existing system.<sup>136</sup> These contrasting ideologies, which involved conflicting views about the appropriateness of direct action, industrial tribunals and the arbitration system before which unions were made to kneel,<sup>137</sup> were partially obscured by disputes over dramatically increased

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<sup>131</sup> Plowman, 'Unions in Conflict', p.51, and Brigden, 'Reassessing the Trades Hall Split', p.136, agree that Jordan's victory was, like that of Ken Stone, who became Assistant Secretary, a consequence of right-wing support. Fitzgerald, *Federal intervention in the Victorian Branch*, p.39, suggested that unions affiliated with the DLP were among those who helped bring Jordan to power in the THC.

<sup>132</sup> As a consequence of rule changes made by Jordan in late 1966, provision was made for referral of disputes upwards through the VTHC Executive to the Council itself. If Council refused to sanction strike action, unions 'furthering the dispute without the authority of the disputes committee would be dealt with by Council.' Plowman, *Unions in Conflict*, p.51.

<sup>133</sup> According to Brigden, the dispute that led to the split at Trades Hall was one 'predicated on ideology and ideological difference.' Brigden, 'Reassessing the Trades Hall Split', p.145.

<sup>134</sup> For a discussion of the role of trade unions in the Anti-Vietnam War Movement and Vietnam Moratoria, see Tony Duras, 'Trade unions and the Vietnam war', *Marxist Interventions*, online journal, [17] available at <http://www.anu.edu.au/polsci/marx/interventions/> accessed 26 July 2010.

<sup>135</sup> Brigden, 'Reassessing the Trades Hall Split', p.149; Plowman, 'Unions in Conflict', p.50.

<sup>136</sup> Right-wing forces at Trades Hall considered alterations to prevailing social and economic systems to be the domain of political parties. They were not interested in engaging in 'a struggle about the system itself.' Plowman, 'Unions in Conflict', p.49. See also, Brigden, 'Reassessing the Trades Hall Split', p.148.

<sup>137</sup> Plowman, 'Unions in Conflict', p.50.

affiliation fees – the issue that ostensibly led to the 1967 split in which 27 ‘rebel unions’ had their VTHC affiliation placed in suspension.<sup>138</sup>

The Trades Hall split was finally resolved in April 1973 when the 22 unions whose affiliation was still suspended agreed to pay the increased fees and were permitted to return to the fold. But whilst the BLF agreed to pay the inflated cost of affiliation at the time that unions voted by a margin of 13 to 9 in favour of ending the dispute, it did not fully return to the VTHC until October 1975. This may be because Gallagher and the BLF were unwilling to support policies proposed at Trades Hall by the CPA-led Left.<sup>139</sup> Such ‘tactical gamesmanship’ was, of course, not beyond Gallagher, particularly when his union’s main rival in the building and construction industry – the Building Workers Industrial Union (BWIU) – was a major hitter on the Left. But neither should it be forgotten that the CPA-ML, of which Gallagher was a prominent member, had argued for disaffiliation of left-wing unions from the VTHC as a means of ‘starving out’ right-wingers, and that members of the SPA, with which the BWIU was aligned after 1971, had always argued against disaffiliation.<sup>140</sup>

What is evident in all of this is that the Trades Hall split and events around it spilled over and back across ALP and Communist lines, thereby creating weaknesses and divisions that reform-oriented groups such as the Participants were only too willing and able to exploit. In this context, not only were the Participants able to elicit support for their reform agenda from Mick Jordan, but they and Whitlam were also able to exploit the rising tensions between union officials loyal to the VCE and those who remained loyal to the VTHC.<sup>141</sup> Nor were these tensions and the opportunities for division that they

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<sup>138</sup> Jupp, ‘Victoria: Left, Right and Centre’, p.75, suggested that ‘37 unions left the THC in protest against the rules governing representation.’, and that a ‘discrepancy in representation was the ostensible reason for the walkout.’ Plowman and Brigden concur that the number of unions involved in the walkout was 27 and that the ostensible reason for their departure was a dramatic increase in affiliation fees. In their view, disparities in representation were, like control over disputes committees, the real reason for the split. Plowman, ‘Unions in Conflict’, pp.47-51; Brigden, ‘Reassessing the Trades Hall Split’, pp.135-8.

<sup>139</sup> Plowman, ‘Unions in Conflict’, p.65.

<sup>140</sup> Competing notions about whether ‘disaffiliation [w]as the logical corollary of the split’ were compounded by the fact that CPA and later SPA aligned unions such as the BWIU placed more emphasis on controlling Trades Hall than CPA-ML unions such as the BLF, which advocated replacing Trades Hall as the centre of union power in Victoria. Plowman, ‘Unions in Conflict’, p.60.

<sup>141</sup> Jupp, *Party Politics*, p.96, noted that the VTHC split had ‘mobilised many union officials against the Victorian Central Executive.’ Plowman, ‘Unions in Conflict’, p.67, argued that many moderate Trades Hall union officials had also been ‘embittered by the split’ in union ranks.

presented restricted to ‘extremist’ elements on the VCE and VTHC, since many Trades Hall moderates were also ‘embittered by the split’ and events around it.<sup>142</sup>

This propensity for the VTHC split to alienate moderate union officials was particularly significant where the TUDC was concerned. Formed in 1961 as a means of holding the line against Grouperism in the trade unions, it was simultaneously a subset of centre unions, an organisation whose members were heavily drawn from the 40 unions that had inherited the Victorian Labor Party after the (1955) Split, and a body from which was drawn the 13 person committee charged with preserving left-wing control over the Victorian branch of the ALP.<sup>143</sup> With its membership cutting across parallel struggles in the political and industrial wings of the Victorian Labor Party, the TUDC was therefore perfectly placed to become a focus of attention for opponents of left-wing control over the ALP. Thus, when Whitlam and the Participants finally succeeded in bringing the VCE to trial in September 1970 – the term ‘trial’ seems appropriate given the extent to which Queens Counsels and barristers such as John Sweeney, Richard McGarvie, Xavier O’Connor, Frank Costigan, John Button, and John Cain Jnr were involved<sup>144</sup> – one of the two charges<sup>145</sup> on which guilt was deemed to have been proven was that it had been controlled by a secretive outside force: the TUDC.<sup>146</sup> As Jupp has noted, this was a

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<sup>142</sup> Plowman, ‘Unions in Conflict’, p.67.

<sup>143</sup> Fitzgerald, Federal intervention in the Victorian Branch, pp.31-2; Plowman, ‘Unions in Conflict’, p.50; Anderson, *The Socialist Left in the Victorian Branch*, p.2.

<sup>144</sup> Clyde Cameron, whom Whitlam entrusted to organise an irresistible intervention into the affairs of the Victorian branch, suggested the heavy reliance on QCs was necessary to ensure a case that would be solid enough to withstand any High Court challenge the Victorian branch might mount. Clyde R. Cameron and Daniel Connell, *The Confessions of Clyde Cameron 1913-1990: as told to Daniel Connell*, Sydney: ABC Enterprises, 1990, p.192; Fitzgerald, Federal intervention into the Victorian Branch, p.183.

<sup>145</sup> The Victorians faced 13 charges in total, but with most being dropped for one reason or another, the only two charges on which they were found guilty of transgressing against the Party were those relating to the TUDC and the issue of State aid for non-Government schools. *Ibid.*

<sup>146</sup> Fitzgerald, Federal Intervention in the Victorian Branch, pp.212-3. It should be noted that the Federal Executive was on the verge of walking away from the charge that the TUDC had been an undue external influence on the Victorian branch because the evidence that had been gathered only demonstrated that the TUDC had been ‘a body within the ALP rather than an outside body.’ That the charge was ultimately followed through was apparently a consequence of Hartley’s stubborn insistence that his witnesses on the matter be heard. It was not that the evidence Hartley’s witnesses provided was damning of the Victorian branch and Executive that persuaded the Federal Executive to proceed, Fitzgerald argued, but that in insisting on calling those witnesses at a time when the charge was about to be dismissed, Hartley had clearly demonstrated that he and his colleagues were ‘too inept, too stubborn, and too dogmatic to be entrusted with the leadership of one of the largest Branches of the Party.’

charge originally made by the Participants.<sup>147</sup> It was, of course, a dubious charge and one against which a competent VCE would have been able to defend itself. Indeed, Fitzgerald argued, had Victorian secretary, Bill Hartley not insisted on having his witnesses heard, it is doubtful whether the charge would even have proceeded.<sup>148</sup> And, according to Clyde Cameron, had Hartley chosen to appeal the guilty verdict at the time it was handed down, it is almost certain that his appeal would have been sustained.<sup>149</sup>

TUDC control over Victorian Labor was anathema to Whitlam and groups such as the Participants because it marginalised them and alienated the middle-class support necessary to their success. For similar reasons, VCE recalcitrance on the issue of State aid for non-government schools became an increasingly thorny issue and one that would provide Whitlam and his Victorian confederates with the trigger they needed for federal intervention into the affairs of the party in that state.

### **State aid**

The State aid issue was not a new one; it was, according to some, ‘the oldest, deepest, most poisonous debate in Australian history.’<sup>150</sup> Yet, thanks to political bipartisanship and the fact that responsibility for education lay with the states and not with federal governments, the issue had, until the 1960s, been one from which both sides of federal politics were more-or-less excused.<sup>151</sup> That all changed when the Conservatives laid

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<sup>147</sup> Jupp, ‘Victoria: Left, Right and Centre’, p.91. According to John McLaren, Jupp made a significant contribution to the formation of the Participants through arguments and criticisms he presented in the magazine *Dissent*. Personal Correspondence with John McLaren, 30 September, 2010.

<sup>148</sup> Fitzgerald, Federal intervention into the Victorian Branch, pp.212-3. According to Fitzgerald, this was but one of the times in which Hartley, in particular, showed himself to be politically naïve and incompetent.

<sup>149</sup> Cameron was at a loss to explain why Hartley and the VCE did not contest the charge when it was laid in September 1970, but it was ultimately quashed at the 1971 Federal Conference. Cameron & Connell, *The Confessions of Clyde Cameron*, pp.196-7.

<sup>150</sup> Freudenberg, *A Certain Grandeur*, p.28. According to Cameron, State aid had been a central aim of the Industrial Groupers whose capture of the ALP in Victoria had forced the Party to split. Cameron & Connell, *The Confessions of Clyde Cameron*, p.185.

<sup>151</sup> Governments had also been able to sidestep the issue because, though it was the organization whose schools were most in need of financial assistance, and despite the preponderance of its followers in the ALP, the Catholic Church had been persistently unable to prosecute a satisfactory case for State-aid. *Ibid.*, pp.29-31.

claim to Catholic and middle-class support by introducing federal grants for school libraries and science blocks for Government and non-Government schools alike.<sup>152</sup>

Menzies' decision to break with a century of bipartisan opposition to State aid for non-Government schools – announced in 1963 whilst calling a snap election – took full advantage of internal Labor Party wrangling on the issue. F.E. (Joe) Chamberlain, a three-decade member of the Federal Executive, former secretary and president of the federal party and long-standing state secretary of the West Australian branch<sup>153</sup> had forced the NSW Parliamentary Labor Party to back away from a pledge to provide parents of privately educated students with a means-tested weekly allowance.<sup>154</sup> By the mid-1960s, however, tensions around State-aid had heightened to the extent that Whitlam was claiming that the party was being run by 'twelve witless men' and, in response, branches were calling for him to be expelled.<sup>155</sup>

Whitlam's outburst had been prompted by Chamberlain skilfully manoeuvring the Federal Executive into supporting a Constitutional challenge to the Conservatives' use of public money for private school amenities.<sup>156</sup> With Labor preparing for the 1966 Federal Election, the Constitutional challenge and the State aid issue itself were placed on the backburner.<sup>157</sup> But the war of which it was a part was only beginning to heat up and, predictably perhaps, it was about to move to Victoria.<sup>158</sup>

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<sup>152</sup> Menzies' introduction of grants for school libraries and science blocks in 1963 cleverly took advantage of internal Labor Party wrangling on the issue, thus enabling him to recoup much of the Catholic and middle-class support he had lost two years earlier in the 'credit squeeze' elections. Fitzgerald, *Federal intervention in the Victorian Branch*, p.50.

<sup>153</sup> Menzies' introduction of grants for school libraries and science blocks in 1963 cleverly took advantage of internal Labor Party wrangling on the issue, thus enabling him to recoup much of the Catholic and middle-class support he had lost two years earlier in the 'credit squeeze' election. Freudenberg, *A Certain Grandeur*, p.30; Fitzgerald, *Federal intervention in the Victorian Branch*, p.50.

<sup>154</sup> As a result of its back-down on the weekly allowance for parents with children in private secondary schools, Labor was driven from power at the next NSW State elections held in 1965. Freudenberg, *A Certain Grandeur*, pp.32-3.

<sup>155</sup> *Ibid.*, p.46.

<sup>156</sup> Cameron & Connell, *The Confessions of Clyde Cameron*, p.186; Freudenberg, *A Certain Grandeur*, pp.34-9; Fitzgerald, *Federal Intervention into the Victorian Branch*, pp.46-7.

<sup>157</sup> Whilst Chamberlain's proposed challenge did not eventuate through the ALP because Calwell chose not to have it cloud preparations for the 1966 Federal Election, a group known as DOGS (Defence of Government Schools) did eventually challenge what it and Chamberlain had viewed as a violation of section 116 of the Australian Constitution prohibiting the establishment of 'any law for establishing any religion or for imposing any religious observance.' The DOGS challenge was ultimately dismissed in February 1981. Jupp, *Party Politics*, p.119. Freudenberg attributed the decision to set the Constitutional challenge and the State aid issue aside to Calwell, arguing that at a Special Conference held at Surfers Paradise, he had 'reluctantly' and 'hesitantly' voted in favour of a formula that would permit Labor

If Chamberlain was widely acknowledged as the keeper of Labor's conscience on matters such as State aid and rapprochement with the DLP, he was also known for his immense suspicion of parliamentarians.<sup>159</sup> In these matters, he had in his protégé, Bill Hartley,<sup>160</sup> and other officers of the VCE, the very staunchest of allies.<sup>161</sup> They had failed to thwart alterations to the party's position on State aid when Whitlam had, at the 1969 Federal Conference, secured an agreement that a future Labor government would establish a Schools Commission charged with determining the needs of all students and recommending grants on a basis of needs and priority.<sup>162</sup> Nor were they impressed by Clyde Holding's (Victorian Labor leader) failure to block supply for a Bolte Government Bill that promised to 'double per capita grants to private schools'.<sup>163</sup> But with Labor facing the polls in Victoria in May 1970, there appeared to be an opportunity to bring state parliamentarians into line and to circumvent Whitlam's 'needs and priorities' agreement by insisting that a Victorian Labor government would 'phase out' public subsidies for private schools.

Some have argued that the 'phasing out' policy was presented to Holding as a *fait accompli*. According to Freudenberg, for example, the branch officers humiliated the state Parliamentary Labor Party leader by arrogantly offering him the opportunity to

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Parliamentarians 'to support any existing form of State aid, including capital works.' Freudenberg, *A Certain Grandeur*, p.40. Whilst this might have been the case, it appears the resolution proposed by Calwell had been prepared by Hartley. According to Fitzgerald, Hartley's input resulted in him attracting the animus of Clyde Cameron who was staunchly opposed to State aid, and this was to be a major factor in Cameron's willingness to move against the Victorians when Federal intervention was mooted in 1970. Fitzgerald, *Federal intervention in the Victorian Branch*, p.49.

<sup>158</sup> Freudenberg suggested the battle over State aid was really a proxy war in which the real issue was 'the primacy of the Parliamentary Party.' Freudenberg, *A Certain Grandeur*, p.175.

<sup>159</sup> Chamberlain was described as being 'sea green and incorruptible' where issues such as State aid, the White Australia Policy, Vietnam, reconciliation with the DLP, and even unity tickets, were concerned. See, for example, Strangio, *Keeper of the Faith*, p.120; Freudenberg, *A Certain Grandeur*, pp.31-7.

<sup>160</sup> Hartley was a fellow West Australian and had learned at Chamberlain's feet. Freudenberg, *A Certain Grandeur*, p.37.

<sup>161</sup> For Chamberlain's suspicion of and contempt for Labor Parliamentarians, see Cameron & Connell, *The Confessions of Clyde Cameron*, pp.197-8. For the way in which the VCE and the industrial wing of the ALP in Victoria came to view Labor Parliamentarians, and Whitlam in particular, with suspicion, see Fitzgerald, *Federal Intervention in the Victorian Branch*, pp.40-4.

<sup>162</sup> Whitlam's push for agreement on the establishment of an Australian Schools Commission was accommodated with only one amendment: that in allocating funds for education a Labor Government would place particular emphasis on providing and maintaining State school systems 'of the highest standard open to all students.' Freudenberg, *A Certain Grandeur*, pp.158-62.

<sup>163</sup> Had Holding blocked supply when the Bill was introduced in 1969, he could have secured an election fought around the issue of State aid. Fitzgerald, *Federal intervention in the Victorian Branch*, p.75.

include the “phasing out” proposal in his own [manifesto] speech’.<sup>164</sup> Conversely, others suggest that whilst Holding eventually reneged on the proposal, he had in fact been intimately involved in its formulation.<sup>165</sup> Moreover, in his seminal history of federal intervention into the affairs of the Victorian branch, Fitzgerald went so far as to suggest that the proposal, whilst not in accord with the sentiment of the federal platform, nonetheless ‘appeared to be a sensitive and sensible compromise.’<sup>166</sup> Not only was ‘phasing out’ of public funds for private schools to be a long-term, or perhaps even indefinite project, but, in its capacity to support the flow of federal funds to private schools, ‘it could [also] be seen as complying with Federal policy’.<sup>167</sup> But Whitlam regarded it as a flagrant breach of federal party policy and, as such, he determined that the time had finally come for him to meet the Victorians head-on.<sup>168</sup>

Whilst the events leading up to the September 1970 meeting of the Federal Executive at which the VCE’s fate was finally decided make for fascinating discussion, they need not be fully recounted here. But a précis of influencing factors is warranted. To begin with, VCE recalcitrance on State aid threatened to spill over into South Australia where Don Dunstan was attempting to get Labor’s fortunes and his own personal ambitions back on track.<sup>169</sup> Having been outraged by the VCE’s preference of Calwell over Jim Cairns when Cairns’ seat of Yarra was abolished and he was made to accept the lowly seat of Lalor,<sup>170</sup> Dunstan was now more disposed than ever to see Hartley and the VCE deposed.<sup>171</sup>

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<sup>164</sup> Freudenberg, *A Certain Grandeur*, p.176.

<sup>165</sup> Fitzgerald, *Federal intervention in the Victorian Branch*, pp.78-92.

<sup>166</sup> *Ibid.* p.88.

<sup>167</sup> The ‘phasing out’ of State aid was, according to Fitzgerald, ‘of necessity, a long-term project, perhaps an indefinite one, because the policy used the Federal ideal of distributing funds on the basis of needs, and because a Victorian Labor Government would have supported transmission of State aid from the Federal Government, the amendments [to Federal policy that it implied] could be seen to be complying with Federal policy.’ Fitzgerald, *Federal intervention in the Victorian Branch*, p.88.

<sup>168</sup> Freudenberg, *A Certain Grandeur*, p.176.

<sup>169</sup> Dunstan had been given an unexpected opportunity to climb back from his defeat of 1968 when, in 1970 a split in the ruling Liberal Party forced a South Australian State election. The election was scheduled for the same day as that in Victoria – May 5, 1970. Fitzgerald, *Federal intervention in the Victorian Branch*, p.94; Freudenberg, *A Certain Grandeur*, pp.176-7.

<sup>170</sup> A Federal redistribution in 1968 saw Cairns’ seat of Yarra largely incorporated into the neighbouring seat of Melbourne, which Calwell had held for almost three decades. Cairns and his supporters were devastated by the VCE’s decision to support Calwell in his determination to continue in Melbourne. Federal intervention was threatened, but Cairns ultimately capitulated in order to avoid such action. See, for example, Strangio, *Keeper of the Faith*, pp.179-81.

<sup>171</sup> Fitzgerald, *Federal intervention in the Victorian Branch*, pp.62-3.

In NSW, control over the Labor Party had passed from Charlie Oliver and Bill Colbourne (president and secretary, respectively) into the hands of the more pragmatic John Ducker and Peter Westerway, a process which was to result in the Victorians losing a further valuable source of support and protection.<sup>172</sup> Over and above all of this was the party's better-than-expected performance in the 1969 Federal Election and the promise of power that it held for people such as Clyde Cameron, to whom Whitlam promised the coveted Industrial Relations portfolio.<sup>173</sup>

Cameron had another important motive for intervention in Victoria. That was the agreement he secured at a meeting in Don Dunstan's office that reform of the Victorian branch would be accompanied by reform of the NSW branch, where the Left had been excluded from power for so long and where Cameron had a personal score to settle with AWU secretary, Tom Dougherty.<sup>174</sup> Whilst the Left in that state were not naturally inclined to move against their fellows in Victoria, even though the latter had effectively conspired against them through their knock-for-knock arrangements with the NSW Right – arrangements which had safeguarded both branches from federal intervention during the Oliver/Colbourne years – the prospect of more equal representation in NSW was too much to resist.<sup>175</sup> NSW Left support for intervention in Victoria was, of course, important, but it was probably overshadowed by the fact that the branch's right-wing controllers, Ducker and Westerway, considered co-operation with federal authorities to be the best way of ensuring leniency when it came to reform of their own organisation.<sup>176</sup>

It was thanks to this convergence of agendas that Whitlam and those who were coming to run the Labor Party were finally able to sack the VCE. The conflict that had pervaded the ALP for a decade and a half had revolved around a particular point of difference between those who had inherited the party after the Split of 1954-55 and those

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<sup>172</sup> Cameron & Connell, *The Confessions of Clyde Cameron*, pp.189-90; Freudenberg, *A Certain Grandeur*, p.179.

<sup>173</sup> Whitlam's appointment of Cameron as Shadow Minister for Labour and Immigration created a political debt, whilst Cameron's desire to make a mark on history increased his desire to do all necessary to ensure a Labor victory in 1972, even if that meant destroying a Victorian branch and Executive to which head had traditionally lent support and with which he had much in common. Fitzgerald, *Federal intervention in the Victorian Branch*, pp.163-6.

<sup>174</sup> *Ibid.*, pp.153-8.

<sup>175</sup> Cameron & Connell, *The Confessions of Clyde Cameron*, p.193.

<sup>176</sup> Freudenberg, *A Certain Grandeur*, p.179; Cameron & Connell, *The Confessions of Clyde Cameron*, pp.189-90.



who would dictate its direction thereafter. For the former, it had been ‘better to have a genuine Labor Opposition forcing a conservative government to be less conservative than to have a conservative Opposition and a hostile media forcing a make believe Labor government to go further and further to the right.’<sup>177</sup> Conversely, for Whitlam and groups such as the Participants, as well as for those middle-class supporters and party members they continued to attract, the capture of political power was the only valid reason for having a political party. And if principle had to be diluted in order to win office, then so be it.<sup>178</sup>

By drawing on a number of lenses, some of which have previously been used to illustrate the way in which the middle-classing of the ALP was largely a 1960s phenomenon, this chapter has highlighted a modern Labor Party tendency to act in its own political interest. In bringing together threads such as White Australia, the war in Vietnam, unity tickets, State aid for non-Government schools and, ultimately, federal intervention in the Victorian branch of the ALP, it has constructed a deeper context in which the relationship between Gallagher, the BLF and the ALP might be understood.

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<sup>177</sup> Whilst these are Cameron’s words, and whilst he attributed the sentiment underlying them to Joe Chamberlain, it seems reasonable to suggest, given the battles they shared, that they reflected sentiments and beliefs held by some members of the VCE. Cameron & Connell, *The Confessions of Clyde Cameron*, p.198.

<sup>178</sup> In his biography of Jim Cairns, Strangio argued: ‘Whitlam was essentially a power politician: that is, he was motivated by the goal of winning government and exercising power. He recognised that a vital part of achieving that goal was the compromise of principle.’ This preoccupation with capturing political power was at odds with beliefs held by people on the Left, including Jim Cairns, for power gained through dilution of principle was power ‘not worth having.’ Strangio, *Keeper of the Faith*, pp.140-1.

## Chapter Four

### Norm Gallagher, a short biography

Norm Gallagher was a key protagonist in the war that developed between the BLF, the ALP and the broader labor movement. The purpose of this chapter is to sketch Gallagher's political development from his childhood in the 1930s and 1940s through to his ascension to the position of federal secretary of the BLF, a post he gained in late 1961. In tracing his political trajectory, this chapter will demonstrate the sharp contrast that existed between Gallagher and the lived experiences of Labor leaders with whom he and the BLF were to clash in the 1970s and 1980s. This chapter will also facilitate the reader's understanding of the quite different philosophical differences developing within the BLF and the ALP. Moreover, it will demonstrate that whilst Gallagher and his mentor, Paddy Malone, followed different political paths to those that Labor Party leaders pursued, they nevertheless hoped to resolve the differences that existed between the ALP and the BLF, not by giving support to the ALP, but by 'bring[ing] Labor back to Labor'.

Norm Gallagher died on 26 August 1999. He left no known records from which a biographical account of his life might be constructed. Consequently, we must draw on newspaper articles, trade union journals and minutes, Australian Security and Intelligence Organisation (ASIO) files, recorded interviews with and about Gallagher,<sup>1</sup> and personal conversations with people whose knowledge of him derived from professional, political or personal associations. Whilst these sources are most valuable, there is a risk, particularly where ASIO files and personal recollections are concerned, that they are coloured by the organisational or personal biases of those who gathered the information or agreed to speak. Newspaper articles present similar risks. Though they provide useful factual information about Gallagher's family and educational backgrounds, his early work experiences and some of the battles in which he was involved, their ability to reveal his political development is limited by their frequent tendency to caricature the subject. Recorded interviews with or about Gallagher are perhaps more illuminating for their

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<sup>1</sup> Norm Gallagher & Stewart Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*, 1992; Norm Wallace & Barry York, *Norm Wallace interviewed by Barry York, Memories of Norm Gallagher oral history project [sound recording]*, 2000.

ability to convey not just information, but also emotion; an important dynamic given Gallagher's polarising effect. Conversely, BLF journal articles and union minutes, whilst reliable reflections of Gallagher's political attitudes as an adult, are necessarily unable to reveal how those attitudes had been formed.

The concept of political socialisation is a useful tool to help understand Gallagher's early political development. At its core, political socialisation is concerned with the ways in which individuals learn and develop values, knowledge and political beliefs.<sup>2</sup> Political socialisation theory, which is in the process of re-emerging after a three decade hiatus, is less concerned with what has been learned than *how* it has been learned and the *circumstances* of that learning. The main agents of socialisation are: 'families, schools, the mass media, political parties, nongovernmental organisations, the military and government itself'.<sup>3</sup> In recent research, Jennifer Benz, Pamela Johnston Conover and Donald Searing have shifted the focus somewhat to demonstrate the way in which the political and sociological characteristics of local communities help mould political attitudes and behaviours.<sup>4</sup>

This chapter will argue that Gallagher's political trajectory was significantly shaped by his experiences as a child and adolescent, by his parents, schooling and work experiences, by the community in which he lived, by organisations and individuals with whom he became involved, and by circumstances experienced either directly or through collective memory.<sup>5</sup> In making this arguing, it is useful to note Macintyre's warning, expressed in his biography of Communist trade union leader, Paddy Troy,<sup>6</sup> on the danger

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<sup>2</sup> Jennifer Benz, Pamela Johnston Conover & Donald Searing, 'Placing Political Socialization in Context: The Role of Communities in Molding Citizens', Manuscript prepared for the American Political Science Association 2008 Annual Meeting, Boston, MA, p.2.

<sup>3</sup> Virginia Sapiro, 'Not Your Parents' Political Socialization: Introduction for a New Generation', *Annual Review Political Science*, 2004, pp.5-11.

<sup>4</sup> Benz, Johnston Conover & Searing, 'Placing Political Socialization in Context', pp.2-3.

<sup>5</sup> Collective memory has been defined by Virginia Sapiro as that which 'refers not to past encounters an individual has experienced (for example, one's own experience of poverty during the Depression, or the sights and sounds one witnessed at the Berlin Wall when it went up or down) but to the meaning-giving stories that come to be known as "the history" of a time, phenomenon, or event.' Sapiro, 'Not Your Parents' Political Socialization', p.10.

<sup>6</sup> Born in Port Melbourne, but most closely identified with Western Australia, Troy was elected secretary of the Coastal Dock Rivers & Harbour Works Union of Western Australia (CDRHWU) in 1948. A dedicated Communist, Troy also served as secretary of the Federated Ship Painters' and Dockers' Union in Western Australia, helped establish the Western Australia State branch of the Federated Miscellaneous Workers' Union (1955) and the new Western Australian Trades and Labour Council (1963). Stuart Macintyre, *Militant: the life and times of Paddy Troy*, Sydney: George Allen & Unwin, 1984, p.106; Australian

of reading people's lives backwards 'and seeing the[ir] earlier experiences in the light of later beliefs'.<sup>7</sup> It is equally important, however, to consider Macintyre's conclusion that such dangers notwithstanding, his subject's childhood experiences of the Great Depression had 'made him rather more serious-minded than many lads of his age'.<sup>8</sup> Like a great many other unionists and political activists, Troy's childhood experiences had, Macintyre argued, 'remained sharply etched on his memory and [had] shaped his actions'.<sup>9</sup> They had produced in him 'a compassion and social concern', as well as 'a highly developed sense of right and wrong, and a determination to insist on his due, alone if he must, regardless of the consequences'. They had, moreover, altered the course of Troy's life and made him a Communist rather than the 'active trade unionist and Labor man' he might otherwise have become.<sup>10</sup> Macintyre's reasoning is especially salient because of the many similarities that existed between Troy and Gallagher, particularly where their relationships with the ALP and the fate of the unions they led are concerned.<sup>11</sup>

Gallagher was born on 20 September 1931 in the inner-Melbourne suburb of Collingwood,<sup>12</sup> where he lived with his parents, Alfred and Minnie, his older brother, also named Alfred, and his sister, Maureen.<sup>13</sup> From the family home in Campbell Street,

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Dictionary of Biography online edition, available at <http://adbonline.anu.edu.au/biogs/A160498b.htm> accessed 11 January 2011; Australian Trade Union Archives (ATUA), available at <http://www.atua.org.au/biogs/ALE1101b.htm> accessed 11 January 2011.

<sup>7</sup> Macintyre, *Militant*, p.119.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid., p.19.

<sup>10</sup> Ibid., p.119.

<sup>11</sup> Troy resigned his membership of the ALP in August 1934, informing Party leaders in his letter of resignation that their organisation was much too closely tied to the fortunes of capitalism to ever provide a permanent solution to workers' problems. Labor, he argued, waxed and waned with capitalism, promising 'the hope of improvement' in good times and selling workers short in times of downturn with 'negative and defeatist policies.' His militancy and that of the workers he led resulted in the CDRHWU being deregistered and dismembered in 1952, at which point, the Australian Workers' Union (AWU) moved to cannibalise its membership. Like Gallagher and the BLF, Troy and the CDRHWU had accumulated a long list of enemies, including the Arbitration Court, employers, State governments and ALP leaders. Macintyre, *Militant*, pp.39-135; Australian Dictionary of Biography online edition, available at <http://adbonline.anu.edu.au/biogs/A160498b.htm> accessed 11 January 2011.

<sup>12</sup> Confusion about whether he was born in 1931 or 1932 – confusion Gallagher was always willing to stoke, according to Norm Wallace – ran parallel with confusion about whether Gallagher had been born in Collingwood or Carlton. See Wallace & York, *Norm Wallace interviewed by Barry York, Memories of Norm Gallagher oral history project [sound recording]*; *Mercury*, 4 September, 1980, p.13; *National Times*, 10-15 December 1973, p.6; *Advertiser*, 7 July 1984, p.2; *Herald*, 2 September 1977, p.4; *Advertiser*, 21 May 1982, p.4.

<sup>13</sup> Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*.

it was a short walk to nearby Otter Street and St Joseph's Catholic School for boys.<sup>14</sup> Had the Great Depression into which he was born been confined to the years officially ascribed it – 1929 to 1932 – Gallagher's birth date would have made him too young to personally remember that event and the power it had to shape political beliefs and actions.<sup>15</sup> In reality, however, Australia's experience of the Great Depression began well before the Wall Street Crash of October 1929, and it continued for many years after 1932, the year in which a turning-point of sorts is understood to have occurred.<sup>16</sup> The Depression and its aftermath had hit Collingwood particularly hard, Gallagher recalled, '...and all that had a big effect on me; I seen [sic] a lot of poverty and that gives you good experience to face the world. People never had the money to give their kids food'.<sup>17</sup>

In Victoria, the ruling United Australia Party (UAP) had reacted to the massive unemployment and poverty of the Depression years by introducing an Unemployment Relief (Administration) Bill designed to force unemployed men into working for sustenance.<sup>18</sup> The 'susso', as it was known, provided families with the princely sum of 11 pence per head per week; in other words, less than half a basic wage, by which the essential needs of families was measured.<sup>19</sup> In order to qualify for this relief, moreover, it was necessary for families to have 'realised all possible assets' other than the roof over

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<sup>14</sup> *Mercury*, 4 September, 1980, p.13; *Herald*, 18 February 1981, p.4.

<sup>15</sup> For two poignant accounts of the way in which the Great Depression could and did shape political beliefs and actions see Keith McEwan, *Once a Jolly Comrade*, Brisbane: The Jacaranda Press, 1966, and Peter Cook, *Red Barrister: A Biography of Ted Laurie*, Melbourne: La Trobe University Press, 1994. In both cases, as in Stuart Macintyre's biography of Paddy Troy, the point is made that the Depression, whilst it had the capacity to utterly demoralise those who lay in its path, could also be an agent of radicalization. Macintyre, *Militant*, p.32.

<sup>16</sup> For a concise account of the Great Depression and its impact on Australia, see for example, Stuart Macintyre, *The Oxford History of Australia, Vol. 4, The Succeeding Age, 1901-1942*, Melbourne: Oxford University Press, 1993, pp.251-96. Macintyre noted that whilst it might have been possible for a doctor's wife 'to remember a moment in 1929 when "all of a sudden everything seemed to stop"', the onset of the Depression had been obvious to working-class people since at least 1927. p.251. The worst of the Depression may well have been over by the end of 1933, as Macintyre suggests, but it was also true to say, as Macintyre also argued, that recovery was sudden or always obvious. p.286.

<sup>17</sup> *Herald*, 18 February 1981, p.4.

<sup>18</sup> Geoff Spenceley, 'The Minister for Starvation: Wilfrid Kent Hughes, Fascism and Unemployment Relief (Administration) Act of 1933', *Labour History*, Vol. 81, 2001, p.135.

<sup>19</sup> M. Hibbins, *A Short History of Collingwood*, Melbourne: Collingwood Historical Society, 1997, p.43; Macintyre, *The Oxford History of Australia, Vol. 4*, p.276. Hibbins and Macintyre differ as to the amount of sustenance available. Whilst Hibbins argued that 11 pence per head per week was the allocation in Collingwood, Macintyre suggested that the monetary value of sustenance payments, which were in any case 'distributed to the unemployed and their dependants, principally in the form of ration orders that could be exchanged for a limited range of foodstuffs' ran to between five and seven shillings per week 'for an adult and the same or less for a child.' There is no disagreement, however, that the amount involved was entirely inadequate.

their heads.<sup>20</sup> With the Act that gave the people the ‘susso’ continuing to provide the basis for unemployment relief policy in Victoria up until the start of World War II, there seems little improbable or contrived about Gallagher’s recollections of poverty.<sup>21</sup> Considered in such a context, even his claim that ‘if you had bread and drippin [sic] you thought you was in the top class’ appears much less exaggerated than might first appear.<sup>22</sup>

A report compiled by the Housing Investigation and Slum Abolition Board in 1936-37 suggests that, for a great many Melburnians, the Depression merely served to exacerbate what were already very difficult times. It also serves to illuminate the stark contrast that existed between the origins of men such as Gallagher and those who would come to dominate the ALP in the 1960s and beyond. Taking the living conditions of inner suburban residents as the subject of its inquiry, the report bluntly declared that working-class tenants were ‘suffering in deplorable living conditions’.<sup>23</sup> In relation to Collingwood it noted the following:

...many streets are reasonably wide but others are very narrow. A great many allotments are small both in frontage and depth. The board was amazed to discover one house built on an allotment of land with a frontage of only 8 feet 5 inches [2.4 metres]. Scores of houses are built on frontages of only twelve feet [3 m]. Owing to the indiscriminate mixture of factories and dwellings, portions of the southern wards of the City have become blighted areas.<sup>24</sup>

The report suggested the existence of ‘numerous hovels which call for demolition’, yet insisted that ‘the slum pocket is not so much in evidence as elsewhere’. Clearly what

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<sup>20</sup> Macintyre, *Militant*, p.29.

<sup>21</sup> Spenceley described Victoria’s Unemployment Relief (Administration) Bill as ‘a piece of legislation which, in terms of its attempts to force the unemployed to work for sustenance, was unparalleled in any other state.’ Spenceley, ‘The Minister for Starvation’, p.135.

<sup>22</sup> *Herald*, 18 February 1981, p.4.

<sup>23</sup> The report centered on suburbs within a five mile radius of the Melbourne General Post Office. G. M. Hibbins, *A Short History of Collingwood*, p.45. As a consequence of the report, the Housing Act, 1937, was introduced into the Parliament of Victoria in November of that year. It was under that Act that the Housing Commission of Victoria was appointed on 1 March 1938. Public Records Office Victoria (PROV) website. Available at <http://www.access.prov.vic.gov.au/public/component/daPublicBaseContainer?component=daViewAgency&breadcrumbPath=Home/Access%20the%20Collection/Browse%20The%20Collection/Agency%20Details&entityId=3019#> accessed 25 December 2010.

<sup>24</sup> Victorian Parl. Papers, ‘Housing investigation and slum abolition board, First (progress) report L.Ass., 2<sup>nd</sup> session, 1937’, in Hibbins, *A Short History of Collingwood*, p.45. Hibbins noted that ‘by 31 October 1940, only 24 houses had been declared due for demolition and 24 as possible for repair.

constituted real slum conditions was in the eye of the beholder, since it had also been revealed that more than 40 per cent of Collingwood dwellings were without bathrooms, 60 per cent had no washhouses and 99 per cent did not have kitchen sinks.<sup>25</sup>

Informing the Board's report was a survey in which it had been revealed that people were living in shelters rather than what might reasonably be called 'dwellings', and that those shelters 'were overcrowded, damp, badly lit, inadequately ventilated, poorly drained and rat and vermin infested'.<sup>26</sup> In worlds far removed from the poverty and squalor implicit in these statistics and Dickensian imagery, Gough Whitlam's home had been one of 'good cooking, good books and good public servants',<sup>27</sup> whilst the Hawke household had been filled with 'the magic of books and words'.<sup>28</sup> Amongst all this, it should be acknowledged that if Gallagher's surroundings were not conducive to the sense of confidence, optimism and security that informed Bob Hawke's earliest memories, he did at least share with Hawke, albeit in an understated, working-class way, the love of parents for whom he could do little wrong.<sup>29</sup>

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<sup>25</sup> Similar conditions were recorded for Richmond in Ken Miller's booklet *A modern tale of two cities: Richmond, Toorak*, Melbourne: G. V. Little, 1949; Hibbins, *A Short History of Collingwood*, p.45.

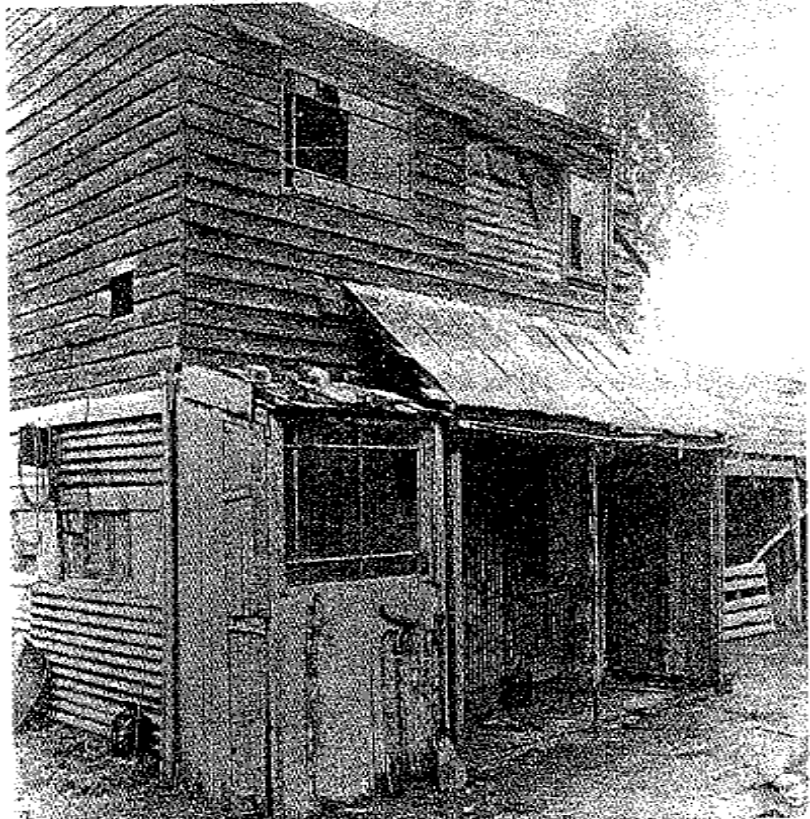
<sup>26</sup> Hibbins, *A Short History of Collingwood*, p.45.

<sup>27</sup> Freudenberg, *A Certain Grandeur*, p.72.

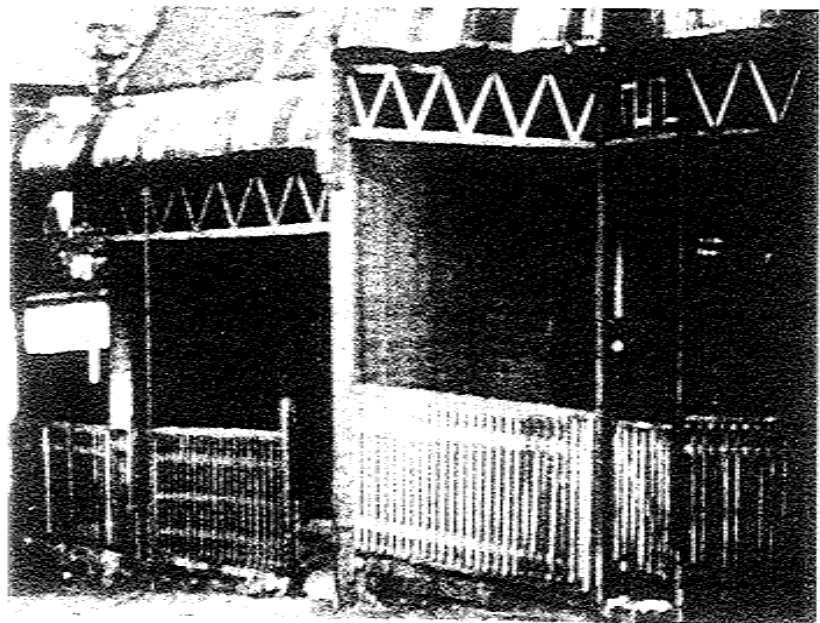
<sup>28</sup> Paul Kelly, *The Hawke Ascendancy: a definitive account of its origins and climax, 1975-1983*, London, Sydney: Angus & Robertson, 1984, p.12.

<sup>29</sup> Gallagher was particularly close to his mother, Minnie, who upon learning that her son was to join the CPA said 'Look son, if you think it's right, you do it and as far as I'm concerned, I'll have no one say anything about you.' Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*; *Sydney Morning Herald*, 3 October 1981, p.38. In recounting his earliest memories, Hawke spoke of the 'overwhelming love' he had experienced as a child. He could not, he suggested, adequately 'describe how passionately' his father had loved him. Kelly, *The Hawke Ascendancy*, p.10.

The housing conditions documented by the Melbourne City inspectors in 1908, had considerably worsened by the 1930s. These photographs, taken from the Housing Investigation and Slum Abolition Report of 1936-37, identify some of the causes of poor housing conditions in inner city Melbourne.



In the years following the Second World War, Melbourne's inner suburban environment deteriorated still further. The decline in housing standards, evident in the housing investigation of the 1930s, was further exacerbated by the lack of manpower and material available for repair and renewals in the immediate postwar period.



<sup>30</sup> Renate Howe, *Inner Melbourne: a photographic perspective*, Melbourne: Deakin University, 1978, pp.15-16.



Gallagher's parents were typically working-class and staunchly pro-Labor. Alfred rose before dawn each day to carry the hod<sup>31</sup> on building sites across Melbourne; Minnie toiled in the boot factories dotted around Collingwood and nearby suburbs.<sup>32</sup> They didn't go as far as joining the Labor Party, but when election time rolled around, Gallagher recalled, 'it wouldn't matter if it was Billy the goat [that was standing]. If he was Labor, they'd still vote for him'.<sup>33</sup> Jim Scullin's Labor Government had done little to ease the ravages of Depression on the Gallaghers or their neighbours, but Scullin nevertheless managed to attract 59.9 per cent of the vote in Yarra in the Federal Elections of 1931.<sup>34</sup> Indeed, as might be expected, given the context in which that result had been achieved, it was very unusual for Labor to ever command less than 60 per cent of the votes in Yarra. Often as not, support for the ALP would reach into the mid-70s and beyond. By contrast, the CPA, which Gallagher joined in 1949, only once attracted double digit support. That came, not during the Depression when Communists had been to the fore in calling for relief and resisting evictions,<sup>35</sup> but in 1943 when Ralph Gibson was able to ride the wave of goodwill emanating from Russia's entry into World War II to capture 10.8 per cent of the vote.<sup>36</sup>

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<sup>31</sup> A V-shaped trough or box, one end of which remained open. Supported by a centrally placed pole, hods were used to cart bricks and mortar. Having been almost banished in the early years of the 20<sup>th</sup> century, the hod made a comeback during the Depression when labour was plentiful and cheap. It was then common for hod-carriers to transport 18 bricks at a time, on the flat, as well as up and down ladders. Whilst the Victorian branch of the BLF banned its members from carrying hods in 1945, its usage persisted well into the 1950s, particularly on smaller jobs. A similar situation existed in Sydney where, Paul True suggested, 'the reality on site and what was written in the award book often bore very little resemblance to one another.' True, *Tales of the BLF*, p.4. For a detailed account of the hod carriers' lot, see McQueen, *Framework of Flesh*, pp.106-19.

<sup>32</sup> Gallagher's father, Alfred, worked as a builders' labourer for 40 years. *Sunday Telegraph*, 31 May 1981, p.50; *Sydney Morning Herald*, 3 October 1981, p.38.

<sup>33</sup> Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*; Lawrence, 'The Making of Norm', *Advertiser*, 21 May 1982, p.4.

<sup>34</sup> In 1931 the Federal seat of Yarra encompassed inner Melbourne, Abbotsford, Collingwood, Fitzroy South and Richmond. Redistributions meant that by 1966 the seat included inner Melbourne, Burnley, Collingwood, Hawthorn and Richmond. The seat was abolished in time for the elections of 1969 with Collingwood then falling under the seat of Melbourne. <http://psephos.adam-carr.net/countries/a/australia/> Accessed 28 December 2010.

<sup>35</sup> Macintyre noted that the CPA had suffered a sharp drop in membership during the 1920s because of its pursuit of policies that were incompatible with those of the trade union and labor movement. Whilst its ability 'to give a lead to the unemployed in campaigning for relief and resisting evictions' during the Depression boosted membership numbers, this did not necessarily translate into greater support at the ballot box. Macintyre, *Militant*, p.36.

<sup>36</sup> Gibson's vote exceeded the average CPA vote in 1943 by close to three per cent. Having contested 17 out of 74 seats, the CPA averaged roughly eight per cent of the vote in 1943. Jonathan Strauss, 'How was labour divided? Working class politics in the 1940s.', in Julie Kimber, Peter Love & Phillip Deery (eds.),

Gallagher followed his father and older brother into the building industry when he was 16 years old. As hod carriers/brickies' labourers, the father and older brother belonged to a class of worker that had been for many years the mainstay of the BLF.<sup>37</sup> In the days before large-scale concrete construction, Norm Wallace recalled, those who tended the bricklaying and plastering tradesmen were more valuable than brick layers or plasterers themselves, because it was the labourer who kept the team going, supplying them with bricks and mortar, preparing the footings and building the scaffolds.<sup>38</sup> Yet they were among the first to be fired when work ran short, as employers divvied up their work among the teams of tradesmen.

The logic was simple – for the employer, the overarching aim was always to keep his tradesmen together.<sup>39</sup> It was a feature of the builders' labourers' lot not lost on Alfred's youngest son. 'In those days', Gallagher stated, builders' labourers' had 'no sick leave, no pay for public holidays, no workers' compensation and no long-service leave'.<sup>40</sup> No doubt his father's experience was to the forefront of his mind when he suggested that 'a person could work in the building industry for 40 years and still not get any long service leave because of its casual nature'.<sup>41</sup> Builders' labourers, Gallagher understood, were 'on the last rung of society, worse than second class citizens'.<sup>42</sup> More than anything else, he told journalist Vic Caruso in an interview for the *Australian* newspaper, it was this sense of disenchantment with the building industry in the 1940s, seeing his father work hard without sick leave, workers compensation or public holidays that ultimately prompted Gallagher to join the Communist Party.<sup>43</sup>

With his father and brother in the industry, there was a very strong likelihood that Gallagher would follow suit. His early break with formal education heightened that probability. Tired of physically beating him, the nuns and priests at St Joseph's had given Gallagher the option of staying home for twelve months or helping the caretaker around

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*Proceedings of Labour Traditions: the tenth national labour history conference*, ASSLH, Melbourne, 4 – 6 July 2007.

<sup>37</sup> Wallace & York, *Norm Wallace interviewed by Barry York*; McQueen, *Framework of Flesh*, p.108.

<sup>38</sup> Wallace & York, *Norm Wallace interviewed by Barry York*. See also, McQueen, *Framework of Flesh*, pp.106-7.

<sup>39</sup> Wallace & York, *Norm Wallace interviewed by Barry York*.

<sup>40</sup> *Herald*, November 1974, p.20.

<sup>41</sup> Gallagher's father had been a builders' labourer for 40 years. *Sunday Telegraph*, 31 May 1981, p.50.

<sup>42</sup> *Bulletin*, 29 April 1986, p.44.

<sup>43</sup> *Australian*, 6 April 1979, p.9; *Herald*, November 1974, p.20.

the school. Never one to shirk an issue, he passed up the easy option in favour of pulling weeds and sweeping the grounds until such time as he could collect the school certificate that provided 14 year olds with a passport to work.<sup>44</sup> Jack Munday, whose leadership of the NSW BLF Gallagher terminated in the mid-1970s, allegedly joked with Gallagher that in sending him out to pull weeds, the sisters at St Joseph's had made an accurate assessment of his intelligence.<sup>45</sup> Made in the context of a private conversation, Munday's remark was undeniably witty. But placed in the public domain by then up-and-coming Labor star, Bob Carr, it served an altogether more sinister purpose: to denigrate Gallagher and imply that he was an uneducated thug incapable of forming his own political views.<sup>46</sup>

As former BWIU national secretary, Tom McDonald and many newspaper journalists demonstrated, obliquity was a useful tool for those who wished to portray Gallagher in this way. In all the years he had known Gallagher, McDonald proclaimed, he 'never saw or heard him speak once at an ACTU Congress, keep notes at a meeting, draft a resolution, conduct a court case, produce a press release, pen an article or do any of a range of other things that would normally be expected of a National Secretary. He always had his paid advisers do the work'.<sup>47</sup>

Newspaper headlines such as 'The Builder's Bogeyman'<sup>48</sup>, 'Gallagher's guerillas'<sup>49</sup> and 'Norm, the guerilla with a basin cut'<sup>50</sup> together with cartoon portrayals and frequent exaggerations of Gallagher's physical stature<sup>51</sup> made McDonald's lampooning and inaccuracies more credible. This was a point not lost on Joan Coxsedg, whom Gallagher engaged to sketch historically significant buildings across Australia during the Green Bans era. She suggested that Gallagher's physique had long made him

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<sup>44</sup> Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris*; Barry Prismall, 'Controversy. Be in it, Norm's Motto', *Mercury*, 4 September 1980, p.13.

<sup>45</sup> *Bulletin*, 3 May 1983, p.26.

<sup>46</sup> Tertiary educated, Carr became the NSW State member for Maroubra in October 1983 and quickly rose to be Minister for Planning and the Environment in the Wran Labor Government. By April 1995 he had become Premier of NSW. In the *Bulletin* article penned five months before he became the member for Maroubra, Carr claimed that Gallagher had 'picked up his politics with his union job'. Bob Carr, 'The Real Norm Gallagher', *Bulletin*, 3 May 1983, p.28.

<sup>47</sup> Tom & Audrey McDonald, *Intimate union: Sharing a revolutionary life, an autobiography*, Sydney: Pluto, 1998, p.227.

<sup>48</sup> *Daily Mirror*, 4 February 1981, p.7.

<sup>49</sup> *Age*, 19 July 1978, p.9.

<sup>50</sup> *Sydney Morning Herald*, 14 October 1987, p.13.

<sup>51</sup> Gallagher was invariably represented in the media as 'Big Norm.' Given his height – 5ft 8inches (175cm), such descriptions were clearly intended to magnify his girth. See for example, *Sydney Morning Herald*, 3 October 1981, p.38.

an easy target for a hostile media; he had been easy to caricature and portray in a negative way to the public and, regardless of his achievements, many people chose to portray him as ‘the fat kid from Collingwood’.<sup>52</sup>

But if he had won no academic accolades, Gallagher nevertheless left school having learned some valuable lessons. The beatings he had received at the hands of the nuns and priests had left him with a speech impediment, but they had also given him the determination to never again let anyone push him around.<sup>53</sup> They instilled in the already rebellious Gallagher a sense of injustice and contempt that would propel him to greater notoriety than any amount of scholastic achievement.<sup>54</sup> Earlier attempts to expel him had been met by Alfred and Minnie threatening to enroll their son in the nearby state school, a threat in the face of which the Catholic nuns beat a hasty retreat, and from which Gallagher gained an early lesson in the art of brinkmanship.<sup>55</sup>

From school, Gallagher went to work as a jockey on trucks delivering fruit and vegetables from Melbourne’s Victoria Market to retailers across the state. He quickly learned that for the boss, the only thing that mattered was getting the truck loaded and on its way. He learned too that the employer would never hand over anything without a struggle: ‘I had no illusions about the boss giving us anything on a plate’.<sup>56</sup> In fact, ‘the bastards robbed me blind every pay day. Like bosses everywhere, they promised me everything and gave me nothing’.<sup>57</sup> After a year of loading cauliflowers, Gallagher left the transport industry to follow his mother into the boot factories, where he spent a further twelve months.<sup>58</sup> Then, in what was to be a life-changing move for him and a hugely significant event for the BLF and the labor movement more broadly, he joined his brother as a labourer at the Australian Paper Mills (APM) site in Fairfield.

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<sup>52</sup> Personal conversation with Joan Coxsedg, 24 October 2008.

<sup>53</sup> *Australian*, 6 April 1979, p.9.

<sup>54</sup> *Herald Sun*, 17 July 1984, p.21.

<sup>55</sup> Gallagher was widely known as The General, a reference both to his position as General Secretary of the Federation and to his prolific and successful practice of the art of brinkmanship, a risky practice of pushing employers to the edge before pulling back in time to achieve maximum outcomes for members of his union. It was a tactic he often described as counter-punching, and one he had in common with Paddy Troy. *Herald Sun*, 17 July 1984, p.21; Macintyre, *Militant*, p.94.

<sup>56</sup> *Sunday Mail*, 12 August 1990, p.13.

<sup>57</sup> *Bulletin*, 29 April 1986, p.44.

<sup>58</sup> Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*.

Norm Wallace, a former assistant secretary of the Victorian BLF, came to know Gallagher soon after he had commenced work at Fairfield. They developed a friendship and professional relationship that endured until the late 1980s, by which time Wallace had become critical of the way in which Gallagher had handled events leading up to the union's deregistration and dismemberment. As a teenager, Wallace recalled, Gallagher had been a forthright, staunch young man blessed with a maturity well beyond his years.<sup>59</sup> They were characteristics similarly recognized by John 'Marco' Masterson, a BLF official with whom Gallagher also had long personal and professional connections. These attributes, reminiscent as they are of the young Paddy Troy, combined in Gallagher to create someone whom, Masterson suggested, was never afraid 'to stand up to the bosses when something went wrong', a quality that immediately endeared him to the 250 builders' labourers on the APM site.<sup>60</sup> It was, Gallagher argued, a reciprocal bond –

The union blokes showed a very great personal interest in me, and of course that was a very vivid contrast to the sort of experiences I had had at school. In a sense the union became my family. We were all brothers, all very close, the best of mates.<sup>61</sup>

As an introduction to the construction industry, the job at Fairfield was better than most. Thanks to Paddy Malone, whose leadership of the Victorian branch Gallagher was to inherit more than 20 years later, the workers at Fairfield were 'spoiled' with toilet paper, lunch sheds and productivity payments.<sup>62</sup> However, as Gallagher was only too keenly aware, and as historian, Humphrey McQueen, discovered in researching *Framework of Flesh: Builders' Labourers Battle for Health & Safety*, such 'luxuries' were both hard won and difficult to protect.<sup>63</sup>

Gallagher had joined the Eureka Youth League (EYL) prior to beginning work at Fairfield.<sup>64</sup> Taking up membership of an organization sometimes referred to as the

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<sup>59</sup> Norm Wallace became a member of the Victorian BLF Executive in the late 1940s. He later served as Assistant State Secretary under Paddy Malone and Norm Gallagher, and he was a member of the Union's Federal Management Committee, both as a proxy for Malone when the latter was ill with cancer, and in his own right. Wallace & York, *Norm Wallace interviewed by Barry York, Memories of Norm Gallagher oral history project [sound recording]*.

<sup>60</sup> *Herald* 17 July 1984, p.21.

<sup>61</sup> *Bulletin*, 29 April 1986, p.44.

<sup>62</sup> *Herald* 17 July 1984, p.21.

<sup>63</sup> McQueen, *Framework of Flesh*, pp.161-86.

<sup>64</sup> Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*.

kindergarten of the Communist Party suggests that his political views were then being developed.<sup>65</sup> At the very least, Gallagher confirmed, it was indicative of how early in life he had begun his engagement with working-class politics.<sup>66</sup> Similarly significant of this commitment to working-class concerns was his connection with the Young Christian Workers (YCW) movement. Admittedly, little is known of Gallagher's association with that organization beyond the fact that he played for and captained some of its football teams. However, what is known of Gallagher's background and his life as a trade unionist makes it easy to see why YCW concerns for human rights and dignity, the right to meaningful and just work, global awareness and solidarity, and community engagement might have resonated with him.<sup>67</sup>

The YCW movement had been established in Collingwood in 1942 by Francis William Lombard, a Catholic priest whose gifts of oration and leadership complemented his toughness of mind, his prodigious energy and an authoritarian bent.<sup>68</sup> There is little to say that it was Lombard's personal attributes that drew Gallagher to the YCW, but they were traits common to two of the most influential figures in his life: Paddy Malone and Edward Fowler (Ted) Hill.

Having come to Melbourne from Ireland in the late 1920s, Malone had spent the Depression years like many in his adopted land, roaming the country in search of work and sometimes finding it in the tough cane fields of North Queensland.<sup>69</sup> At Tully, south of Cairns, he was elected as a member of a strike committee formed to agitate for better safeguards against Weil's disease.<sup>70</sup> Having struck for ten weeks, the cane cutters were forced to return to work without any immediate improvements in their working

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<sup>65</sup> *National Times*, 10-15 December 1973, p.6.

<sup>66</sup> Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*.

<sup>67</sup> Young Christian Workers <http://www.ycw.org.au/> accessed 6 January 2011.

<sup>68</sup> Australian Dictionary of Biography, online edition. Available at <http://adbonline.anu.edu.au/biogs/A150147b.htm>

<sup>69</sup> NAA: A6119, 2966, ASIO file for Patrick John Malone, Vol. 1, extract from *Guardian*, 13 November 1958; Wallace & York, *Norm Wallace interviewed by Barry York*.

<sup>70</sup> Leptospirosis, better known as Weil's disease, is a bacterial disease passed between animals and humans by contact with infected animal urine and animal tissue. Sometimes fatal, the disease can result in kidney failure, liver damage, haemorrhaging, meningitis and bleeding in the lungs. Those most at risk are people who 'have close contact with animals or who are exposed to water, mud, soil, or vegetation that has been contaminated with animal urine.' Of the occupations most in danger of contracting Weil's disease, 'farmers, vets, abattoir workers, and sugar cane and banana farmers' are the most prevalent. NSW Department of Health, Infectious Disease Factsheet / Leptospirosis, available at <http://www.health.nsw.gov.au/factsheets/infectious/leptospirosis.html> accessed 15 January 2011.

conditions. Malone, who, on principle, refused to join the returning workers, had been given an important lesson in the weakness of reformist trade unionism; the Australian Workers Union (AWU), whose members had called the strike, refused to support the action.<sup>71</sup> Returning to Victoria in 1936 to work as a builders' labourer, his strength of character, public speaking skills, common sense approach and ability to connect the day-to-day struggles of the workers with broader social and political conditions quickly earned Malone the respect of all who came to know him.<sup>72</sup> Having been made an organiser and member of the BLF state executive in 1940, Malone quickly rose to the position of Victorian branch secretary, a post he was to hold from early 1941 until his death in October 1970.<sup>73</sup> Along the way, he had worked with men such as Jock McEwen and Marco Masterson to rid the union of the gangsters who had come to use it, not in the interests of the members, but in their own interests and those of the bosses.<sup>74</sup>

Taking the BLF away from the Loughnans and their supporters was one thing; keeping it out of their grasp was another. For that task, and for the job of keeping the union safe from B.A. Santamaria's Catholic Social Studies Movement (The Movement) and Industrial Groupers,<sup>75</sup> Malone needed willing and able lieutenants; men such as Gallagher and Masterson, who were both ideologically committed and unafraid of physical violence.<sup>76</sup> Highly astute and blessed with excellent administrative skills,

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<sup>71</sup> NAA: A6119, 2966, ASIO file for Patrick John Malone, Vol. 1, extract from *Guardian*, 13 November 1958.

<sup>72</sup> Wallace & York, *Norm Wallace interviewed by Barry York*.

<sup>73</sup> McQueen, 'BLF/Paddy Malone'; Noel Butlin Archives Centre (NBAC), Australian National University: Australian Building Construction Employees and Builders Labourers Federation (1911-1986) N130/302, *Unity*, Official Organ of the Victorian Branch, Australian Builders' Labourers' Federation, Vol. 14., No. 3, November 1970.

<sup>74</sup> Clarrie O'Shea recalled how the Loughnan family from Richmond had treated the BLF 'as their personal domain' in much the same way as they had treated the suburb in which they lived as a personal fiefdom. They had, according to O'Shea, run the BLF not in the interests of the members, but in their own personal interests and those of the bosses. With connections to Squizzy Taylor and John Wren, the Loughnans could be said to have been well within the mould of gangsters. *Herald*, 17 July 1984, p.21; Wallace & York, *Norm Wallace interviewed by Barry York*.

<sup>75</sup> *Herald*, 17 July 1984, pp.21-2; Robert Murray, *The Split: Australian Labor in the fifties*, Melbourne: Cheshire, 1970, pp.14-21, traced the official formation of The Movement to 1942 but argued that Catholic-dominated, anti-Communist groups had been active in some Victorian unions since at least 1938. Murray cited a Victorian ALP Central Executive Industrial Committee report from 1947 to suggest that the BLF was one of several unions in Victoria in which ALP Industrial Groups had become active.

<sup>76</sup> In his teens, Gallagher boxed both as an amateur and professional, usually coming up against opponents much older and bigger than he. *Canberra Times Good Weekend Magazine*, 20 April 1986, p.11. Boxing, it seems, was necessary to survival in Collingwood where '...during the 40s it was nothing to have a couple of blokes walk up and give you a bloody good hiding just for the hell of it. When blokes fought in those

Malone also saw the need to implement reliable succession strategies. In Gallagher, he argued, he had found a man who would make the BLF the strongest union Australia had ever seen.<sup>77</sup> However, Malone also maintained – in what (if quoted correctly) was an extraordinarily accurate prophecy – that Gallagher was also the one who would ultimately bring the union down.<sup>78</sup>

Bob Carr has sneeringly suggested that Gallagher picked up his politics with his union job. When Malone's commitment to Soviet Communism gave way to a passion for Peking-style Communism, Carr argued, so too did Gallagher's political allegiances change.<sup>79</sup> But one might plausibly point to Gallagher's membership of the EYL, activated at or about the time he began working at Fairfield, as evidence that he was intuitively drawn to the Communist cause. In fact, Gallagher recalled, he had given the matter 'a lot of thought and consideration'. He had 'looked around...worked with people who had been members of the Communist Party who were always doing something on the job; trying to improve workers' wages and conditions'. Communists, he argued, 'were always the best fighters on the job when it came to standing up [to] the boss over bad amenities and bad conditions and they had an influence on my thinking'.<sup>80</sup> That Gallagher ultimately joined the CPA and not the ALP was, as argued earlier in this chapter, a consequence of several factors, not least being his knowledge of the hardships his father had faced. But, in a remarkable irony, it was also a consequence of the friendship he struck up with Huey Tierney, a carpenter at the APM site in Fairfield.

A job committee member, Tierney was 'a very good public speaker' and 'a very sincere sort of person'. He was also a staunch Labor supporter and ALP member.<sup>81</sup> When Gallagher consulted him about which left-wing organisation he should join – the CPA or the ALP – Tierney immediately suggested the former. Having observed Gallagher's actions on the job and having taken note of his attitudes, Tierney argued that membership

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days it was all in. There wasn't a picket left on the fences.' *Bulletin*, 29 April 1986, p.44. Gallagher recalled that he had been convicted of assault on one occasion when 'some bloke come into the union [office] one day and was going to attack Paddy Malone...I got in the way and I got a kick in the knee so I grabbed him and threw him down the stairs.' Other than that, he argued, all his other convictions had been related to his union activity. Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*.

<sup>77</sup> Ross, *Dare to Struggle, Dare to Win!*, p.262.

<sup>78</sup> Ibid.

<sup>79</sup> *Bulletin*, 3 May 1983, p.26.

<sup>80</sup> Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*.

<sup>81</sup> Ibid.



of the ALP would only result in frustration and disappointment. Labor, he suggested, would never satisfy the requirements implicit in Gallagher's world view.<sup>82</sup> In recognising the limitations of his own party, Tierney had, of course, illuminated the very reasons why 'young men and women all round Australia' joined the CPA.<sup>83</sup> They were the same reasons given by Paddy Troy years earlier in his letter of resignation from the Labor Party. Apt as it was to wax and wane with the fortunes of capitalism, Labor promised 'the hope of employment' in good times but sold workers short in times of economic downturn. Labor's fortunes were too closely aligned to those of capitalism, Troy had warned, for that party to ever provide a permanent solution to workers' problems.<sup>84</sup>

Mao's victory in China notwithstanding, 1949 was not a good year to join the CPA. A series of previous events – Churchill's Iron Curtain speech, the Cominform's 'Two Camp' thesis, a Communist coup in Czechoslovakia, Stalin's excommunication of Yugoslavia from the Cominform, and the Berlin blockade – had not only served to sharpen Cold War tensions and heighten hostility towards Communists, but had also caused disaffection within the party itself.<sup>85</sup> In April 1949 Cecil Sharpley, a state executive member of the CPA in Victoria defected from the party. The ensuing rash of sensational headlines in the mainstream press ensured the addition of local colour to an already rising international tide of apocalyptic language and fear. A Royal Commission into Communism conducted by the Victorian state government failed to unearth any dastardly plot, but it nevertheless succeeded in tarring many with the Communist brush through the publication of an 'official' membership list.<sup>86</sup> Party members, including the newly-joined Gallagher, were coloured by this environment, and interpreted the state government's appointment of a Royal Commission as consistent with the actions of a state lurching towards fascism.<sup>87</sup>

If Gallagher's entry into the CPA was backgrounded by a Tory orchestrated witch hunt, it also coincided with the great Coal Strike of 1949 in which Ben Chifley's Federal

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<sup>82</sup> Ibid.

<sup>83</sup> Macintyre, *Militant*, pp.38-9.

<sup>84</sup> Ibid., p.38.

<sup>85</sup> Bernie Taft, *Crossing the Party Line: memoirs of Bernie Taft*, Newham Victoria: Scribe, 1994, pp.59-61; Amirah Inglis, 'Witch Hunt. The trial of Ken Miller and Anti-Communist Hysteria in the 1940s', *Overland*, No. 132, 1993, pp.14-15.

<sup>86</sup> Taft, *Crossing the Party Line*, p.60.

<sup>87</sup> Ibid., p.19.

Labor Government proved no less hostile towards militants and Communists. In what proved to be a watershed in the history of the CPA, the party, through its intimate involvement in the strike, succeeded not in bringing on the revolution its leaders naively thought possible, but in bringing upon itself the full force of the State.<sup>88</sup> The Chifley Government used repressive legislation to decapitate the Miners' Federation, froze union funds, deployed troops to open cut mines and launched a propaganda war that undercut support not only for the strike, but for the party as well. By exacting such a devastating toll on the CPA and the miners' union, Labor had reiterated its reformist credentials and proven itself to be every bit as treacherous as the Liberals. It was, Brian Boyd believed, a salient lesson for Gallagher and one that undoubtedly informed his long-held antipathy towards the ALP.<sup>89</sup>

For Gallagher, the 1950s was a decade of consolidation. In 1952 he married Jean Bennett, a Collingwood girl and boot machinist.<sup>90</sup> Having boarded with Norm Wallace and his brother in their rented South Yarra house for several months after their marriage, the Gallaghers eventually moved to Reservoir, where they raised two children, Wayne and Sharon.<sup>91</sup> But the marriage was doomed over the longer term, Gallagher suggested, because of his commitment to the working class and because of his tendency to put the union before all else.<sup>92</sup> The long hours spent organising builders' labourers and negotiating on their behalf were frequently punctuated by state and Federal Council meetings.<sup>93</sup> Exacerbated by a lack of money, it was, Gallagher suggested, a situation that only worsened after he became federal secretary of the union, a position which required him to spend even more time away from Jean and the children.<sup>94</sup> These absences were, of course, made all the more strenuous for the young family by Gallagher's Communist

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<sup>88</sup> Phillip Deery, 'Communism, Security and the Cold War', *Journal of Australian Studies*, No. 54/55, 1997, p.162.

<sup>89</sup> Ibid.

<sup>90</sup> Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*; NAA: A6119, 2651, ASIO file for Norman Leslie Gallagher, Vol. 1, Senior Field Officer report, VFF. 3310, 6 July 1962.

<sup>91</sup> Wallace & York, *Norm Wallace interviewed by Barry York*; Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*; NAA: A6119, 2651, ASIO file for Norman Leslie Gallagher, Vol. 1, Senior Field Officer report, VFF. 3310, 6 July 1962.

<sup>92</sup> Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*.

<sup>93</sup> Having been appointed to the State Executive of the BLF soon after commencing work at Fairfield, Gallagher was elected to the Federal Council of the union at a meeting held in Adelaide on 25 November 1958. NAA: A6119, 2651, ASIO file for Norman Leslie Gallagher.

<sup>94</sup> Lawrence, *The Making of Norm Gallagher*, *Herald*, 18 February 1981, p.4; Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*.

Party activities which, as a consequence of his growing relationship with Ted Hill, were becoming more time-consuming and intense.

A barrister and solicitor, Hill served as state secretary of the CPA in Victoria between 1945 and 1962.<sup>95</sup> One of Australia's most rigid and single-minded Communists, he had returned from the 20<sup>th</sup> Congress of the Communist Party of the Soviet Union (CPSU) held in Moscow in 1956 not to uphold Khrushchev's denunciation of Stalin and the 'cult of the individual', but to brand as revisionists those who dared discuss or repeat what Khrushchev had said.<sup>96</sup> Having himself been denounced in the Victorian Legislative Assembly as 'a blackguard of the very worst type', Hill had been a witness before the Royal Commission into Communism orchestrated by the Victorian Government in 1949, had been an ardent opponent of the Communist Party Dissolution Act brought down by Menzies in 1951 and had appeared both as a witness and as counsel at the Petrov Royal Commission of 1954-55.<sup>97</sup> Intensely secretive and authoritarian, he had become aware of Gallagher early in the 1950s. It was then, when Gallagher had returned from the World Festival of Youth and Students held in East Berlin that he had been made an organiser with the Victorian branch of the BLF.<sup>98</sup> But it was really in the late 50s and early 1960s when the CPA was tearing itself apart that Hill and Gallagher became close friends.<sup>99</sup>

It has been suggested that Gallagher never brought his Communist politics into his roles as federal and Victorian state secretary of the BLF.<sup>100</sup> This seems very unlikely, given his close relationship with Hill and the way in which Gallagher's rise through the

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<sup>95</sup> <http://adbonline.anu.edu.au/biogs/A170531b.htm>

<sup>96</sup> John Sendy, *Comrades Come Rally, Recollections of an Australian Communist*, Melbourne: Nelson, 1978, pp.101-2.

<sup>97</sup> Often referred to as the Petrov Royal Commission, the inquiry, which ran for 10 months from 17 May 1954 was actually announced by Menzies as The Royal Commission on Espionage. References to the inquiry as the Petrov Royal Commission stem from the defection of Vladimir and Evdokia Petrov in April 1954; <http://adbonline.anu.edu.au/biogs/A170531b.htm>

<sup>98</sup> Gallagher's trip to East Berlin and his return via Moscow and Peking had been sponsored by his workmates at APM, in recognition of the contribution he was making to the improvement of their welfare. Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*. The festival, held in August 1951, was branded a 'Communist front.' Whilst the Communist movement in Australia did not deny that Communists had indeed been present, its official organ, *Tribune*, claimed that the two million attendees (participants and spectators) at Berlin had been made up of young people with a diverse range of religious and political beliefs. See Scott Poynting, 'The Youth Carnival for Peace and Friendship, March 1952', *Labour History*, No. 56, May 1989, p.61.

<sup>99</sup> Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*.

<sup>100</sup> Brian Boyd claimed that Gallagher even went so far as to send him to Ted Hill for 're-education' whenever he blurred the lines between his commitments to the CPA-ML and the BLF. Personal conversation with Brian Boyd, 25 October 2008.

ranks of the BLF coincided with the development of that relationship. It seems unlikely too, in the face of Bob Gould's claim that during the 1950s and 60s, 'the CP...required CP full-time union officials to attend a weekly meeting at 8 pm at CP headquarters [in Sydney and Melbourne] where tactics for the week would be discussed, the meeting being conducted by people like Eddie Maher in Sydney and Flo Russell or Ted Hill in Melbourne'.<sup>101</sup>

Russell identified Gallagher to Hill in July 1958 as a person upon whom they and the party could depend.<sup>102</sup> It seems her prompting came about as a consequence of what she and others considered to be Paddy Malone's loss of verve and his tendency to favour 'routine office detail' over 'getting around in the job'; developments that were likely to see him lose control over the union and see the BLF lost to the party.<sup>103</sup> Hill had already personally criticised Malone for his failure to exercise a more decisive influence over trade union matters, his failure to think ahead and follow correct policy, his tendency to 'listen to the last bloke who blows in the wind' and his failure to 'build up Party prestige in the Trade Unions'.<sup>104</sup> With Malone apparently stumbling – possibly due to the onset of the cancerous illness that eventually took his life – it was necessary to bolster the party's influence over the BLF. This was achieved with Gallagher's appointment to the union's Federal Council at a meeting of that body held in Adelaide on 25 November 1958.<sup>105</sup>

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<sup>101</sup> Bob Gould, 'The Communist Party in Australian Life', Ozleft: An independent forum of strategy, tactics and history in the Australian left, green and labor movements, available at <http://members.optusnet.com.au/spainter/CPA.html> accessed 19 January 2011.

<sup>102</sup> NAA: A6119, 2651, ASIO file for Norman Leslie Gallagher, Vol. 1.

<sup>103</sup> Russell's complaints about Malone were based on complaints she had received from a number of people about Malone's attitude and the way in which 'he was losing the respect and confidence of the men.' NAA: A6119, 2966, Extract from material held in S.S. Branch, dated 22 July 1958, ASIO file for Patrick John Malone, Vol. 1. Whilst it is uncertain whether Malone had then begun to suffer with the cancerous disease that eventually killed him in 1970, copies of his Death Certificate and the oration given by Ted Hill on the occasion of his funeral on 16 October 1970 suggest that his illness had been in evidence for 'many, many years.' An extract from the *Guardian*, dated 25 June 1959, indicated that Malone was convalescing following surgery, but did not identify what his ailment had been. NAA: A6119, 2966, Extract from material held in S.S. Branch, dated 22 July 1958, ASIO file for Patrick John Malone, Vol. 1.

<sup>104</sup> NAA: A6119, 2966, Evaluation Report No. 12630, 14 May 1958, ASIO file for Patrick John Malone, Vol. 1.

<sup>105</sup> Whilst it is uncertain whether Malone had then begun to suffer with the cancerous disease that eventually killed him in 1970, copies of his Death Certificate and the oration given by Ted Hill on the occasion of his funeral on 16 October 1970 suggest that his illness had been in evidence for 'many, many years.' An extract from the *Guardian*, dated 25 June 1959, indicated that Malone was convalescing following surgery, but did not identify what his ailment had been. NAA: A6119, 2966, Extract from material held in S.S. Branch, dated 22 July 1958, ASIO file for Patrick John Malone, Vol. 1; NAA: A6119, 2651, ASIO file for Norman Leslie Gallagher. (116)

There is little to suggest that Gallagher's elevation to the BLF Federal Council did not come about as a result of his good work as an organiser. However, if the need to shore-up Communist influence over the union played at least some part in the decision, a further opportunity to advance that cause came about in late 1961 when the position of federal secretary fell vacant. Paddy Malone, whose grip over the Victorian BLF had by then been renewed, was instructed by CPA headquarters in Sydney to have Gallagher nominate for the position.<sup>106</sup> Gallagher was initially reluctant since he feared such an appointment would necessitate a move to Sydney where the federal secretary position had traditionally been based. It was only after he had been assured that shifting the position to Melbourne was permissible under BLF rules and after he had been advised by Flo Russell that his occupation of the post would be beneficial to the CPA that he acquiesced.<sup>107</sup>

Gallagher's election as general secretary coincided with a shake-up of the union in NSW. In that state, a decade-long struggle had culminated in rank and filers defeating the right-wing leadership, which 'for many years [not only] failed to serve the interests of builders' labourers', but actually retarded them.<sup>108</sup> Like the ALP, the BLF suddenly seemed to have shaken off years of turmoil to embark on the 1960s as a stronger, more united organisation. The two most important branches were now firmly under left-wing control and in Gallagher the union had a federal secretary capable of making it a more effective national organisation. That, at least, was the view expressed in the May 1962 edition of *Unity*, the official organ of the Victorian branch.<sup>109</sup>

Whilst the rift that developed in the ALP between Calwell, Whitlam and their respective supporters rapidly outpaced the divisions that opened up between the Victorian and NSW branches of the BLF, those divisions were nevertheless in evidence from the early 1960s. Initially, they were subtle and, as the journals of the two branches demonstrate, they revolved around how much support should be given to the election of an ALP Government. In its October 1963 edition, *The NSW Builders' Labourer* editorialized that Menzies' sudden decision to go to the polls presented an opportunity for

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<sup>106</sup> NAA: A6119, 2651, ASIO file for Norman Leslie Gallagher, report No. 61/2902, 27 November 1961.

<sup>107</sup> Russell pointed out to Gallagher that being federal secretary, he would have much more freedom to move between states, thereby allowing him to conduct CPA business as well as union business. Ibid.

<sup>108</sup> *Unity*, May 1962, p.11. Copies of *Unity* are located in NBAC: ABCE&BLF (1911-1986), N130/238 and N130/244.

<sup>109</sup> *Unity*, May 1962, p.11.

Australian workers to 'elect real working class representatives to the Federal Parliament, with a positive programme for the Labour movement'.<sup>110</sup> Reflecting the political loyalties of those leading the union in NSW, where ALP man, Mick McNamara, was now state secretary, the *Builders' Labourer* urged members to do more than simply vote for ALP or Communist Party candidates. Rather, they should work in positive ways to convince fellow-workers and others of the urgent need to oust Menzies and elect a Labor Government.<sup>111</sup>

*Unity*, by contrast, had been much more circumspect in its views about the election of a Labor Government. The editorial in its August 1962 edition proclaimed 'Menzies Government Must Go Now!', but it refrained from stating that the election of a Labor Government would provide workers with a better alternative. Indeed, it failed to mention the ALP at all.<sup>112</sup> A small, mostly dot-point article in the October 1963 issue of *Unity* was simply entitled 'Defeat Menzies Government', and similarly refused to support Labor. Indeed it might be argued that by listing the ways in which Menzies had been selling both Australia and Australian workers short in favour of big business, the arms industries and a war-making alliance with America, *Unity* was actually alerting workers to the suspicions they ought to have about any government that would not pledge itself to carry out trade union policy.<sup>113</sup>

As the official organ of the Victorian branch, it might be argued that *Unity* more accurately reflected the political views of those who ran the BLF in that state than those of Gallagher. Such arguments are easily countered, however, by the fact that Gallagher joined Paddy Malone, Ted Hill and Clarrie O'Shea in founding a break-away Communist Party – the CPA-ML. It is arguable that such an alliance could not have been possible had there been significant differences in attitude towards such important institutions as the ALP. That Gallagher was at one with those who ran the Victorian branch was confirmed by a reading of his federal secretary's report tendered to a Federal Conference meeting held in Melbourne in November 1963. It was very important that Menzies be defeated, Gallagher argued, because not only did his government represent monopoly capitalism

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<sup>110</sup> *NSW Builders Labourer*, October 1963, p.1.

<sup>111</sup> *Ibid.*

<sup>112</sup> *Unity*, August 1962, p.3.

<sup>113</sup> *Ibid.*

and carry out ‘the wishes of the employing class’, but it also ‘used its position in Parliament to strengthen the Penal Laws of the Arbitration Act and other laws of oppression such as the political section of the Crimes Act’ to freeze workers’ wages and bully them into submission.<sup>114</sup> However, whilst Gallagher suggested that the Federation would support the election of a Labor government, he made it quite clear that such support would be grudgingly given, and then only because, as things stood, Labor provided the only alternative to Menzies. Pointing to NSW, where the incumbent state Labor government had not only defied ACTU calls for ‘the repeal of State laws...involving penal provisions’, but had actually used those laws to impose fines on the BLF and other unions involved in disputes with a big American company – Perrina Australia Ltd. – Gallagher warned against workers becoming complacent if they elected a Labor administration.<sup>115</sup>

*Unity*, the journal of the Victorian BLF, most likely reflected Gallagher’s views *vis-à-vis* the ALP, even before he became secretary of that branch. Much can be learned about those views, therefore, from the scathing analysis that *Unity* offered of Labor’s disastrous 1963 electoral defeat. To begin with, *Unity* suggested, Labor had participated in what had in effect been a sham contest. Menzies had called a snap election for no good reason other than to boost his wafer-thin majority and to sooth the nerves of those who really pulled the strings – the monopoly class. But Labor had utterly failed to expose the sham or contest the need for an election.<sup>116</sup> In the course of the election campaign, *Unity* argued, Labor had sought to make itself almost indistinguishable from the Liberals, with Calwell even going so far as to hint during a television interview that a Labor government would introduce conscription for Australian wars in South East Asia.<sup>117</sup>

Having participated in Menzies’ sham on the Australian people and having fought him on his preferred grounds rather than developing what *Unity* claimed were its ‘traditional socialist principles’, Labor had led its supporters into a state of confusion and exposed itself to inevitably harsh calls for a rightward shift and the development of a new

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<sup>114</sup> NBAC: ABCE&BLF (1911-1986), N130/238, *Minutes of Australian Builders Laborers’ Federation Federal Conference, General Secretary’s Report*, November 1963, p.8.

<sup>115</sup> *Ibid.*

<sup>116</sup> *Unity*, December 1963, p.3.

<sup>117</sup> *Ibid.*

image.<sup>118</sup> By abandoning its principles and seeking to defeat Menzies as a clone of his government and not as representatives of the working-class, Labor had cast the dye for all future tilts at power.<sup>119</sup> In what pointed to the struggles that lay ahead, particularly where the Victorian branch of the ALP was concerned, *Unity* proclaimed the need for the trade unions to ‘bring Labor back to Labor’, to ensure that working-class principles were reaffirmed’ and proclaimed, too, the need to counteract the ‘strident and harsh voices calling for the complete abandonment of the socialist principles of the labor movement’.<sup>120</sup>

This chapter has traced Norm Gallagher’s political trajectory from his childhood days in Collingwood to the early 1960s when, according to Dean Jaensch and others, the ALP began to experience the kind of transformation that would ultimately result in it becoming a ‘catch-all’ party. It has suggested that Gallagher’s position *vis-à-vis* the Labor Party evolved as a consequence of personal experiences and collective memories that were markedly different from those who came to dominate the ALP and the broader labor movement from the 1960s onward. Echoing Macintyre’s treatment of the life and times of Paddy Troy, this chapter has argued that those experiences and memories served to instill in the young Gallagher a political awareness upon which all (or most) future experiences and knowledge were built. It has noted that, having given serious thought to the matter, Gallagher’s knowledge of Labor in power – especially the ways in which the party betrayed those who invested their hope in it – had decided him against actively supporting the ALP. It has argued that Gallagher was drawn to particular individuals because of the qualities of courage, loyalty, fairness and concern for social justice that they embodied, and that recognising those qualities in him, those individuals quickly acted in reciprocal manner. This chapter has also demonstrated that whilst Gallagher and the people to whom he was closest opted for Communism over Labor Party membership, they remained conscious of the fact that, in the 1960s, the ALP presented the most viable alternative to the prevailing political structure. In expressing a need to ‘bring Labor back to Labor’, Gallagher and his union established themselves as credible lenses through which shifts in the labor movement might be examined.

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<sup>118</sup> Ibid.

<sup>119</sup> Ibid.

<sup>120</sup> Ibid.; NBAC: ABCE&BLF (1911-1986), N130/244, *Unity*, December 1963, p.16.



## **Chapter Five**

### **Bringing Labor back to Labor**

Chapter Three of this thesis identified a number of lenses through which Labor's shift from being a mass party of the working class to one more accurately described as 'catch-all' might be observed. Through the prisms that Vietnam, unity tickets and State-aid for non-government schools provide, it was possible to verify the central role in initiating those shifts that Jaensch and others have attributed to Gough Whitlam. Whilst it is acknowledged that Whitlam's position on these issues reflected his understanding of societal changes and the way in which Labor's working-class base was contracting, the divisions thrown up by those shifts and responses were also illuminated. It was suggested that many within the ALP were unwilling or unable to compromise long-standing beliefs and traditions in order to accommodate either the changes of which Whitlam spoke, or his goal of leading Labor to power. Indeed, as a recapitulation of the events and forces around federal intervention into the Victorian branch of the ALP suggested, Whitlam's opponents were often unable to separate him as a person from the changes to which he was responding.

In Chapter Four, it was argued that BLF leaders such as Paddy Malone and Norm Gallagher responded to the changes washing over the labor movement by vowing to 'bring Labor back to Labor.' For them, as for many within the ALP, the way to address the challenges of an increasingly bourgeois society and shrinking working-class numbers was to not only prevent Labor from being carried along by those changes, but to return it to its (real, or imagined) socialist roots. At first blush, the Communist beliefs to which Malone and Gallagher subscribed lent a curiosity to their response. However, it must be remembered that whilst some or even many BLF members may have had Communist sympathies, they, like trade unionists more generally, were much less likely to have been Communist Party members and much more likely to have been Labor Party voters. Malone, Gallagher and other BLF officials may have longed for 'a dictatorship of the proletariat', but they appreciated that for the bulk of those whom they led, a Labor government would always be the first choice. Hence, the challenge was to determine the shape of any future Labor administration.

In order to realise their aim of ‘bring[ing] Labor back to Labor’ – an aim they undoubtedly shared with large sections of the trade union movement – it was perhaps necessary for Malone, Gallagher and the BLF to be critical of the ALP, riding it hard, as it were, so that in government, Labor would fulfil its *raison d'être*: to advance the interests of workers and their unions in ways that were consistent with what many believed were the party’s socialist origins. With Labor absent from office federally between 1949 and 1972, and in Victoria between 1955 and 1982, there was ample opportunity for such criticism. The purpose of this chapter, therefore, is to examine BLF attitudes towards the ALP, not from 1949, but from the early 1960s when, Jaensch and others have suggested, rightward trends began to develop within the party, through to late 1972, when the Whitlam-led ALP came to power. A secondary aim of this chapter is to examine BLF attitudes towards the ACTU during this same period. This examination of attitudes towards the peak union body and its state representatives is warranted, given the increasingly close relationship that was to develop between the ACTU and the Labor Party, culminating in the Accord of the 1980s. It is also necessary because of the central role that Bob Hawke was coming to play in labor movement and Labor Party affairs.

Jaensch and others have identified Whitlam as the initiator of Labor’s rightward trajectory and the person around whom proponents of change coalesced. It is in this context that the party’s crushing electoral defeat in the Federal Elections of 1966 and Whitlam’s subsequent ascension to the leadership position in 1967 have come to be described as a major turning point in ALP history and direction. The party may never really have been the socialist organisation that many believed or wished it to be. Nor, indeed, had it ‘been an exclusively working-class party, in membership or electoral support’.<sup>1</sup> But it had, up until 1966-67, continued to be both a mass party and one which remained true to the laborist traditions of its overwhelmingly working-class supporters.<sup>2</sup> Whitlam’s rise and the rightward shift it precipitated within the ALP inevitably heightened tensions between the BLF, Labor and its allies in the trade union movement. As we shall see, it transformed what had been an ambivalent relationship into one in which Gallagher and the BLF began to adopt a more overtly hostile stance.

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<sup>1</sup> Jaensch, *The Hawke-Keating Hijack*, p.64.

<sup>2</sup> Ibid., pp.42-64.

The Menzies Government had narrowly avoided defeat in the ‘Credit Squeeze’ elections of 1961, thereby creating a window of opportunity for Labor when Australians next went to the polls. However, by mid-1963, internal wrangling had cost the ALP virtually any chance of further exploiting the Government’s predicament. In March of that year, for example, political journalist Alan Reid and his cameraman, Vladimir Paral, had captured Arthur Calwell and Gough Whitlam ‘peering through the... doors’ of Canberra’s Kingston Hotel.<sup>3</sup> In Menzies’ clever hands, Reid’s damning accusation that Labor was being governed by 36 ‘virtually unknown men’ quickly became the deadly mantra of Labor’s ‘36 faceless men’.

This portrayal of Labor as a party in which the people’s elected representatives were subservient to men largely unknown to the electorate might have helped Menzies regain some of the ground his government had lost at the previous poll. But it may not have been enough to propel him into an early election. That conclusion was hastened, however, by an ALP Federal Executive decision to overrule NSW Premier, Robert Heffron’s<sup>4</sup> plan to introduce means-tested allowances for the parents of privately-educated children; a plan which, if replicated throughout the party’s various branches, might have enabled Labor to reconnect with the mass of supporters it had lost in the 1955 Split.<sup>5</sup> Never one to refuse an opportunity, Menzies was only too willing to capitalise on the acrimony and disarray that engulfed Labor as a result of the veto on State-aid, and he duly called an election for 30 November 1963.

The election was viewed by the NSW branch of the BLF as an opportunity to ‘elect real working class representatives to the Federal Parliament, with a positive programme for the Labour [sic] movement.’<sup>6</sup> In that state, members were urged to do

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<sup>3</sup> Calwell and Whitlam were awaiting the outcome of Federal Executive deliberations concerning Labor’s attitude towards the establishment of American military bases in Western Australia. Ross Fitzgerald & Stephen Holt, ‘Red fox exposed party’s ‘faceless’ men’, *Australian*, 29 May 2010, accessed online at <http://www.theaustralian.com.au/politics/red-fox-exposed-partys-faceless-men/story-e6frgczf-1225872615957> Accessed 6 April 2011.

<sup>4</sup> Heffron was Labor Premier of NSW between 1959 and 1964. Biographical Entry for Robert James Heffron, Australian Trade Union Archives (ATUA). Available online at <http://www.atua.org.au/> Accessed 8 April 2011.

<sup>5</sup> Many, but by no means all of those who terminated their support for the ALP following the Split of 1955 were Catholic. Virtually all, however, had gone over to the newly created DLP, from which Labor hoped and needed to win back.

<sup>6</sup> NBA, N130/238, ABLF Journals and FC Correspondence, 1963, *NSW Builders’ Labourer*, October 1963, p.1.

more than simply vote for the ALP in the forthcoming election. They should, the *NSW Builders' Labourer*<sup>7</sup> insisted, work in positive ways to convince fellow-workers and others of the urgent need to oust Menzies. Arguing that 'both working class parties, the ALP and the Communist Party, stand for the election of a Labour [sic] Government', the union's NSW paper prevailed upon workers to go in groups 'to railway stations and other focal points where people gather[ed], distributing leaflets and discussing the elections'.<sup>8</sup>

The response in Victoria was somewhat less enthusiastic. State secretary, Paddy Malone, had pre-empted Menzies' election announcement by arguing in the October 1963 edition of *Unity*, official organ of the Victorian branch of the BLF, that a Labor government would, in all probability prove to be little different from the Menzies administration.<sup>9</sup> Made in the context of his report on a recently concluded ACTU Congress, Malone's criticism of the ALP also included a broadside for the industrial wing of the labor movement. The Congress, he suggested, had been characterised by successful right-wing attempts to subvert the workers' struggle in order not to embarrass the ALP.<sup>10</sup> This was particularly clear, Malone argued, where the related issues of peace and imperialism were concerned. With the ALP supporting Menzies' use of the Australian Defence Force (ADF) in shoring up British interests in Malaysia – a position Malone found astonishing, given the oppression of ordinary people that imperialism implied – there was a need for the ACTU to make known to the political wing just how opposed Australian workers were to that particular concept. However, and in a sign of what was to come where both ACTU and ALP conferences were concerned, debate around those issues was shelved and it was agreed that decisions on them should become the business of the executive.<sup>11</sup>

For Malone, the failure to address the fundamental issues of peace and human rights placed a brake on the labor movement's right to demand economic gains. This was so, he argued, because peace and human rights provided the basis on which all other

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<sup>7</sup> The *NSW Builders' Labourer* was the official organ of the NSW BLF until federal intervention in 1974. It was replaced by *The Federation* after the NSW branch came under federal control.

<sup>8</sup> Ibid. The journal's preference for the English rather than American spelling of Labor, a preference often echoed by the Victorian branch, may have in some way reflected a union belief that the ALP's role really was to represent the workers in Parliament; that the party was the servant of the labor movement.

<sup>9</sup> NBAC, N130/238, ABLF Journals and FC Correspondence, 1963, *Unity*, October 1963, p.3.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

rights rested. When such fundamental issues were threatened or violated, questions of trade union rights, how taxes should be collected and spent, and the living standards to which Australians aspired were made irrelevant.<sup>12</sup> In what was a damning assessment of the ACTU Congress, Malone insisted that trade union leaders were willing to abrogate their responsibilities towards peace, liberty and the improvement of workers' lives in order not to damage the electoral prospects of the ALP.<sup>13</sup>

Malone's ambivalence about the merits of a Labor government and the lengths to which some union leaders were prepared to go in order to secure such an outcome was echoed at federal level by general secretary Gallagher. In his report to the union's Federal Conference held in Melbourne just days before Australia went to the 1963 polls, Gallagher wrote:

It is hoped that the forthcoming elections will result in the defeat of the Menzies Government...At the present time the alternative to Menzies is the election of a Labour [sic] Government and it is hoped that this will become a reality after November 30<sup>th</sup>. The Federation will support the election of a Labour [sic] Government but I wish to make it quite clear that the membership expects it to carry out the wishes of the trade union movement and to put the ACTU Programme on economic demands and our own Building Industry program, which is part of the ACTU programme, into effect.<sup>14</sup>

Ostensibly optimistic and supportive of Labor in office, Gallagher's remarks were immediately tempered by reference to events in NSW. There, he argued, it had been clearly demonstrated that the presence of a Labor government was no reason for union complacency. The BLF, along with the BWIU, had recently been fined under state-based penal laws. The penalties, which had been imposed because of strike action taken to protest the victimisation and sacking of union delegates by Perinna Australia Ltd, had been handed down a week after the ACTU Congress had called for state and federal penal laws to be repealed. They had come about, Gallagher argued, because the unions had stood up to an American company then carrying out building and construction work

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<sup>12</sup> Ibid.

<sup>13</sup> Ibid., p.5.

<sup>14</sup> NBAC, N130/238, ABLF Journals and FC Correspondence, 1963, 'Federal Conference Report', in Minutes of Australian Builders Labourers' Federation 1963 Federal Conference, Melbourne, 26 November 1963, pp.8-9.

on behalf of the Labor Government of NSW.<sup>15</sup> Not only had calls from ‘the highest body of the Australian Trade Union Movement’ failed to sway that government with regard to the penal laws, but they had also failed to save the jobs of those union delegates whose sackings were upheld when the case went before Commissioner Mesner of the state Arbitration Court.<sup>16</sup>

If Menzies had called the election to take advantage of Labor Party disunity on the question of state aid for non-government schools, it is arguable that the matter would merit some discussion in analyses of Labor’s subsequent loss. The issue certainly persisted in party circles. However, it did not rate even a mention in the December 1963 issue of *Unity*. Indeed, the very absence of commentary on State aid stood in stark contrast to that publication’s central thesis: that the election had been called in order to shore-up Menzies’ grip on power; that this was necessary because of the economic instability that had come to dominate global markets; and that only through Menzies and the Conservatives could monopoly capital in Australia really be sustained.<sup>17</sup>

By failing to question the real reasons behind Menzies’ decision to call a snap election, *Unity* suggested, Labor had perpetrated a sham on the Australian people in general and the working-class in particular. By agreeing to fight Menzies on his terms rather than addressing working-class demands on arbitration, penal powers and the profiteering of monopoly capital, Labor was not only raising the white flag on its ‘traditional socialist policies’, but was, according to *Unity*, attempting to cloak itself in the Prime Minister’s image. In pointing out these shortcomings, *Unity* warned of the harsh calls that would come for Labor to move further to the right and for the party to develop a new image.<sup>18</sup>

These criticisms of Labor’s electoral efforts were articulated in an article headlined ‘Election Results Shows Need For Greater Militancy’. Speaking volumes about what the BLF considered to be the ALP’s future direction, the headline and the article suggested that rather than relying on the Labor Party, workers would have to secure their own future. This theme was taken up elsewhere in the union’s journal. It was claimed that

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<sup>15</sup> Ibid.

<sup>16</sup> Commissioner Mesner’s decision to uphold the sackings was reported in *NSW Builders Labourer*. NBAC, N130/238, *NSW Builders Labourer*, October 1963, p.1.

<sup>17</sup> NBAC, N130/244, Trade Union Journals/Leaflets 1964, *Unity*, December 1963, p.3.

<sup>18</sup> Ibid.

‘strident and harsh voices’ had already begun ‘calling for the complete abandonment of’ the labor movement’s socialist principles, and that a panic move had commenced, with ‘some in high places...calling for talks with the DLP in order to come to some working electoral agreement’.<sup>19</sup> What, *Unity* asked, was the point of having a Labor Party, if it and the labor movement that it represented were going to turn their backs on socialism?<sup>20</sup>

Differences in attitudes between the NSW and Victorian branches of the BLF with regard to the merits of Labor in office might be viewed as a warning of the rupture that was to occur a decade later, when Gallagher opted for federal intervention in the northern branch. Nuanced, but not insignificant, these differences were in 1963 most likely attributable to the fact that the NSW branch was then headed by Mick McNamara, a member of the ALP Left. Given McNamara’s likely editorial control over the *Builders’ Labourer*, it is perhaps unsurprising that the NSW journal was more enthusiastic about a Labor victory than its Victorian counterpart. To be sure, committed Communists such as Jack Munday were part of the youthful team that had rescued the NSW branch from the clutches of Bill Bodkin and others who had run it in their own interests, but they were yet to make their mark on the union.<sup>21</sup>

If political affiliations at leadership level provided one explanation for the different degrees of enthusiasm that the Victorian, NSW and federal offices of the BLF evidenced towards a Labor victory in 1963, the life experiences of those leaders must also be taken into account. Whilst Mick McNamara’s rise through the ranks – he had been a union delegate at 16 and an organiser at 21 – speaks to his obvious talent and the esteem in which he was held, it was nevertheless true that at little over 22 years of age, he was then (1963) the youngest person ever to become secretary of an Australian trade union.<sup>22</sup> His birth year (1940) renders implausible any argument to suggest that McNamara’s political awareness had been directly influenced by the Curtin or Chifley administrations. But it is nevertheless accurate to say that his childhood coincided with an era that many continue to regard as the high-water-mark of Labor history.

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<sup>19</sup> Ibid., p.16.

<sup>20</sup> Ibid.

<sup>21</sup> For a description of the BLF during the Bodkin years and the way in which McNamara and other Left progressives took control of the union, see True, *Tales of the BLF*.

<sup>22</sup> Ibid., p.51; Munday, *Green Bans & Beyond*, p.35.

Whilst the relationship between the industrial and political wings of the labor movement certainly soured by the end of Chifley's time in office, he had nevertheless followed Curtin's lead in establishing a much-needed counterpoint to the failures of the Scullin years. In the leadership he provided and the optimism called forth by his 'Light on the Hill' speech, Chifley had created a legacy to which later generations of progressives could justifiably adhere. But whilst Chifley might well have enthused men and women of McNamara's generation, the experiences and legacies of Labor in power that had helped shape the political trajectories of Victorian secretary, Paddy Malone, and federal secretary, Norm Gallagher, had and continued to be much less awe-inspiring.

Malone had witnessed Labor's failure to alleviate the misery wrought by the Great Depression. Roaming far and wide in search of work, he had spent 6 seasons working in the cane fields of North Queensland.<sup>23</sup> There, in 1931, the cane cutters – like all other Australian workers – had their wages cut by an Arbitration Commission and Federal Labor government acting under pressure from the Bank of England.<sup>24</sup> At Tully, south of Cairns, Malone had been a member of the strike committee formed during the famous Weil's disease dispute.<sup>25</sup> Lasting 10 weeks, the strike had assumed all the hallmarks of an anti-Communist crusade, with the Australian Workers Union (AWU), the Labor Government and big cane growers combining against the workers and the Communists who had risen to lead them.<sup>26</sup> When the strike collapsed in the face of AWU and Labor Party treachery, Malone refused to return to work. It was perhaps inevitable that the cane growers would ultimately accede to the workers' demands for pre-cut burning of the cane as a means of expelling Weil's disease carrying rodents, and so it proved to be the following season. But for Malone, the decision not to return to work had been a point of honour made in still harsh economic times.<sup>27</sup>

As argued in Chapter Four, Gallagher's experience of Labor in power had been heavily shaped by collective memory and by the way in which Chifley had dealt with

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<sup>23</sup> *Vanguard*, 13 November 1958

<sup>24</sup> Peter Love, *Labour and the Money Power: Australian Labour Populism, 1890-1950*, Melbourne: Melbourne University Press, 1984, pp.108-14.

<sup>25</sup> *Vanguard*, 13 November 1958.

<sup>26</sup> For a detailed account of the Weil's Disease strike, see Diane Menghetti, 'The Weil's Disease Strike', in D.J. Murphy (ed.), *The Big Strikes, Queensland 1889-1965*, Brisbane: University of Queensland Press, 1983, pp.202-16.

<sup>27</sup> *Vanguard*, 13 November 1958.



striking miners and their Communist leaders during the 1949 Coal Strike.<sup>28</sup> Whilst age does not guarantee wisdom, Gallagher, by virtue of the fact that he was ten years older than McNamara, had been in a position to make an independent adult judgement both about Chifley's time as Prime Minister and the legacy of his government.<sup>29</sup> To that must be added the circles in which Gallagher operated. Of particular significance in this regard, were the close relationships he enjoyed with Malone and Ted Hill. As demonstrated by comments he made in an interview conducted some three decades later, Gallagher's bond with these older, hard-bitten men, had been built on friendship, shared commitments and the type of mutual respect that derives from mentor-mentee relations.<sup>30</sup> In other words, their connections transcended the kind of associations that spring up as a result of casual acquaintance or political coincidence.

BLF criticisms of the ALP were indeed echoed within the party itself. Writing in the June 1967 issue of *Dynamo* – official organ of the Federated Engine Drivers and Firemen's Association (FEDFA) – Jim Cairns argued that Labor's most recent electoral defeat would result in the party facing 'tremendous pressure to move to the right'.<sup>31</sup> Implicit in Cairns' article was the fact that leadership tensions within the ALP – tensions that had been in evidence before the 1966 election campaign – were manifestations of this rightward pressure. Foreshadowing what was to come, Cairns insisted that there had

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<sup>28</sup> See Phillip Deery, *Labour in Conflict: the 1949 Coal Strike*, Canberra: Australian Society for the Study of Labour History, 1978.

<sup>29</sup> An important legacy of Chifley's Government, particularly where Communists were concerned, was his establishment of ASIO on 2 March 1949. According to Deery, ASIO had been formed not so much to counteract the kind of Communist Fifth Columnists believed to be preparing for Soviet-initiated war in Europe – local Communists were not credited with preparations or intentions for armed conflict – but in order to counteract the industrial sabotage Communist-led strikes might inflict on Australian industry, communications and the armed forces. Deery, 'Communism, Security and the Cold War', p.169.

<sup>30</sup> Gallagher & Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*. Gallagher's respect for Malone had been based, in no small part, on an appreciation of the older man's experiences gained during the Great Depression and the esteem in which Malone had come to be held as Victorian Secretary of the BLF. In Gallagher's opinion, Hill, with whom he was associated from about 1950, had been 'the greatest Communist that the party in Australia had produced.' More than that, Gallagher remarked, he had been the type of person whose character instilled great confidence because, 'if you was in a fight with Ted Hill...you knew that he would fight to the end on principle.'

<sup>31</sup> NBAC, N130/244, Trade Union Journals/Leaflets 1964, *Dynamo*, Vol. 2, No. 5, June 1967, p.15; Cairns expressed similar fears in the Melbourne *Sun* just days after the election. The despondency and panic arising from the defeat would, he feared, push Labor to the Right. Moreover, he suggested, that 'to jump into a panic reaction born of despondency... [would be] to invite the rule of unreason and ultimately to imperil the very system of democracy we are trying to preserve.' *Sun*, 29 November 1969, p.25.

been ‘much – too much – discussion about the role of leadership in the Labor Party’.<sup>32</sup> But in all the arguments, he suggested, the essential point had been lost that Labor did not operate ‘on the “fuhrer” principle and that Australia... [did] not have a “presidential” form of government’.<sup>33</sup>

Cairns argued that rather than being an indictment of the ‘essential rightness’ of the policies and principles that Labor had taken to the people in 1966, the poll had merely been an indication that the people were not yet ready for those policies and principles.<sup>34</sup> Should Labor accede to the rightward pressures being placed upon it, and should the party compromise its principles in order to win power, Cairns contended, such actions ‘would negate the possibility of any true alternative in Australian politics’.<sup>35</sup> For Cairns, Labor’s foremost role was to provide the Australian people with genuinely alternative policies to those being pushed by the Menzies Government.<sup>36</sup> In this respect, he was as one with party heavyweights like Joe Chamberlain, ‘the self-appointed and widely accepted keeper of the [ALP] conscience’, who believed it better to have a genuine Labor Opposition keeping conservative governments honest, than to have a Labor government being constantly pushed to the right by ‘a conservative Opposition and a hostile media’.<sup>37</sup>

Labor as an effective opposition rather than a weak government, was a theme also taken up where attitudes towards the Victorian ALP were concerned. *Unity* lambasted

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<sup>32</sup> NBAC, N130/244, Trade Union Journals/Leaflets 1964, *Dynamo*, p.15; *Sun*, 29 November 1969, p.25.

<sup>33</sup> Many years later, in an interview recorded for the *Australian Biography* project, Cairns recalled how the rightward push that continued to permeate the ALP through the late 1960s had caused him to stand against Gough Whitlam for the party leadership. Whitlam, he suggested, had been operating behind the scenes in support of those who sought to replace what Cairns viewed as a slightly Left-wing Federal Executive with one that was ‘moderate or right-wing moderate.’ This rightward trajectory, Cairns argued, had largely centred round Brian Harradine, whose push for the Senate and negation of Left-wing influence Whitlam evidently supported. Australian Biography, Series Seven, Jim Cairns interviewed by Robin Hughes, Tape Six, 22 May 1998, Screen Australia Digital Learning. Transcripts of the interview are available at <http://www.australianbiography.gov.au/subjects/cairns/> Accessed 10 May 2011.

<sup>34</sup> This was a softer line to that which Cairns had taken on election night, when he had told anyone who cared to listen that Labor had been denied office by a ‘materialistic, cynical and unthinking’ electorate. *Sun*, 28 November 1966, p.5.

<sup>35</sup> NBAC, N130/244, Trade Union Journals/Leaflets 1964, *Dynamo*, p.15.

<sup>36</sup> Ibid. Shortly after the election, Cairns had argued ‘it would be wrong for us to believe that compromise is the road to power. The real role of the Labor Party is to maintain an alternative – a genuine alternative – to the policies and positions of a Conservative Government coalition.’ He would feel, he continued, ‘that politics would not be worth while if it were just to achieve very similar things through a different set of people.’ *Sun*, 29 November 1966, p.25.

<sup>37</sup> Cameron & Connell, *The Confessions of Clyde Cameron*, p.198. An extension of Chamberlain’s philosophy was his belief that ‘Parliamentarians represented more of a long-term threat to the Labor Party than did the union leaders whose predecessors had set up the political wing back in the 1890s in order to better represent the interests of working-class people.’ Ibid., p.229.

what it saw as Labor's failure to hold the Bolte Government to account; its failure to expose what the BLF claimed was a record of personal and organisational corruption.<sup>38</sup> There were no calls for a change of government, but it was suggested that Labor's position as the Parliamentary Opposition in Victoria made it best-placed to expose the Bolte Government for what it was: a proponent of low wages, the willing servant of big business, the enemy of working-class people and a supporter of barbaric practices such as 'capital punishment, flogging and of the penal code generally'.<sup>39</sup>

According to *Unity*, it was Labor's role to rouse the people against the government. However, the clubby comforts that parliamentary membership provided made Labor politicians disinclined to upset the status quo. In truth, *Unity* argued, there was little to separate Labor's position from the policies of the Bolte Government. It was afraid to use parliamentary privilege to expose, again and again, the levels of corruption and anti-working-class activities being engaged in by the Conservatives, because to do so would also expose just how complicit Labor was in the whole charade.<sup>40</sup>

As demonstrated by the October 1969 issue of *Construction*, official publication of the South Australian branch, the question of whether a Labor government would make any difference to the lives of working-class Australians was one that continued to occupy the minds of BLF leaders, even as the 1970s beckoned. ASIO intelligence suggested that whilst branch officials such as secretary, Les Robinson, were notionally free to act on their own volition, the reality was that all union and political decisions taken by the South Australian branch had first to be cleared with general secretary, Gallagher.<sup>41</sup> Assuming ASIO's assessment was correct,<sup>42</sup> it is unsurprising that *Construction* adopted a hardline approach to the notion of Labor governments and the parliamentary system. With Australians once again preparing to cast their votes in a federal election, the October 1969 issue of *Construction* declared 'Parliament means nothing to the workers'.<sup>43</sup>

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<sup>38</sup> NBAC: N130/244, *Unity*, July 1964, p.3.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> NAA: A6119, 3651, ASIO report No. 21/73, 11 January 1973.

<sup>42</sup> It is acknowledged that ASIO's worldview could have influenced its interpretation of BLF operations. However, Gallagher's appointment of Les Robinson as acting secretary in NSW when the branch there had been taken over in 1974 confirms the close relationship that existed between Gallagher and the South Australian branch officials.

<sup>43</sup> NBAC, N130/302, Circulars & ABLF Journals 1970, *Construction*, Vol. 1, No. 6, October 1969, p.3.

Whether Australians elected a Labor or Liberal government was immaterial to the exploitative situation faced by the working-class. Labor politicians had in the past ‘held office and had held in their hands great power’, but, workers were asked, had that made any difference? Had the bosses suffered? Had profits been cut back? Had capitalism been changed or tempered in any way? According to *Construction*, ‘The answer to all these questions’ was ‘in the negative’.<sup>44</sup> Suggesting that workers would always be exploited under capitalism, the South Australian labourers’ publication pointed to what it saw as the complicity of Labor politicians in maintaining the status quo: history had demonstrated that parliamentarianism had ‘never worked to the advantage of the working class’. But, in the interests of maintaining ‘the iron rule of the capitalist class’, it had provided ‘plenty of jobs for those who claim[ed]’ to ‘represent the workers’.<sup>45</sup>

## Carlton

Over the following years, Gallagher was to demonstrate his willingness to challenge Labor claims to power in other, more concrete ways. In doing so, he was also to confront the industrial wing of the labor movement. These conflicts began in April 1970 when a group of North Carlton residents sought Gallagher’s help in opposing development of vacant railway land in their working-class suburb.<sup>46</sup> The land, upon which developer R. A. Rayner proposed to build a warehouse for the Kleenex Company, had already been in dispute for a couple of years, with local residents and the Melbourne City Council keen to see it retained for recreational purposes.<sup>47</sup>

With bans in place, community members were shocked to see work commence at the site on 14 November 1970. In the early hours of the morning, Gallagher, having been summoned to the site to investigate, was met by Rayner, his son David, and a contingent

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<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> NAA: A6119, 3644, “The Gallagher Case”, a statement issued by the North Carlton branch of the Australian Labor Party, reprinted by Stockland Press Pty Ltd from *Carlton News*, 17 February 1971; Pat Grimshaw & Elizabeth Stafford, *Carlton People and Social Change*, North Carlton, Vic: Carlton Forest Project, 1988; Peter Yule (ed.), *Carlton: A History*, Melbourne: Melbourne University Press, 2004, p.160.

<sup>47</sup> NAA: A6119, 3644, Extract from *Struggle*, a Worker Student Alliance (WSA) publication, 2 February 1971.

of police officers who happened to be in possession of a 'riot wagon'.<sup>48</sup> Gallagher confronted the Rayners about their use of non-union labour, and about their violation of work bans. A scuffle broke out and he was arrested. Immediately prior to Gallagher's arrest, the developer was heard telling waiting police officers 'If that is Norman Leslie Gallagher, I want you to charge him with assaulting my son...That is what you are here for'.<sup>49</sup>

A local ALP branch report on the incident thought it curious that no one else had been arrested, particularly since Gallagher sustained 'a cut over one eye and several cracked ribs'.<sup>50</sup> According to a leaflet published by the Queensland Building Trades Group, the injuries were sustained when police officers kicked Gallagher in the back whilst he was being held on the ground. When his broken ribs prevented him from gaining his feet sufficiently quickly, Gallagher had two charges of resisting arrest added to a charge of assaulting David Rayner.<sup>51</sup> An article submitted to *Unity* by the North Carlton branch of the ALP described as curious the fact that 'the person, or persons, who managed to give Gallagher a cut over one eye and several cracked ribs was not arrested'.<sup>52</sup>

Gallagher came before the courts on 4 February 1971. He chose to make a statement before the court, rather than enter a plea. The statement, reproduced in the CPA-ML newspaper, *Vanguard*, read:

This is simply an attempt to use in an industrial and political matter police prosecution and intimidation to take the place of the discredited penal powers. This so-called charge arises from an industrial and political dispute. The members of my Union are supporting the use of land for a park to be used by the people of Carlton. It has nothing to do with the police or this court. We will not tolerate police action or action by this court in such a matter. We will carry out our industrial and political duty to serve the workers and working people, despite all attempted intimidation.<sup>53</sup>

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<sup>48</sup> NAA: A6119, 3644, "The Gallagher Case"; NAA: A6119, 3644, Extract from *Struggle*, 2 February 1971.

<sup>49</sup> Ibid.

<sup>50</sup> NAA: A6119, 3644, "The Gallagher Case."

<sup>51</sup> NAA: A6119, 3644, ASIO report NO. 3/71, 10 February 1971.

<sup>52</sup> NBAC, N130/311, ABLF Circulars & Journals, 1971, *Unity*, June 1971, p.6.

<sup>53</sup> *Vanguard*, 11 February 1971.

It was a statement ASIO regarded as being entirely consistent with views previously expressed by Gallagher, in which he described law courts as tools of the employing class.<sup>54</sup> That it was reproduced in *Vanguard* demonstrates the way in which that paper could simultaneously represent the CPA-ML, of which Gallagher was vice-president, and the BLF, of which he was (by then) federal and Victorian secretary. This tradition of reproducing BLF and other affiliated union statements and material in the Maoist newspaper was, of course, reciprocated where publications such as *Unity* were concerned. The turgidity of *Vanguard* articles sometimes necessitated serious editing before their arguments could be presented to rank and file BLF members. But there could be no mistaking the Communist tone and dogmatic attitudes permeating headlines and articles such as ‘On the Elections and Socialism’ and ‘Don’t be mesmerised by the term trade union movement’.<sup>55</sup> The union had to be run as a union, rather than as a political organisation, but that did not mean that Gallagher, the BLF and *Vanguard* could not speak with one voice whenever the need or opportunity arose.

Gallagher’s imprisonment – he received two weeks for assault and four days for resisting arrest – became a point of dispute within the labor movement, and surrounding arguments oscillated in the pages of *Vanguard* and the CPA’s *Tribune*. Taking up Gallagher’s reference to the penal laws that had been used to jail Clarrie O’Shea of the Tramways Union just a couple of years earlier, fellow Maoist and Waterside Workers’ Federation (WWF) Victorian secretary, A. E. ‘Ted’ Bull, informed *Vanguard* readers that Gallagher’s arrest and imprisonment represented a continuation of the O’Shea struggle.<sup>56</sup> Because ‘the working class and other working people’, were ‘more politically conscious than ever before’, Bull argued, ‘capitalists and the US imperialists who stood behind them’ were ‘preparing to smash up their leading battalions’. Since Gallagher stood at the vanguard, Bull insisted, he was a primary target. Men like Gallagher were heading a struggle from which there could be no retreat and in which ‘splitters must be ruthlessly

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<sup>54</sup> NAA: A6119, 3644, ASIO report No. 33//6/71, 9 February 1971.

<sup>55</sup> NBAC: N130/244, Trade Union Journals Leaflets 1964, *Unity*, December 1963, p.16.; NBAC: N130/302, ABLF Circulars & Journals 1970, *Unity*, November 1970, p.24. Whilst articles reproduced from *Vanguard* usually had a direct bearing on BLF or broader trade union matters, it was not unusual for *Unity* and other BLF publications to carry seemingly unrelated material such as that which recounted Ted Hill’s 1963 visit to China. See NBAC: N130/238, ABLF Journals and FC Corres 1963, *Unity*, October 1963, pp.13-14.

<sup>56</sup> *Vanguard*, 11 February 1971.

exposed'. Speaking on behalf of those who supported Gallagher, Bull rejected 'the so-called laws of capitalism' in favour of 'working class law which stands for a better life for the people'. In supporting Carlton residents in their demand for recreational land, Bull argued, Gallagher was upholding the 'decent law of the working class'.<sup>57</sup>

Bull's comments were part of an increasingly bitter war of words between the CPA-ML and the CPA. Never far from the surface, these skirmishes between Australia's two Communist parties<sup>58</sup> inevitably cut across and were informed by the trade union affiliations of either side. In this particular instance, the hostility that flowed from Gallagher's arrest and imprisonment foreshadowed both his looming clash with Jack Munday, and the war that was to come with rival unions such as the BWIU.<sup>59</sup> *Tribune* charged that whilst the Left had a duty to support any union official 'arrested and jailed as a result of incidents which occurred while he was carrying out union policy', a foolish attempt had been made to use the Gallagher case to foment mass upheaval of the kind that followed O'Shea's jailing in 1969.<sup>60</sup> In a caustically entitled article – 'Pros (and Cons) of Gallagher Case' – the CPA paper suggested it was laughable to think that such a weak case could be used to quickly stir the workers, when it had taken 20 years of frustration with penal powers to produce the O'Shea situation.<sup>61</sup> In failing to appeal his sentence, *Tribune* argued, Gallagher had foolishly squandered the time it took to organise a grassroots campaign among workers heavily exposed to right-wing propaganda. According to *Tribune*, he and his advisers had misjudged the political awareness of most workers who failed to understand 'that a union picket stands little or no chance of obtaining justice from a magistrate's court'.<sup>62</sup>

*Tribune's* barbs found their target. By November 1971 *Vanguard* was accusing the CPA of being in bed with the ACTU and the government.<sup>63</sup> *Tribune* – a 'revisionist rag', according to *Vanguard* – was being used 'to mount an attack from within on

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<sup>57</sup> Ibid.

<sup>58</sup> The SPA was not officially launched until 1971.

<sup>59</sup> These events – Gallagher's arrest and imprisonment, and the war of words it sparked between the CPA-ML and the CPA – began prior to the CPA split of 1971, when BWIU leader, Pat Clancy, and others departed to form the SPA. Munday remained loyal to the CPA and its Aarons leadership. In the years to come, a three-way war was to develop between the Communist factions.

<sup>60</sup> *Tribune*, 17 February 1971.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> *Vanguard* 18 November 1971.

builders' labourers'. These attacks were said to be prompted by the CPA's fear of revolution and the determination that it shared with the ACTU to suppress worker revolt wherever it occurred. Demonstrating that personal hatreds and rivalries were never far from the surface in Communist and trade union affairs, *Vanguard* suggested that it had once taken three months to coax Laurie Aarons – national secretary of the CPA between 1965 and 1976 – out of hiding, when he feared that he might be arrested. After that, *Vanguard* alleged, Aarons had become a supporter of orthodox trade unionism of the kind favoured by the government and the ACTU. In this context, his clique had joined forces with the government and the ACTU to devise a plan of union amalgamation under which militants could be marginalised and the interests of capitalists better served. By tying 'building workers more firmly than ever to orthodox trade unionism', the CPA, the ACTU, the government and their capitalist masters hoped to smother the revolutionary struggle of the BLF.<sup>64</sup>

This stinging attack on the CPA had been preceded in February 1971 by an equally venomous assessment of ACTU president, Bob Hawke. His tepid response to Gallagher's treatment by the courts was portrayed as indicative of what workers could expect from official trade union bureaucracy. Questioned by reporters regarding the penalties handed down to Gallagher, Hawke replied that they had been unnecessarily harsh. Like his offer to *request* Gallagher's release from prison, it was a response that *Vanguard* considered to be all too meek.<sup>65</sup> Hawke and his revisionist friends were said to be willing to throw 'around "militant" remarks' when they knew they would be 'harmlessly swept away by the wind', but when they were needed, they had 'done nothing to mobilise the workers behind Gallagher'.<sup>66</sup> A point had been reached, *Vanguard* warned, with a nod to Chairman Mao, where 'distinctions had to be made between those who would lead the revolution, those who would follow at the rear gesticulating and criticising, and those who would oppose the revolution'.<sup>67</sup>

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<sup>64</sup> Ibid.

<sup>65</sup> Hawke's offer to 'ask the Victorian Solicitor-General, Mr Reid, to have Mr Gallagher released from gaol', was reported in *Canberra Times* on 6 February 1971.

<sup>66</sup> *Vanguard*, 23 February 1971.

<sup>67</sup> Ibid.



The attack on Hawke continued, with a *Vanguard* article of November 1971 labelling him an ally of the Aarons-led CPA and an agent of the capitalist class.<sup>68</sup> According to the article, entitled 'Revisionists Line Up With Bosses In Attack on Builders' Labourers', Hawke was 'bitterly opposed' to the BLF and his role as a servant of the capitalist class was 'to see that the workers did not develop revolutionary class struggle against the local capitalist class'. He was described as an excellent example of orthodox trade unionism whose preoccupation was to 'smash strikes, disrupt the mass struggles of the workers and keep them enmeshed in the legalisms of the capitalist state through the processes of arbitration, etc'.<sup>69</sup> He was said to be in cahoots with employers and CPA-aligned union leaders in hatching a plan for the amalgamation of all building workers 'into one building workers' union', through which it would be possible to 'tie the building workers more firmly than ever to orthodox trade unionism'.<sup>70</sup> Undoubtedly cognisant of Hawke's political aspirations, *Vanguard* proclaimed parliamentarianism and orthodox trade unionism to be the two greatest impediments to the Australian revolutionary movement.<sup>71</sup> It would be another two years before Hawke became simultaneously president of the ALP and the ACTU, and more than a decade before he became leader of the Federal Parliamentary Labor Party. But the bridge that his dual roles were to provide between labor and Labor were already causing consternation. For the CPA-ML and affiliated union leaders such as Gallagher, it appears that such a duality of roles was more likely to result in class collaboration than a boon for the working-class.

Whilst clearly personal in tone, attacks of this nature were nevertheless part of a broader hostility towards the ACTU and its executive, both of which existed, according to *Vanguard*, to control the workers. Whenever an upsurge in the workers' struggle occurred, *Vanguard* argued, the ruling classes called upon the ACTU to work harder to control that struggle. Indeed, the Maoists insisted, the ACTU was in character a bourgeois organisation with bourgeois politics and bourgeois values.<sup>72</sup> As indicated earlier, *Vanguard* and Gallagher frequently spoke with one voice. It is unsurprising, therefore, that he was, even at a time when he was himself a member of the ACTU

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<sup>68</sup> *Vanguard*, 18 November 1971.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> *Vanguard*, 18 September 1975.

executive, prepared to criticise that body for its conservatism, its closeness and loyalty to the ALP, and its failure to provide workers with a more militant line.<sup>73</sup>

These were criticisms that Gallagher and the CPA-ML were only too willing to extend to state branches of the peak union body. When the VTHC failed to support Gallagher in the court case arising from the Carlton dispute, *Vanguard* argued that the very absence of such support was confirmation that he was on the right track. This was so, *Vanguard* argued, because the VTHC, from which the BLF and other members of the 26 rebel unions had split in 1967, was really a mouthpiece for capitalism, monopolies and oppression.<sup>74</sup> VTHC assistant secretary and NCC operative, John Grenville,<sup>75</sup> had declared ‘totally unauthorised’ any work stoppages called in support of Gallagher.<sup>76</sup> He was quoted in the *Age* as saying, in his capacity as acting secretary of the VTHC, that ‘the case was a civil matter and no concern of the trade union movement’.<sup>77</sup>

Upon his release from prison, Gallagher issued a statement in which he called for a radical overhaul of trade unionism in Australia. It was clear that he saw himself at the vanguard of the struggle against an oppressive class system, and that he believed the ACTU and the VTHC to be enemies of the workers.<sup>78</sup> It was necessary, Gallagher insisted, for the workers to break free from the trade union boundaries that were used to control them. They must develop within themselves a revolutionary class outlook and turn their unions into fighting organisations capable of struggle ‘against exploitation and class oppression’.<sup>79</sup> In a leaflet issued by the BLF, Gallagher was said to have taken the view ‘that the only course is to expose...fascist action and to rely on the strength of the workers – not on the bosses’ courts’.<sup>80</sup> The same leaflet suggested that Gallagher would

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<sup>73</sup> *National Times*, 10-15 December 1973.

<sup>74</sup> NAA: A6119, 3644, extract from *Vanguard*, February 1971.

<sup>75</sup> Grenville had become Assistant Secretary of the VTHC in July 1969. His elevation from Research Officer to Assistant Secretary had been made possible when Ken Stone stepped up to become Secretary upon the death of Mick Jordan. According to Plowman, Grenville, as Assistant Secretary, became the ‘champion of the anit-rebel [union] cause – not through necessity as Jordan had, but through ideological conviction.’ Plowman, ‘Unions in Conflict’, pp.57-63.

<sup>76</sup> NAA: A6119, 3644, extract from *Tribune*, February 1971.

<sup>77</sup> *Age*, 5 February 1971

<sup>78</sup> NAA: A6119, 3644, extract from an unidentified source in ASIO files for Norm Gallagher.

<sup>79</sup> *Ibid.*

<sup>80</sup> NAA: A6119, 3644, ASIO report NO. 281/71, 23 February 1971.

have nothing to do with ‘the law court owned by the very bosses who attacked the workers’.<sup>81</sup>

Gallagher’s rhetoric, like that of the opposing Communist parties who weighed into the debate about his arrest and imprisonment, had clear ‘domestic’ audiences in mind, i.e. those who supported the Communist parties or subscribed to revolutionary ideals as a matter of course. But it should not be forgotten that all of this all took place against the background of Australia’s involvement in the Vietnam War.

As discussed in Chapter Three, the war in Vietnam had become a major point of contention in labor movement circles. It was an issue on which Whitlam, in particular, was thought to have behaved in a somewhat slippery and opportunistic fashion. Slippery in the sense that he had considered outright opposition to Australia’s involvement in a consistently popular war a distinct disadvantage to Labor’s prospects for electoral success.<sup>82</sup> Opportunistic in the sense that once public opinion on the war had shifted sufficiently to make opposition to it not only morally defensible, but electorally beneficial, so too had Whitlam’s willingness to overtly oppose the war increased.<sup>83</sup> Opportunistic, too, in that he waited to see which way public opinion would swing before agreeing to position the ALP at the head of a national campaign against the war.<sup>84</sup>

But Whitlam had not been alone in his pragmatic approaches to the war in Vietnam. Hawke had considered Arthur Calwell’s clear oppositional stance to Australia’s involvement in the war during the 1966 Federal Election campaign to have been admirable but ultimately too costly at the ballot box.<sup>85</sup> Like Whitlam, perhaps, he did not

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<sup>81</sup> Ibid.

<sup>82</sup> Hocking, *Gough Whitlam*, p.330; Murphy, *Harvest of Fear*, p.209.

<sup>83</sup> Whitlam finally announced in October 1969 that under a Labor government, all Australian troops would be withdrawn from Vietnam by the middle of the following year. M.J. Saunders, *The Vietnam Moratorium Movement in Australia*: PhD Thesis, School of Social Sciences, Flinders University, 1977, p.45; In an interview he gave in May 1971, Arthur Calwell remarked about Whitlam’s stance on Vietnam: ‘I notice that in recent times he’s come out as a great opponent of the Vietnam war, well I haven’t changed my proposition...my views are as firmly held as ever.’ John Curtin Prime Ministerial Library, Records of the National Library of Australia, Interview of Arthur Calwell, 25-28 May 1971, JCPML01063/1. Available online at [http://espace.library.curtin.edu.au/R/?func=dbin-jump-full&object\\_id=104428&local\\_base=ERA01JCPML](http://espace.library.curtin.edu.au/R/?func=dbin-jump-full&object_id=104428&local_base=ERA01JCPML) Accessed 11 May 2011.

<sup>84</sup> Saunders, *The Vietnam Moratorium*, pp.47-8, argued that Whitlam’s February 1970 consent to Labor involvement in ‘develop[ing] a national campaign against the war’ was calculated to maintain ALP control over the campaign. It was an attempt, Saunders argued, to impress upon voters the difference between a Labor Party form of opposition to the war and the kind of opposition likely to be pursued by the Vietnam Moratorium Committee.

<sup>85</sup> Saunders, ‘The ALP’s Response’, p.80.

wish to see future versions of the ALP saddled with the yoke of opposition to what at that point was a popular war.<sup>86</sup>

Hawke had since become president of the ACTU, ushering in what many believed would be a period of left-wing domination of Australia's peak union body. But Gallagher and his fellow Maoists were never convinced. The CPA-ML saw the ACTU as a hindrance to revolution and, as such, union leaders aligned with that party were inclined to vote against Hawke when he stood for the ACTU presidency in June 1969.<sup>87</sup> Pat Clancy evidently claimed that Maoist preferences for Harold Souter – Hawke's opponent in the presidential race – were based on their belief that, in Souter's hands, the ACTU was likely to go 'down the drain'. It was an outcome the Maoists hoped would eventuate sooner rather than later, and one they thought much more likely if Souter was in control.<sup>88</sup>

The role played by Australian unionists in protesting the war in Vietnam has been well documented elsewhere.<sup>89</sup> A feature of those accounts is the space given to unions such as the Waterside Workers Federation (WWF) and the Seamen's Union of Australia (SUA). In so far as industrial action was concerned, the BLF has been identified as playing a second-tier role in protesting the war in Vietnam.<sup>90</sup> Anti-war activist, Dave Nadel, affirmed the view that unions such as the WWF, the SUA and the Painters' and Dockers' Union had been best placed to mount effective protests. Conversely, whilst the BLF and other building industry unions were strongly supportive of the anti-war

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<sup>86</sup> Menzies had hypothesised that Whitlam's entry into the debate in the run-up to the 1966 election had been calculated to ensure that he would not be saddled with the yoke of opposition to the war, once he had replaced Calwell as leader of the ALP. This was a hypothesis the ALP VCE evidently shared. See Oakes, *Whitlam PM*, p.63; Fitzgerald, *Federal intervention in the Victorian Branch*, pp.56-7.

<sup>87</sup> NAA: A6119, 2653, ASIO report No. 391/69, 14 August 1969.

<sup>88</sup> Ibid. The March 1972 edition of *Laborite*, a pamphlet published by the Melbourne-based Committee to Defend Trade Unions Against Communism, recounted the insults and abuse that had recently been levelled against Hawke by Maoist trade union members. A Plumbers and Gasfitters union official attending a function at the John Curtin Hotel in Melbourne was said to have 'raised a glass of beer and called out "Ladies and Gentlemen, let us drink a toast to the chicken Hawke and the sparrow Hawke." The jibe was described by *Laborite* as a deliberate attempt to undermine Hawke and detract from Labor's chances of winning the 1972 Federal Election. NBAC, N130/325, ABLF Circulars & Journals, 1972, *Laborite*, Vol. 1, No. 2, March 1972, p.2

<sup>89</sup> See for example, M.J. Saunders, 'The Trade Unions in Australia and Opposition to Vietnam and Conscription, 1965-73', *Labour History*, No. 43, Nov 1982, pp.64-82; Tony Duras, 'Trade Unions and the Vietnam War'; Saunders, *The Vietnam Moratorium Movement*.

<sup>90</sup> Personal conversation with Dave Nadel, 19 November 2010; Duras, 'Trade Unions and the Vietnam War', p.3.

movement, the impact of any industrial action they might take simply could not rival that of unions involved in key areas such as ports and shipping.<sup>91</sup> Nevertheless, the BLF did take action where possible. One such instance occurred in December 1970, when Gallagher moved to use a ban on work on the West Gate Bridge in Melbourne as a lever to thwart state government plans to ban demonstrations and/or the blocking of premises without official authority – bans that were clearly aimed at anti-war protestors.<sup>92</sup> And there were other opportunities for the BLF to make its displeasure with Labor and the ACTU known.

### **South Australia**

The movement of officials between the Melbourne (federal and Victorian branches) and Adelaide offices of the BLF enabled Gallagher to establish personal and political control over the South Australian branch. ASIO believed that whilst officials in that state were free to plan their own union and political actions, they were nevertheless expected to clear those initiatives with the Federal Executive prior to putting them into play.<sup>93</sup> In this context, Gallagher was able to direct operations whenever opportunities arose in South Australia to embarrass the ACTU and/or the ALP. One such opening came about early in 1970 during a dispute between the BLF and a local civil engineering and pile driving company.

The dispute between the BLF and McMillan Contracting Pty Ltd<sup>94</sup> began on 19 March 1970, when the company refused to pay ten BLF members the same over-award payments being made by other pile driving companies.<sup>95</sup> With work on two of their sites grinding to a halt because of the resultant strike, McMillan took out a Supreme Court writ against the Federation, its South Australian branch and state secretary, Les Robinson.<sup>96</sup> In addition to the writ, which claimed ‘unspecified damages “for conspiracy and for

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<sup>91</sup> Personal conversation with Dave Nadel, 19 November 2010.

<sup>92</sup> NAA: A6119, 2653, extract from *Sun*, 3 December 1970.

<sup>93</sup> NAA: A6119, 3651, ASIO report No. 21/73, 11 January 1973.

<sup>94</sup> McMillan Contracting Pty Ltd continues to operate both under that name and under the name of Situpile. <http://www.mcmillancontracting.com.au/index.htm>

<sup>95</sup> *Advertiser*, 1 April 1970, p.5; *Advertiser*, 3 April 1970, p.3; NAA: A6119, 3651, extract from *Vanguard*, 9 April 1970.

<sup>96</sup> *Advertiser*, 1 April 1970, p.5.

procuring breaches of contract”, the company also sought an injunction aimed at excluding BLF officials from strike-affected sites.<sup>97</sup>

Gallagher and Robinson made it abundantly clear that the union would not recognise Supreme Court proceedings when they began on 2 April, and nor would the BLF or any of its officials pay any damages or fines the court might impose upon them.<sup>98</sup> According to Robinson, McMillan’s actions were designed to ‘introduce new penalties against the trade union movement and [BLF] members who were actively in pursuit of improved wages and conditions’.<sup>99</sup> Such ‘legal hocus pocus’ would be treated with the contempt it deserved and, it was reported in *Vanguard*, the union had absolutely no intention of lifting ‘any bans or limitations on the job’.<sup>100</sup>

South Australian Trades and Labor Council calls for the company to withdraw the legal action might normally have met requirements for peak union body participation in the dispute. But on this occasion Gallagher was determined to personally involve ACTU president Hawke in the row. Hawke expressed his support for the union’s position but nevertheless urged Gallagher to have his South Australian officials appear before the court. To that end, he offered to provide the BLF with legal representation by way of the local TLC.<sup>101</sup> Gallagher refused point blank, informing Hawke and anyone else who cared to listen, that ‘under no circumstances’ would the BLF ‘make an appearance’. He was quoted in *Vanguard* as telling Hawke:

...we would not attend any court hearing, pay any fines or be bound by any court injunction directed against us. We notified the ACTU that we were in dispute with the employers in South Australia and that we expected its assistance. But we made it clear that we would not appear before any employers’ court. Any settlement would have to be reached through direct negotiations with the employers.<sup>102</sup>

And in a claim that was surely intended to further wedge the ACTU president and remind him that this dispute had implications beyond South Australia, Gallagher boasted that his

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<sup>97</sup> Ibid.

<sup>98</sup> *Advertiser*, 3 April 1970, p.3.

<sup>99</sup> *Advertiser*, 1 April 1970, p.5.

<sup>100</sup> NAA: A6119, 3651, extract from *Vanguard*, 9 April 1970.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

union had the full support of the 26 rebel unions then alienated from the VTHC, should he decide on a nationwide strike of 30,000 builders' labourers.<sup>103</sup>

When BLF officials failed to appear on 2 April, South Australian TLC officials 'pleaded to be allowed to represent' the union. But with no BLF members present, it was decided that the hearing should be adjourned. Recognising that the union was not going to back down, the pile driving company at the centre of the dispute buckled and, on instruction from the South Australian Chamber of Manufacturers, it not only agreed to withdraw the injunction, but also agreed to pay the workers' demands and reinstate a labourer it had been accused of victimising.<sup>104</sup> Flushed with victory, Gallagher told *Vanguard*:

We do not believe in being enmeshed in the "legalities" of the employing class. As far as we are concerned, the "law" under capitalism serves the capitalist class not the working class. Further we are opposed to the use of courts to grant any benefit to the workers for this only perpetuates the illusion that the courts are independent. It is much better for the working class to feel its own strength and to develop this strength in its own independent class actions. This is the road to socialism and the establishment of working class state power.<sup>105</sup>

The inference in Gallagher's remarks and his refusal to accept Hawke's offer of legalistic support could not be clearer. By making public Hawke's suggestion that the BLF should undermine its own position of strength by appearing before the Court, Gallagher had exposed what he evidently believed to be the ACTU president's role as an agent of capitalism. If Hawke was an agent of capitalism, BLF actions and statements suggested, he could not be relied upon to uphold the workers' cause. By claiming the full support of other members of the 26 rebel unions, Gallagher also let it be known that suspicions about Hawke's class loyalties went well beyond BLF circles.

Another opportunity to expose Hawke's perceived unreliability, and that of the ALP, presented itself on the eve of the 1972 Federal Election. South Australia again provided the location, and employer-initiated legal action against the union once more provided the pretext. This time, the company involved was Adriatic Terrazzo and

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<sup>103</sup> *Advertiser*, 3 April 1970, p.3; NAA: A6119, 3651, extract from *Vanguard*, 9 April 1970.

<sup>104</sup> NAA: A6119, 3651, extract from *Vanguard*, 9 April 1970.

<sup>105</sup> *Ibid.*

Foundation, an Italian-owned company with a preference for using non-union labour.<sup>106</sup> But if ASIO reports are to be believed, this was no ordinary dispute. Adriatic Terrazzo officials were said to have threatened the lives of union officials and their families, and armed supporters of the company supposedly cruised the neighbourhoods in which Robinson and Owens lived.<sup>107</sup> In response, union ‘heavies’, including ‘an Irish bloke, alleged to be an explosive expert’ and another man considered to be a crack shot with a rifle were brought in from Sydney to protect the union officials and their families.<sup>108</sup> The situation was evidently so volatile that Gallagher was moved to transfer branch finances and other assets interstate, and an armed ‘heavy’ was said to be guarding the union office.<sup>109</sup> Whilst fears of violence continued to persist on both sides, the parties did not resort to using firearms or explosives.<sup>110</sup> But the legal case brought against the union generated significant fireworks, and Gallagher and his associates did everything they could to ensure that it was Labor and Hawke who were burned by the flying sparks.

Adriatic Terrazzo’s refusal to hire unionised labor had resulted in the BLF imposing a series of bans on its worksites.<sup>111</sup> As indicated above, the company’s initial response appears to have been one of intimidation and threatened violence against union officials and their families. When that proved unsuccessful, an appeal to the courts was made and on 21 November Mr Justice Hogarth granted a Supreme Court injunction restraining Robinson and Owens from ‘interfering with or threatening by illegal means the business of Adriatic Terrazzo and Foundations Pty Ltd’.<sup>112</sup> Failure to comply with the injunction – by what Gallagher referred to as ‘upholding the traditional rights of trade unionists to enrol workers into the union’<sup>113</sup> – resulted in contempt of court charges being brought against the two South Australian officials. On Gallagher’s instruction, they refused to appear before the court, arguing that whilst they would be prepared to have

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<sup>106</sup> *Advertiser*, 1 December 1972, p.1.

<sup>107</sup> Armed supporters of the company reportedly cruised around the homes of Robinson and Owens ‘in a large white American convertible car.’ NAA: A6119, 3651, ASIO report No. 1751/72, 30 November 1972.

<sup>108</sup> *Advertiser*, 1 December 1972, p.1; NAA: A6119, 3651, ASIO report No. 1751/72, 30 November 1972.

<sup>109</sup> NAA: A6119, 3651, ASIO report No. 1751/72, 30 November 1972. Whilst the ASIO officer monitoring the situation believed the BLF would not initiate any violence, particularly of an armed variety, he considered the union to be ‘fully prepared to retaliate if attacked.’

<sup>110</sup> *Sun*, 4 December 1972, p.19.

<sup>111</sup> *Advertiser*, 1 December 1972, p.3.

<sup>112</sup> *Advertiser*, 1 December 1972, p.1.

<sup>113</sup> *Age*, 1 December 1972, p.3.



their case heard by a court of arbitration, they were not prepared to go before a civil court.<sup>114</sup> If need be, Robinson and Owens insisted, they would willingly go to prison to demonstrate their commitment. On 29 November 1972, Mr Justice Wells took them at their word and issued warrants for their arrest.<sup>115</sup>

Gallagher and a number of trusted officials had travelled to South Australia three days earlier in anticipation of just such a development. Once there, the general secretary arranged to have the union's National Conference moved from Melbourne to Adelaide.<sup>116</sup> In a plan that appears to have been worked out prior to his departure from Melbourne, Gallagher intended to have Robinson and Owens arrested on the steps of Trades Hall on Federal Election day, 2 December 1972.<sup>117</sup> In that way, the BLF hoped to embarrass the ALP, Hawke and the ACTU. Labor would be exposed as being synonymous with the Conservatives where penal clauses and being subject to 'Imperialist Control' were concerned, and Hawke would be forced either to support BLF calls for a nationwide protest or, in what would have further damaged his standing among left-wingers, undermine the whole affair.<sup>118</sup>

The Adriatic Terrazzo dispute and associated issues would ordinarily have been handled by the South Australian TLC. But Gallagher had taken the opportunity to sideline that body and make sure it was the ACTU president upon whom the media spotlight clearly shone.<sup>119</sup> By taking the matter directly to Hawke, Gallagher had placed him in the invidious position of being exposed either as the capitalist stooge that Gallagher believed him to be, or as an ineffectual union leader incapable of solving an

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<sup>114</sup> NAA: A6119, 3651, ASIO report No. 18/73, 11 January 1973.

<sup>115</sup> NAA: A6119, 3651, ASIO report No. 1751/72, 30 November 1972.

<sup>116</sup> Gallagher's decision to relocate the union's Federal Conference departure to Adelaide probably predated his departure from Melbourne. But, an intercepted telephone conversation between Jack Munday and Laurie Aarons suggests, it was not until the night of Sunday, 26 November, that officials from states other than South Australia and Victoria were informed. NAA: A6119, 3651, ASIO telephone Intercept Report NSW. W.5-72/30, 26 November 1972.

<sup>117</sup> Marco Masterson, whom Gallagher appointed to run the South Australian branch whilst Robinson was in prison, apparently remarked at a social function held at Robinson's house, 'This was a set up before we left Melbourne.' NAA: A6119, 3651, ASIO report No. 18/73, 11 January 1973.

<sup>118</sup> Ibid. An editorial in the *Advertiser* on 1 December 1972 would certainly have pleased Gallagher, since it shored up BLF arguments that there was little separating Labor and the Conservatives they hoped to displace. Whilst ultimately coming down on the side of the incumbents, the South Australian daily nevertheless noted that, in general terms, there was not much to choose between Labor and the Liberal Country Party coalition. *Advertiser*, 1 December 1972, p.5.

<sup>119</sup> Ibid.

ostensibly straightforward dispute.<sup>120</sup> With the Conservatives using full-page newspaper advertisements to warn that ‘Labor supports law breaking when it suits militant unions’, it was a situation both Hawke and the ALP could well have done without.<sup>121</sup>

The earlier than expected arrest of the South Australian officials – they were intercepted on 30 November – momentarily threatened to derail Gallagher’s plan. Indeed, not only were Robinson and Owens detained two days sooner than intended, but in a move that was clearly meant to neutralise any immediate backlash that might arise from their arrest, it was the Sheriff and not uniformed police who took them into custody.<sup>122</sup> But Gallagher was not to be thwarted and the heat was instantly applied to South Australian Labor Premier, Don Dunstan, and his Cabinet, upon whom Gallagher called to secure the immediate release of the two unionists.<sup>123</sup>

Gallagher was not about to let the changed circumstances deprive him of the opportunity to embroil Hawke in the gathering storm. The ACTU had a choice, he suggested to waiting newspaper reporters: it could either secure the immediate release of Robinson and Owens, or it could ‘initiate Australia-wide [industrial] action’.<sup>124</sup> If Labor and the ACTU failed to secure the immediate release of the jailed officials, or if the ACTU neglected to initiate nationwide strikes in support of Robinson and Owens, Gallagher insisted, the 30,000 strong BLF would proceed with its own national stoppage.<sup>125</sup> ‘If the ACTU does not take national action then the workers themselves must do it; this will be another Clarrie O’Shea affair’, Gallagher warned.<sup>126</sup> It was an extremely worried looking ACTU president who arrived at Adelaide airport the following afternoon.<sup>127</sup>

With the assistance of Robinson, Owens and like-minded job delegates, Gallagher had for some time been readying BLF ground troops for confrontation with police. On

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<sup>120</sup> Following discussions he had with Hawke in late November, Gallagher reportedly told a fellow Maoist ‘...we’ve got Hawke where we want him.’ NAA: A6119, 3651, ASIO report No. 1751/72, 30 November 1972. By 2 December he was confident that Hawke would not be able to settle the dispute and that, he said, ‘suits us.’ NAA: A6119, 3651, ASIO report No. 18/73, 11 January 1973.

<sup>121</sup> *Advertiser*, 1 December 1972, p.8.

<sup>122</sup> *Advertiser*, 1 December 1972, p.1.

<sup>123</sup> *Ibid.*

<sup>124</sup> *Age*, 1 December 1972, p.3; *Advertiser*, 1 December 1972, p.1.

<sup>125</sup> *Age*, 1 December 1972, p.3

<sup>126</sup> *Advertiser*, 1 December 1972, p.1. Gallagher’s reference to the O’Shea case of 1969 was interestingly omitted from comments attributed to him by the *Age* newspaper. *Age*, 2 December 1972, p.2.

<sup>127</sup> *Advertiser*, 2 December 1972, p.1

several occasions, when violence threatened to erupt, the labourers had been ordered to pull back because the time was ‘not yet ripe’.<sup>128</sup> That all changed on 1 December when 11 labourers<sup>129</sup> were arrested for blocking the delivery of concrete to a West Lakes building site.<sup>130</sup> Whilst the men were released on bail that afternoon, they were nonetheless remanded to appear in court on 27 February of the following year. In what suggests they were acting under instructions, the labourers informed the Port Adelaide court at which they were bailed that whilst they would put in an appearance in February, they would ‘stand mute’ at the hearing.<sup>131</sup> Gallagher immediately claimed that the arrests had been Don Dunstan’s doing, but that Dunstan had actually walked into a trap that he and Robinson had prepared for him.<sup>132</sup>

The trap into which Dunstan is supposed to have walked involved a defamation writ that Gallagher had arranged to be served on the Premier.<sup>133</sup> According to Gallagher, the writ – taken out on behalf of the imprisoned Robinson – had so incensed Dunstan that he had ordered the police to move on the picketing labourers and make arrests.<sup>134</sup> To dismiss such claims as fanciful, as some may do, is to ignore Gallagher’s skill as a tactician and his knowledge that in politics, timing is everything. Having a defamation writ served on him by a builders’ laborer on the eve of a federal election would arguably have raised Dunstan’s ire. But having it served on him not only on the eve of a federal election, but also at a time when his government was being hammered by the Liberal Country League Opposition on the issue of industrial disputation might well have provoked him into a rash decision.<sup>135</sup>

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<sup>128</sup> NAA: A6119, 3651, ASIO report No. 18/73, 11 January 1973.

<sup>129</sup> Initial reports in the Melbourne *Herald* and *Sun* newspapers put the number of labourers arrested at nine, with the *Herald* suggesting one of those arrested had been a BLF organiser. The *Sun* later amended the number taken into custody to 11. *Herald*, 1 December 1972, p.3; *Sun*, 2 December 1972, p.5; *Sun*, 4 December 1972, p.19.

<sup>130</sup> *Advertiser*, 2 December 1972, p.1; *Age*, 2 December 1972, p.2.

<sup>131</sup> *Ibid.*

<sup>132</sup> NAA: A6119, 3651, 18/73, 11 January 1973.

<sup>133</sup> The writ was issued in connection with statements Dunstan had made the day before warrants were issued for the arrest of Robinson and Owens, and which were related to the Supreme Court injunction Adriatic Terrazzo had taken out against Robinson. It sought ‘unspecified damages for slander and...an injunction restraining Mr Dunstan from making similar statements’ in the future. *Advertiser*, 1 December 1972, p.1.

<sup>134</sup> NAA: A6119, 3651, 18/73, 11 January 1973.

<sup>135</sup> NAA: A6119, 3652, ASIO report No. 109/73, 22 February 1973. It is acknowledged that in the broader context of industrial unrest sweeping Australia between 1969 and 1975, the BLF-Adriatic Terrazzo dispute

With Robinson and Owens in prison, Gallagher placed Marco Masterson in charge of the South Australian branch. He informed Masterson of the need to have as many labourers as possible arrested at Trades Hall on 2 December.<sup>136</sup> But the police refused to accept the bait. Why the police chose not to engage the labourers is unclear. One possible explanation is that they had received government orders to that effect.<sup>137</sup> In any event, the day passed peacefully and Whitlam was elected Prime Minister of Australia. But the affair did not end there, since there was still the matter of a South Australian state election.

David McKee, the South Australian Minister for Industry and Labour, had approached Robinson in November 1972, asking him to call off the dispute with Adriatic Terrazzo. Robinson had refused. But with the federal election come and gone, and with Gallagher still wishing to cause Labor as much grief as possible, Masterson was instructed to invite McKee to visit a disputed jobsite. An invitation was extended, ostensibly so that the Minister could hear labourers' grievances first-hand. However, when McKee stood to address the picketing workers, he was greeted with a highly embarrassing barrage of abuse and objections to his presence. He left the meeting under no illusions that Gallagher and the BLF were about to cease hostilities.<sup>138</sup>

The previous day, a large crowd of builders' labourers had marched to Parliament House where they repeatedly chanted 'We want Dunstan! We Want Dunstan!'<sup>139</sup> But when the safari-suited Premier finally appeared and began to address the crowd, he was subjected to what the *Adelaide Advertiser* and the *Melbourne Sun* described as 'a

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was perhaps of little consequence. But it is the timing of the dispute, and the front-page media coverage it received that is of significance to this thesis.

<sup>136</sup> NAA: A6119, 3651, 18/73, 11 January 1973.

<sup>137</sup> Following a Royal Commission into the way in which South Australian police had responded to the Moratorium March of 18 September 1970, the Commissioner of Police in that state was brought under ministerial control. See Saunders, *The Vietnam Moratorium Movement*, p.227. Dunstan's reactions to the police violence that had been used against anti-Vietnam War protestors during the Vietnam Moratorium marches were condemned in a CPA-ML publication in July 1971. He had, the booklet argued, tried to escape responsibility for the violence by declaring the police a legally independent force. Since any police force anywhere could be so described, Dunstan's explanation was, the booklet charged, a mere 'debating trick.' What had been demonstrated, it was argued, was that Labor governments in Australia were 'essentially the same as any other government – they administer a definite policy, a definite state apparatus and on all questions serve the same bosses as open conservative parties. They use force and violence to suppress protest.' NBAC: N130/311, Communist Party (Marxist-Leninist), *It is Right to Rebel against Reactionaries*, Melbourne: Challenge Press, July 1971, p.5.

<sup>138</sup> NAA: A6119, 3651, 18/73, 11 January 1973.

<sup>139</sup> *Advertiser*, 7 December 1972, p.1; *Sun*, 7 December 1972, p.15.

crossfire of interjections and abuse'.<sup>140</sup> Amid 'unprecedented scenes involving a State Premier',<sup>141</sup> Dunstan's claim not to be able to secure the release of Robinson and Owens provoked cries of 'bullshit!',<sup>142</sup> whilst his suggestion that Robinson should have turned the Adriatic case and associated events over to the TLC disputes committee was greeted with the response 'he did not want to get sold out like he is being sold out by the ACTU'.<sup>143</sup> But since it called into question both his integrity and his willingness to support the jailed officials, it was a laborer's jeer of 'not true, rooster' that caused the Premier's dander to become seriously inflamed.<sup>144</sup> The insult had been provoked by Dunstan's claim that the union would have been better served by bringing the matter to him early in the piece. In response, Dunstan bellowed 'What. Who are you to call me a liar?' It was to be his last audible utterance, since the strikers' angry retorts prevented him from speaking further.<sup>145</sup>

With the federal election over and Whitlam firmly ensconced in the Lodge, Hawke and the ACTU executive felt safe in turning the saga over to the South Australian TLC.<sup>146</sup> No doubt Hawke's decision to offload the dispute to his South Australian underlings on Wednesday, 6 December, was seriously influenced by advice he had received from Adriatic Terrazzo. Acting for the company, Mr S. G. Maidment informed Hawke of information he had obtained which called into question just how much control the ACTU had, or could have, over the strike and events surrounding it. The difficulty, Hawke was made to understand, was not the dispute *per se*, but the way in which BLF officials were using it to target both Adriatic Terrazzo and the peak union body itself.<sup>147</sup>

This information was seriously at odds with assurances that Hawke had secured from Gallagher the previous week. Then, the BLF supremo had promised not to jeopardise Hawke's peace efforts by bringing on an immediate national strike.<sup>148</sup> Gallagher's promise might or might not hold. But, as Dunstan's experience on the

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<sup>140</sup> *Advertiser*, 7 December 1972, p.1.

<sup>141</sup> *Sun*, 7 December 1972, p.15.

<sup>142</sup> *Advertiser*, 7 December, 1972, p.1.

<sup>143</sup> *Advertiser*, 7 December 1972, p.6.

<sup>144</sup> *Herald*, 6 December, 1972, p.3.

<sup>145</sup> *Ibid.*

<sup>146</sup> *Ibid.*

<sup>147</sup> *Sun*, 4 December 1972, p.19.

<sup>148</sup> *Advertiser*, 2 December 1972, p.1.

morning of 6 December demonstrated, the anger provoked by the Adriatic dispute and the imprisonment of Robinson and Owens might well take matters out of Gallagher's hands. That possibility became even clearer on 7 December at the meeting attended by David McKee, where labourers voted 450 to four in favour of a national stoppage of indeterminate length.<sup>149</sup>

McKee made an impassioned plea for the men to reconsider their resolution and the commitment they had made not to proceed with any further work in South Australia until Robinson and Owens were released:

Let the men who are in charge do what they can before taking drastic action that can ruin the Labor Government in this State. We believe that every man who does not join a union is a bludger. For God's sake, support a Government that is sympathetic towards you and which believes that every worker should join a union.<sup>150</sup>

As previously indicated, McKee's appeal was roundly booed. His assurance that he and Dunstan would do everything possible to secure the release of the jailed unionists attracted a similarly hostile response.

The situation began to cool on 11 December when, having purged their contempt, Robinson and Owens were released from prison.<sup>151</sup> Whilst their audacious defiance of Supreme Court attempts to limit their unionising activities had received front-page coverage in Melbourne and Adelaide – coverage that rivalled the imminent federal election – their release from prison was, from a media perspective, at least, of much less importance.<sup>152</sup> The contrast, it might be argued, was emblematic of the Australian media's general anti-union bias and its bias against building workers and their unions in particular.<sup>153</sup>

The BLF did not proceed with a national stoppage. According to ASIO investigations, many of the labourers involved in the Adriatic Terrazzo affair came to

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<sup>149</sup> *Advertiser*, 8 December 1972, p.3.

<sup>150</sup> *Ibid.*

<sup>151</sup> *Advertiser*, 12 December 1972, p.7.

<sup>152</sup> *Herald*, 30 November 1972, p.1; *Advertiser*, 1 December 1972, p.1.

<sup>153</sup> It has been suggested that media bias against trade unionism in Australia has been particularly virulent towards building workers and their unions. Paul True, *"It must be true... it's in the papers!" Building Workers and the Press: 160 Years of Anti-Union Propaganda*, Sydney: NSW Branch (Construction & General Division) Construction, Forestry, Mining & Energy Union, 2002.

suspect that they had been used as pawns in Gallagher's political machinations and were displeased by it.<sup>154</sup> Some were apparently so affronted by the way in which they had been used that they attempted to join the BWIU.<sup>155</sup> In such circumstances, they would be unlikely to continue their support for national action. In any case, with the federal election receding, and with Christmas and its associated expenses looming, there was probably little to be gained from such an exercise. However, as those who dealt with Gallagher often had to learn repeatedly, the dice could continue to roll well after most of the players had left the game. In this instance, the stage was to be occupied by the 11 men arrested at the beginning of December.

On the day of their arrest, the men had announced, through their solicitor, that whilst they would appear in court the following February, that would be where their cooperation ended. There was to be no question of them entering a plea or answering questions directed to them.<sup>156</sup> The labourers also let it be known that neither they nor their union would pay any fines the court might impose.<sup>157</sup> Moreover, it seems they were ordered not to seek an adjournment of their case, since to do so would play into the hands of a state Labor government that was scheduled to face the polls two weeks later.<sup>158</sup> But the decision was taken out of the labourers' hands when the Police Prosecutor successfully sought an adjournment of the case.<sup>159</sup> In remanding the labourers on bail until 15 May 1973, the court ensured that the case would cease to be a factor in the forthcoming South Australian state elections. It was a situation entirely to Dunstan's advantage, Robinson suggested, since once the election was out of the way, the ALP would be free to 'put the boots into us'.<sup>160</sup>

Commenting on the BLF-Adriatic Terrazzo clash and associated events, an ASIO informant declared that (s)he was of the 'strongest opinion' that it had been politically motivated. His/her report of 11 January 1973 concluded:

In all my years of experience in Trade Unions, I have never seen so badly led a dispute as this one, plus the question of the M/L Leaders involved, and knowing

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<sup>154</sup> NAA: A6119, 3651, ASIO report No. 1771/72, 6 December 1972.

<sup>155</sup> NAA, A6119, 3652, ASIO report No. 217/73, 11 April 1973.

<sup>156</sup> *Advertiser*, 2 December 1972, p.1; *Age*, 2 December 1972, p.2.

<sup>157</sup> NAA: A6119, 3652, ASIO report No. 109/73, 22 February 1973.

<sup>158</sup> NAA: A6119, 3651, 18/73, 11 January 1973.

<sup>159</sup> NAA: A6119, 3652, ASIO report No. 1058/73, 27 February 1973.

<sup>160</sup> NAA: A6119, 3652, ASIO report No. 109/73, 22 February 1973.

that they have the intelligence to do better. This leads me to the opinion that the dispute was badly handled deliberately.<sup>161</sup>

That the dispute with Adriatic Terrazzo had indeed been heightened to provide the conditions necessary for such a dramatic exercise was apparently borne out during an intercepted telephone conversation between Marjorie Johnston and another, unidentified CPA-ML member. Johnston suggested in the conversation that Robinson had deliberately put the dispute on for Gallagher's benefit. By way of proof, she referred to a *Vanguard* article on the imprisonment of Robinson and Owens, which she claimed had been prepared by Gallagher and Robinson prior to the arrests and imprisonment being carried out.<sup>162</sup>

The same article was alluded to by Marco Masterson even before it had been printed. Attending a social function at Robinson's house whilst Robinson was in jail, Masterson had remarked on the 'good mileage' the CPA-ML was deriving from the Terrazzo dispute. According to ASIO sources, Masterson also remarked that *Vanguard* was 'ready to print the ACTU sell-out by Hawke, the Trades and Labour Council, and the Labor Government in SA'.<sup>163</sup> He had declared, according to ASIO sources; 'This was a set up before we left Melbourne'.<sup>164</sup>

This suggests that Gallagher and the BLF sought to embarrass the ALP and the ACTU on the eve of the 1972 Federal Election and at least up until the South Australian state election of March 1973. It is impossible to say whether BLF activities had any bearing on the swings recorded against Federal Labor in a number of South Australian electorates.<sup>165</sup> In any event, it seems plausible to suggest, the intention would not have been to prevent Labor from winning, but to send an unambiguous message to that party that, in Government, it would be expected to behave in accordance with its trade union origins.

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<sup>161</sup> NAA: A6119, 3651, 18/73, 11 January 1973.

<sup>162</sup> NAA: A6119, 3652, ASIO report No. 215/73, 11 April 1973.

<sup>163</sup> NAA: A6119, 3651, ASIO evaluation report No. 18/73, 11 January 1973.

<sup>164</sup> Ibid.

<sup>165</sup> Whilst voters in the electorates of Angas, Barker and Boothby had been critical of their Liberal members prior to the election, it had become clear 'early in the count' that 'any signs of a Labor challenge [had] disappeared.' And in the electorate of Sturt, the Liberal member's victory was labelled 'probably... unprecedented in that a candidate who was not a sitting member had been able to reverse a nation-wide swing in his own area.' *Advertiser*, 4 December 1972, p.1.



There are other possible explanations for Gallagher's manoeuvrings. One hypothesis is that he and the BLF were acting in response to criticisms that 'extremist' members of the Left intelligentsia were then levelling against Whitlam and the ALP. Strangio described those criticisms as being part of 'a pre-emptive strike' against the office-seeking Whitlam in which Left intellectuals accused the would-be Prime Minister of corrupting his party's laborist ideology with an efficiency fetish and notions of 'a streamlined capitalist system'.<sup>166</sup> By his own admission, Gallagher was not much of a reader and, whilst his Marxism could be developed in other more concrete ways, he is unlikely to have spent very much time engaging with the kind of scholarly texts aimed at Whitlam and the ALP.<sup>167</sup> On the other hand, he had, in Ted Hill, someone who was not only capable of grappling with the arguments advanced by the Left intelligentsia, but also of planning practical ways of putting them into action.

This chapter has traced the relationship between the BLF and the Australian labor movement in the period 1961 to 1973. It has highlighted the way in which that relationship was transformed by Gallagher's rise to power in the BLF and Whitlam's rise to power within the ALP. When Whitlam came within reach of the prime ministership in December 1972, this chapter has suggested, the underlying tensions that existed between Gallagher and the Labor Party were significantly sharpened. This chapter has also traced the way in which BLF attitudes towards the ACTU were influenced, first by general suspicions about that organisation's conservative tendencies, and later by Gallagher's distrust of Bob Hawke. Through the Carlton land dispute and the clash that developed between the BLF and Adriatic Terrazzo, it was demonstrated that Gallagher was not only worried about the ever closer relationship that was developing between Labor and the ACTU, but was, in fact, prepared to take action to wedge them apart.

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<sup>166</sup> Strangio, *Keeper of the Faith*, pp.226-7.

<sup>167</sup> Gallagher was ambivalent about his lack of formal education. On the one hand, it was perhaps his only personal regret, whilst on the other, he told *Herald* journalist, Tess Lawrence, it may have been a blessing in disguise because, had he been 'schooled in the establishment', he might well have come to think in establishment ways. 'The Making of Norm Gallagher', *Herald*, 18 February 1981, p.4.

## Chapter Six

### Get Gallagher: Industrial Encirclement Begins

To understand the circumstances leading up to deregistration of the BLF in April 1986, it is crucial to examine the political and industrial contexts in which moves to isolate the union and its general secretary initially occurred. It has been suggested that the seeds of destruction were sown in 1974 when Gallagher allegedly used financial backing provided by the MBA NSW to usurp the feted NSW leadership of Jack Munday, Joe Owens and Bob Pringle.<sup>1</sup> It was Gallagher's brutal takeover of the NSW branch and the bitterness that stemmed from that action, some have suggested, that resulted in the BLF being unable to command the support of rival unions when the hammer finally fell.<sup>2</sup> Whilst such explanations have merit, they nevertheless overlook important developments that occurred in the dying days of the Whitlam Government. During this period, there began to develop a convergence of agendas, as John Cummins aptly put it, in which Gallagher and his union became the ultimate targets.<sup>3</sup> At the core of these developments, this chapter will argue, was the return to wage indexation and Gallagher's opposition to it. For Gallagher, wage restraint was a curtailment of workers' rights to demand the share of economic wealth that their participation in a market economy entailed. His opposition to what he correctly perceived as a wage freeze was to span the Whitlam-Fraser-Hawke eras, and it naturally attracted the wrath of employers and their supporters in government. But it also perturbed and alienated rival trade union leaders, and the ACTU for which centrally adjudicated, automatic wage increases provided welcome relief.

Gallagher's hostility towards wage restraint and arbitration coincided, as did the reintroduction of wage indexation itself, with a lengthy building and construction industry lockout that occurred in mid-1975, and with the negotiation of a National Building Trades Construction Award (National Award) that linked into that lockout. Those events, which this chapter will describe and analyse, in turn coincided with a period in which the BLF operated as a deregistered organisation, and in which the union could not, therefore, be readily disciplined. It also occurred against the backdrop of increasing trade union rivalry and the

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<sup>1</sup> See Burgmann & Burgmann, *Green Bans, Red Union*, pp.267-75; Ross, *Dare to Struggle, Dare to Win!*, pp.37-9; Boyd, *Inside the BLF*, p.9.

<sup>2</sup> Ross suggested that other unions, such as the BWIU, were only too happy to capitalise on the divisions thrown up within the BLF as a consequence of Gallagher's takeover of the NSW branch. Ross, *Dare to Struggle, Dare to Win!*, pp.37-9 & pp.168-70.

<sup>3</sup> *Ibid.*, p.118.

jockeying for position that stemmed from technological change and shrinking job opportunities. But whilst competition between the BLF and unions such as the AWU was beginning to escalate, particularly where construction of the Melbourne underground railway network was concerned, it was with the BWIU in 1975 that Gallagher and his supporters had most to contend. As the lead union in negotiations for a National Award, the BWIU, led by Gallagher's arch-rival and Moscow-aligned Communist, Pat Clancy, had an opportunity to position itself as the dominant building and construction union. That prospect, and Clancy's determination to seize it, created an opportunity for employers to float notions of industrial encirclement in which Gallagher would be squeezed out of the industry. That plans to eliminate Gallagher did not eventuate was, as we shall see, due to disunity among employers; to Gallagher's discovery of their plot; to the inability of employers, rival union leaders and government forces to align their agendas; and to the transition from Whitlam to the overtly anti-working class government of Malcolm Fraser.

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Under the Whitlam Government, inflation, unemployment and wage increases began to spiral out of control.<sup>4</sup> It was in that context, and because Whitlam steadfastly refused to abandon his 'doctrine of the mandate'<sup>5</sup>, that the failing Labor Government identified wage increases as the root of inflationary pressures and nominated wage indexation as the solution to Australia's economic woes.<sup>6</sup> Efforts to introduce wage restraint via the 1973 referendums that would have seen control over both prices and incomes handed over to the Commonwealth failed, largely due to opposition from trade unions in general, and left-wing unions in particular. On that occasion, Gallagher had suggested:

... for a Labour [sic] Government to have a referendum on prices and incomes, it can only be taken that they treat the capitalists and the working-class as equals which, in

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<sup>4</sup> By the end of 1974 inflation was running at more than 16 per cent, wage rises had topped 28 per cent, and unemployment had risen to three-and-a-half per cent. Singleton, *The Accord*, pp.30-1.

<sup>5</sup> According to Freudenberg, 'The most conservative interpretation of the meaning of the mandate is that it is no more than a general mandate to govern for a prescribed period. Whitlam [however] pushed the doctrine to its limits by asserting that his government had not only a general mandate to govern but a specific mandate to implement each and every undertaking of the policy speech, line by line.' Freudenberg, *A Certain Grandeur*, p.243. At the heart of Whitlam's mandate was a program of urban and social renewal. And whilst his government came to insist on wage restraint as a mechanism for reining in inflation, Whitlam would brook no arguments to suggest that Government spending should be cut. On 15 August, 1975, for example, he was quoted as saying: "Our expenditures will still increase in money terms and in real terms, but less rapidly than otherwise have been the case". In other words, only the rate of increase in government spending would be curtailed. *Age*, 15 August 1975, p.4.

<sup>6</sup> Singleton, *The Accord*, p.31.

my opinion, is wrong. You see [sic] the capitalist class through the Arbitration Court have depressed workers [sic] wages for years, whilst the big monopolies have had an open go in charging what they like for their commodities or goods. Our Union should voice its opposition to a wage freeze which will happen if the Government get away with their proposals.<sup>7</sup>

That Whitlam proved unable to realise an incomes policy capable of winding back wage increases and tackling inflation was, according to political scientist, Gwynneth Singleton, due to a combination of factors. These included his dismissive attitudes towards trade unions, and the personality clashes that characterised relations between the three key protagonists – Whitlam, Clyde Cameron and Bob Hawke – in moves to bring about an agreement between the government and the trade unions.<sup>8</sup> The failure to strike a prices and incomes agreement with the unions was also due to the fact that left-wing unions in particular did not subscribe to the theory that inflation was caused by wage increases. The AMWU, for example, even drew upon right-wing economist, Milton Friedman, to rebut such arguments. Several years earlier, Friedman had written in *Newsweek*:

I have seldom met a businessman who was not persuaded that inflation is produced by rising prices and rising wages, in turn, by strong labour unions... and many a businessman is of the same mind. This belief is false yet entirely understandable... What is involved is a fallacy of composition.<sup>9</sup>

It was, Friedman had suggested, easy to demonstrate that the widely-assumed union wage-push theory of inflation was incorrect. Referring to the American context, he had argued:

Prices in the US more than doubled in the Civil War, when unions were almost non-existent, in World War I, when unions were weak, and in World War 2, when unions were strong. Prices in the US rose more than 30% from 1849 to 1857, and again from 1895 to 1914, both periods when unions were extremely weak... Inflation has claimed countries with negligible Trade Unions and both kinds of countries have had periods

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<sup>7</sup> Minutes of ABCE&BLF Federal Council Meeting, Hobart, November 1973, in Harry Karslake papers, University of Melbourne Archives, Box 4.

<sup>8</sup> Ibid. p.48. Freudenberg interpreted the situation slightly differently. According to him, 'the so-called communications gap' was really a misapprehension of the difference between consultation and decision-making. Hawke and the trade unions, Freudenberg implied, elevated too highly the right to consultation that had been granted organized labour even under Menzies, thinking that because Labor was now in power, such consultation must carry greater weight. However, Freudenberg did allow that Whitlam had erred in his dealings with the trade unions in that he had 'put the political advantages of consultation [with them] too low.' Freudenberg, *A Certain Grandeur*, p.284.

<sup>9</sup> Milton Friedman, *Newsweek*, 28 September 1970, in 'Inflation! Who is to Blame?', Amalgamated Metal Workers' Union, Newsletter, May 1973, in Harry Karslake papers, University of Melbourne Archives, Box 1.

of price stability... Communist countries, like capitalist countries, have experienced both inflation and price stability.<sup>10</sup>

But as Marxist historian, Tom O'Lincoln, suggests, wage indexation did, from mid 1975 become the Whitlam Government's great hope of bringing trade unions under control and winding back the levels of industrial disputation in which unions were engaging to extract higher wage levels.<sup>11</sup> And that hope was shared, if not by the ACTU as a whole, then certainly by influential sections of the peak union body, including its president, Bob Hawke.<sup>12</sup> In continuing to carry a torch for indexation and the curtailment of militant unionism into the Fraser years, Hawke earned from the BLF the unflattering title of 'Fraser's Unofficial Labor Minister'.<sup>13</sup> It was a taunt that might well have been resurrected years later, when Hawke's own government and the ACTU signed an accord under which the goals of wage and union restraint were finally and fully realised.

Notwithstanding the Organisation of the Petroleum Exporting Countries (OPEC)-induced economic slump, Australian unions generally, and those of a militant bent in particular had, for many years prior to 1975, been both willing and able to take advantage of boom conditions to set wage rates well outside of those available through the national wage case system.<sup>14</sup> In February 1975, however, Whitlam informed the ALP Federal Conference held at Terrigal, NSW, that it was time to restore the balance in favour of business and corporate profits. Then, in May 1975, the Arbitration Commission, with Whitlam's support, reintroduced the system of wage indexation that had been in abeyance since 1953. Trade union leaders 'demoralised by rising unemployment' could do no more than acquiesce.<sup>15</sup> The result, Bramble and Kuhn argued

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<sup>10</sup> Ibid.

<sup>11</sup> Tom O'Lincoln, *Years of Rage: Social conflicts in the Fraser era*, Melbourne: Bookmarks Australia, 1993, p.22.

<sup>12</sup> Singleton, *The Accord*, pp.74-5.

<sup>13</sup> *The Federation*, 1977, pp.61-2.

<sup>14</sup> Bramble and Kuhn suggested that the post-war boom had had a contradictory effect in Australia, so that whilst the Conservatives benefited by holding Federal political office for 23 years running, there also emerged 'a new generation of workers... who had not known the mass unemployment, the wartime austerity and the industrial defeats of the 1930s and 1940s. They took full employment as a given. In the new economic circumstances, workers began to flex their muscles.' Tom Bramble & Rick Kuhn, *Labor's Conflict: Big business, workers and the conflict of class*, Melbourne: Cambridge University Press, 2011, p.84. It was also in that context that organised labour threw down the gauntlet to capital, forcing through a general strike the release from prison of tramways union leader Clarrie O'Shea.

<sup>15</sup> Ibid., p.96.

... was a sharp reduction in the rate of wage increases and, just as importantly for business and the government, a decline in workplace militancy and a reassertion of power by the union leaders over rank and file militants.<sup>16</sup>

Wage indexation was, of course, more than tolerable to union leaders unused, unable or unwilling to pursue militant action in pursuit of higher wages. But whilst moderate union officials and thousands of rank and file unionists who had been bloodied by the battles of earlier years, succumbed to the illusion that indexation would secure real wage levels without the need for industrial action, there nevertheless remained within the organised labor movement a number of trade unions and union leaders for whom militancy was not only a byword, but a way of life. This was especially evident in the building and construction industry.

Whilst disputes in pursuit of wage increases certainly dropped from 1973-74 levels, when they had been responsible for more than 46 per cent of all disputes in the industry, they nevertheless remained relatively high at more than 30 per cent of all disputes in the period 1975-1979.<sup>17</sup> Interestingly – and confirming that employers were not only going on the offensive on the wages front – disputes involving management policy issues rose from 29 per cent of all building and construction industry disputes in 1973-74, to more than 39 per cent of all disputes in 1975-79.<sup>18</sup> Moreover, it must be noted that where Australian Bureau of Statistics (ABS) data is concerned,

*the statistics of causes of industrial disputes relate[d] to the direct causes of stoppages of work and include[d] only those industrial disputes involving stoppages of work of ten man-days or more. The figures therefore do not reflect the relative importance of all causes of dispute between employers and employees.*<sup>19</sup>

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<sup>16</sup> Ibid.

<sup>17</sup> Australian Bureau of Statistics (ABS), Catalogue No. 6322.0, cited in Master Builders' Association of Australia Submission to National Economic Summit Conference, 1985, p.26, in Boyd papers, University of Melbourne Archives, Box 58, 10/1 – 10/32. ABS data regarding disputes around wages covered 'claims involving general principles relating to wages (e.g. increase (decrease) in wages; variation in method of payment) or combined claims relating to wages, hours or conditions of work (in which the claim about wages is deemed to be the most important). See for example, Australian Bureau of Statistics, Labour Report, December 1973, Catalogue No. 6101.0., p.226.

<sup>18</sup> Ibid. ABS data relating to disputes of a managerial policy nature covered 'Disputes concerning the managerial policy of employers – computation of wages, hours, leave, etc, in individual cases; docking pay, docking leave credits, fines, etc; disciplinary matters including dismissals, suspension, victimisation; principles of promotion and filling positions, transfers, roster complaints, retrenchment policy; employment of particular persons and personal disagreements; production limitations or quotas; etc.' See for example, Australian Bureau of Statistics, Labour Report, December 1973, Catalogue No. 6101.0., p.226.

<sup>19</sup> Australian Bureau of Statistics, Labour Report, December 1973, Catalogue No. 6101.0., p.225 (emphasis in original).

In other words, as suggested in a report prepared for the Royal Australian Institute of Architects, dispute levels in the building and construction industry were – because of the transitory nature of the industry – likely to have been somewhat higher than those suggested by ABS figures.<sup>20</sup> It is arguable that BLF guerrilla tactics, most prevalent in Victoria, would have ensured that many of the disputes in which the union was involved would not have been captured by ABS statistics. This, of course, worked against the union later on, because it allowed a case to be built that did not necessarily need to rely on verifiable data. It was in the context of these efforts to tackle inflation and restore corporate profitability that in mid-1975 the BLF and other Victorian building unions were subjected to a lengthy lockout. It was in this context, too, that the Master Builders' Association of Victoria (MBAV) began to consider the necessity for, and manner of, isolating Gallagher from the rest of the trade union movement.

The desire to detach Gallagher and the BLF from other unions was in no small measure an outcome of the lockout and Gallagher's refusal to have the BLF constrained by a new national agreement struck between employers and tradesmen's unions. That the lockout was intended to soften unions up for the reintroduction of wage indexation, or wage freeze, as Gallagher referred to it, seems incontrovertible. Similarly irrefutable is that employers rightly saw Gallagher and the BLF as major obstacles to their profitability, and that with the federal government and the ACTU in agreement on the need for such an outcome, there was, in government and ACTU ranks, a desire to have the BLF, if not destroyed, then at least suitably weakened.

On 11 June 1975, Gallagher distributed a circular to all BLF delegates and members. He explained that moves by Victorian building industry employers to strip builders' labourers and plumbers of a \$26 a week over-award payment had to be viewed in the context of employers' determination to avoid renewal of the Victorian Building Industry Agreement (VBIA) that had operated for the previous 18 years, and which was due to expire at the end of the following month.<sup>21</sup> The employers were, Gallagher suggested, gearing up for a lengthy

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<sup>20</sup> Stephen Creigh, Judy Sloan & Mark Woden, *Aspects of Industrial Relations in the Australian Construction Industry, Working Paper Series No. 48, A report prepared for the Royal Australian Institute of Architects*, Adelaide: National Institute of Labour Studies Inc, The Flinders University of South Australia, pp.18-19; Master Builders' Association of Australia Submission to National Economic Summit Conference, 1985, p.25, in Boyd papers, University of Melbourne Archives, Box 58, 10/1 – 10/32.

<sup>21</sup> N.L Gallagher, Circular to Shop Stewards and Members, 11 June 1975, in Harry Karslake papers, University of Melbourne Archives, Box 2. For detailed discussion of the Victorian Building Industry Agreement, its origins and the role played by the BLF in establishing and improving upon the agreement, see McQueen, *We Built this Country*, pp.171ff.

struggle, the purpose of which was to force construction workers into accepting ‘a maximum paid rates award’; a ‘freeze on... wages and conditions’.<sup>22</sup>

As Gallagher was to make clear over coming weeks, the looming lockout was unquestionably connected to wider efforts to tackle inflation and enhance corporate profitability by attacking workers’ living standards. By way of response, he urged his members, they should work with other unionists to campaign for renewal of the VBIA; continue to work unless locked out by their employer; demand the return of the \$26 payment; hold onsite meetings ‘at any time’; initiate ‘all forms of job action’; and attend stop work meetings called at any stage of the dispute.<sup>23</sup> There was, in other words, to be an intensification of the guerrilla tactics that had ostensibly caused employers to remove the over-award payment, refuse to negotiate a new VBIA, and threaten to lock workers out of their jobs.

News of the pending lockout reached the public domain on the same day that Gallagher’s circular hit Victorian jobsites.<sup>24</sup> On 13 June, *Age* journalist, Neil Mitchell, suggested that employers ‘were standing by their threat to sack about 12,000 men unless union industrial action’ against the \$26 pay cut and in support of a new VBIA was ended.<sup>25</sup> Five days later, it was reported that, with MBAV affiliates refusing to renew the VBIA and labourers and plumbers refusing to retreat on their demands for a new agreement and the return of their over-award payments, 12,000 workers would be sacked that afternoon, and that a further 38,000 workers would be sacked in coming days.<sup>26</sup> *Age* forecasts proved largely correct. On Friday, 20 June, 40,000 building industry workers were sacked and most building projects in Victoria were closed.<sup>27</sup>

With the BLF and plumbers’ union vowing to make the issue one of national importance, there were, by Tuesday of the following week, already signs that the employers were weakening. Gallagher, who regarded the lockout ‘as part of the general attack on the working class, initiated and developed by the multinational corporations, the Labor Party and employer groups’, was now erroneously predicting that the shutdown would last no more than a week. He condemned those employers participating in ‘the vicious lockout imposed on the building industry in order to force wage freezing on the Victorian workers’, but was, it

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<sup>22</sup> Gallagher, Circular to Shop Stewards, 11 June 1975 (emphasis in original).

<sup>23</sup> Ibid (emphasis in original).

<sup>24</sup> See for example, *Age*, 11 June 1975, p.3.

<sup>25</sup> *Age*, 13 June 1975, p.5.

<sup>26</sup> *Age*, 18 June 1975, p.1. *Age* journalist, Neil Mitchell, refused to describe the employers’ action as a lock-out, preferring instead to use the words ‘sacking’ and ‘dismissal’.

<sup>27</sup> *Age*, 24 June 1975, p.3.



quickly transpired, overly optimistic in his assessment that the refusal of many employers to heed MBAV calls for workers to be sacked would lead to a speedy collapse of the lockout.<sup>28</sup>

The dispute dragged on not for one week, as Gallagher predicted, but for two months, finally coming to an end when a number of building industry unions agreed with employers to have this and other disputes heard by a joint tribunal. But whilst a mass meeting of builders' labourers voted to return to work, the BLF refused to be a signatory to any such agreement.<sup>29</sup> At the mass meeting, held on 11 August 1975, labourers were congratulated for the principled stand they had taken and for their courage under fire from the employers. They were informed, too, that a return to work was not a sign that they had been defeated; employers were being 'forced unconditionally to open jobs' to BLF members.<sup>30</sup> This ability of BLF members and their officials to stare down employer intimidation contrasted starkly with what Gallagher claimed was the complete capitulation of other unions, whose officials had agreed to bind their members 'to accept an unknown decision'.<sup>31</sup> Employers were to be given three weeks to satisfactorily resolve BLF claims. Otherwise, they would be subjected to a guerrilla campaign aimed at forcing them to agree to a new BIA and a 'reslotting' of BLF classifications.<sup>32</sup> In the meantime, limitations were to be imposed on crane operations; a tactic that all labourers knew would severely affect working schedules.<sup>33</sup>

The labourers returned to work on pre-lockout conditions; the \$26 over-award payment was restored. They were, therefore, and as Gallagher suggested, in a position of strength. Such strength derived in part from the BLF being at that time deregistered, its registration under the Conciliation and Arbitration Act having been cancelled the previous year. As a consequence of deregistration, wage increases handed down by the Arbitration Commission might not automatically flow to builders' labourers. On the other hand, a BLF free of the constraints that conciliation and arbitration imposed presented other challenges for employers. If Gallagher and his union could not be brought to heel through the wage restraint and other conditions that registration under the Commission implied, there was, employers recognised, a need for an alternative control mechanism. To wit, there emerged a plan to isolate the labourers and their general secretary.

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<sup>28</sup> *Age*, 24 June 1975, p.3.

<sup>29</sup> 'Building Lockout: Round 1 – Slap in the Face for the Employers', BLF leaflet, August 1975, Karslake papers, Box 3; *Age*, 12 August 1975, p.6.

<sup>30</sup> 'Recommendation to Mass Meeting, Monday, 11<sup>th</sup> August, 1975', BLF leaflet, Karslake papers, Box 3.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> *Age*, 12 August 1975, p.6.

Gallagher's ability to divide building and construction employers was widely acknowledged, and he rarely passed up the opportunity to publicise that skill. On 20 August, therefore, he reproduced in a Victorian BLF branch newsletter, sections of a private internal circular issued by the MBAV to its members. The communiqué, Gallagher suggested, had come to the BLF from a local company concerned by the efforts of multinational corporations to use tactics such as the recently concluded lockout to not only weaken trade unions, but indeed to force Australian operators out of business.<sup>34</sup> The original missive included the Terms of Settlement under which the Victorian building industry had resumed operations, and under which unions other than the BLF had agreed to return to work.<sup>35</sup>

Resumption of work, according to the Terms of Settlement, represented to the Master Builders' 'a major advance' in efforts to bring Victorian unions into line.<sup>36</sup> But whilst employers had made significant gains, a problem still existed: according to the MBAV publication, that problem was the Builders' Labourers' Union. Conversely, the MBA argued, the unity that had been achieved among building employers over the course of the dispute was something upon which future battles with the BLF could be based and built. Whilst there had been a resumption of work without employers agreeing to sign a new VBIA, the memorandum implied, there was a need for employers to contain Gallagher. One way in which he might be controlled, it was argued, was by bringing labourers back to work and giving them an opportunity 'to show their union what they really wanted'.<sup>37</sup>

No doubt, the MBAV was aware of and keen to exploit divisions in the BLF, where rank and file groups in Victoria and NSW were agitating for Gallagher's removal. Those forces, which Gallagher labelled 'white ants', were, of course, stimulated by the general secretary's acrimonious takeover of the NSW branch, and by his expulsion from the BLF of popular NSW branch leaders, Munday, Owens and Pringle. Those events have been covered in great detail elsewhere, and will not be reiterated here.<sup>38</sup> But it is important to note that the seeds of division set down by that takeover produced and continued to produce weaknesses in the Federation that employers, governments and rival trade unions were always willing to exploit.<sup>39</sup> It was apparent from the MBAV communication that in bringing labourers back

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<sup>34</sup> ABCE&BLF Newsletter, Vic. Branch, 20 August 1975, in Karslake papers, Box 3.

<sup>35</sup> MBA Circular No. 361/75: Progress Report on Current Industrial Situation, No. 13, in ABCE&BLF Newsletter, Vic. Branch, 20 August 1975, Karslake papers, Box 3.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> See for example, Burgmann & Burgmann, *Green Bans, Red Union*; Jack Munday, *Green Bans and Beyond*.

<sup>39</sup> This point was acknowledged by Brian Boyd, *Inside the BLF: a union self-destructs*, Melbourne: Ocean Press, 1991; Ross, *Dare to Struggle, Dare to Win!*.

onsite, the employers' organisation hoped to create a situation that would exacerbate internecine tensions within the BLF. This was considered more important than permitting the lockout to continue.

Gallagher and the BLF faced two other potential sources of division. To begin with, there was the hostility that large sections of the Australian public held towards militant unionism and the potential that employers and other anti-BLF forces had to fan that hostility, particularly through the media. Secondly, there were the tensions and rivalry that had long existed between the BLF and other trade unions, both where political ideology and questions of industrial coverage were concerned.<sup>40</sup> A presumably confidential report delivered to a 'special major contractors meeting' on 17 September 1975, which was subsequently included in the MBAV publication, *Workforce*, and which Gallagher unhesitatingly reproduced in the form of a Public Notice, spelled out the MBAV plan to attack the BLF via both the public perception and union rivalry fonts.<sup>41</sup>

Having given the matter 'deep consideration', MBAV industrial staff concluded that employers had three alternatives where ongoing difficulties with the BLF were concerned. Collectively, they could 'continue to ride out... bans whilst action in the legal sphere' ran its course; bow to union demands for a \$10 a week pay increase, a Picnic Day holiday, and portable sick leave; or provoke the BLF into widening the dispute, with the anticipated consequence of inflicting upon Gallagher and his followers the full force of public wrath and that of the tradesmen affected by such an escalation of hostilities.

Of the three options, the first would likely be too lengthy and costly a process, whilst the second would, the MBAV argued, destroy whatever gains had been made through the eight week lockout and, worse still, send inappropriate signals to unions that were prepared to do 'the right thing' by arbitration decisions.<sup>42</sup> Recommending option three, the MBAV suggested, therefore, that affiliated members with cranes onsite should use BLF bans on crane operations during lunch periods as a pretext for dismissals which, it was reasoned, would incur retaliatory action in the form of spontaneous strikes. If Gallagher and the BLF could be manoeuvred into wide-spread strike action, the employers' body contended, there

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<sup>40</sup> The lockout actually attracted surprisingly little media attention, probably because it occurred against the backdrop of the Loans Affair and the gathering decline of the Whitlam government. However, an *Age* Poll conducted in June 1975 suggested that almost one third of Australian voters believed excessive union demands to be responsible for rising inflation and unemployment. This tendency to connect militant unionism with economic malaise was even more forcefully apparent when 54 per cent of respondents agreed that excessive union demands was an 'extremely important' factor in Australia's economic complaint. *Age*, 21 July 1975, p.4.

<sup>41</sup> 'Builders Labourers Don't Fall For Master Builders Plan: Employers Plan Exposed', BLF Public Notice, 29 September 1975, Karslake papers, Box 2.

<sup>42</sup> *Ibid.*

could be created a pretext for again standing down tradesmen and thereby inciting to greater heights the hostility that already existed between the tradesmen's and labourers' union.<sup>43</sup>

The employers knew that if they were going to engineer a situation in which tradesmen would be stood down, they could not, if they expected to manage that situation to their own advantage, produce such an outcome without first incorporating the tradesmen into their plan. MBAV affiliates were therefore informed that approaches would be made to the leaders of tradesmen's unions to both notify them of what was afoot, and to apprise them of the seriousness of MBAV intentions to rout Gallagher and his supporters. The employers also knew that whilst tradesmen were often reluctant to condone BLF action, they nevertheless always revelled in whatever gains the labourers' made, because those gains, once won by the BLF, automatically flowed on to themselves. To ensure that tradesmen would in fact adopt anti-BLF positions, the employers therefore proposed to end the ban that they had imposed on Saturday work. If the ban was doing anything, the MBAV industrial staff suggested, it only emphasised to employees the fact that when overtime was not available, their wages were in reality inadequate. And that realisation, if allowed to continue, could only assist Gallagher.<sup>44</sup> Here was concrete evidence of employer recognition not only that normal wages were too low, but that what really stood between Gallagher, the BLF and tradesmen, at least where attitudes to wages and conditions were concerned, were the officials of the tradesmen's unions; that strata of society which Bramble, for example, correctly identified as a brake on working class struggle.<sup>45</sup>

Gallagher's public disclosure of MBAV plans to provoke the BLF into wide-scale industrial action clearly meant that those plans were heavily compromised, if not totally redundant. Yet the basic premise of isolating Gallagher and the BLF remained, not only as an aim of the employers, but also of rival union officials keen not only on the creation of a single building industry union, but indeed on their own place at the top of such an organisation. The BWIU, whose leadership opposed Gallagher and the BLF on both industrial and political grounds – BWIU federal secretary, Pat Clancy, was a leading light in the Moscow-aligned SPA – had, for some time, been making overtures to and aggressive

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<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Bramble characterised union leaders as '...an intermediate social layer between capital and labour [that is] neither bourgeois nor working class', but who have developed interests of their own – interests that are 'alien to those of the membership' they supposedly serve. Bramble, 'The Rise of the Modern Labour Technocrat', pp.179-80.

moves on rival unions, including the BLF.<sup>46</sup> Whilst the previous chapter of this thesis highlighted the political aspects of disputes in Adelaide in the early 1970s, particularly where BLF-ALP relations were concerned, there were, as McQueen demonstrated in *We Built This Country*, also highly significant industrial aspects to those particular disputes.<sup>47</sup> The BWIU was then and continued to be doggedly determined to amalgamate, either peacefully or otherwise, with other, often smaller unions. The long-held aim was to create ‘one big industrial union – on the BWIU’s terms’.<sup>48</sup>

The BWIU seized upon the opportunity that BLF deregistration provided when, in the lead up to the 1975 lockout, it had positioned itself as the lead union in negotiations for a National Building Trades Construction Award (National Award) covering building and construction industry employees.<sup>49</sup> The agreement struck with employers provided for improvements in areas such as accident pay and multi-storey allowances, and it also promised the application of a 17.5 per cent annual leave loading on workers’ full rates of pay. But it did not satisfy BLF claims such as portable sick leave or bringing Victorian country and interstate workers into line with wages and conditions obtainable in metropolitan Melbourne.<sup>50</sup> More worrying still, where Gallagher and his union were concerned, was that the agreement struck between employers and the BWIU would excuse Victorian employers from agreeing to a new VBIA and lock building unions completely into arbitration during which employers with operations in more than one state could argue against wage increases on the grounds that rates in one particular state were lower than those being sought through the National Award.<sup>51</sup>

The BWIU championed the agreement to its members as a victory for united action; proudly listed the improvements secured in terms of paid sick leave, accident pay, fares and leave loading; but claimed that it was nevertheless resolved to supporting a continuation of

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<sup>46</sup> Gallagher and then Victorian branch secretary, Paddy Malone, had in 1967 strenuously objected to and warned about the consequences of a NSW branch decision to move its offices from the Sydney Trades Hall to premises owned by the BWIU. The move, they and other Federal Management Committee members argued, was ‘one more step in a programme designed to assist a Building Workers’ Industrial Union take-over of the New South Wales branch of the Federation.’ ‘Builders’ Laborers (sic) Beware! The BWIU Takeover: Federal Management Committee’s Resolution on NSW Office Move’, BLF leaflet, Karlslake papers, Box 1.

<sup>47</sup> McQueen, *We Built This Country*, pp.223-9.

<sup>48</sup> Ibid., p.224; A January 1967 publication, *For Amalgamation: A ‘New Look’ for a Changing World*, expressed in glorious colour BWIU plans for amalgamation with the Operative Painters’ and Decorators Union of Australia (OPDU) and the Operative Plasterers’ and Plaster Workers’ Federation of Australia. Karlslake papers, Box 1.

<sup>49</sup> A successful High Court challenge had enabled BLF officials to sit in on, but not contribute to the final stages of negotiation of the new National Award. ABCE&BLF Victorian Branch Newsletter No. 4 of 1975, Karlslake papers, Box 3.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

the VBIA.<sup>52</sup> As Gallagher and the BLF recognised, however, the incorporation of VBIA wage rates and other conditions into the new National Award would make it very difficult to secure a separate BIA in Victoria. By agreeing to incorporate VBIA wages and conditions into the new National Award, the BWIU and other unions who were party to the negotiations had effectively agreed to take the Victorian agreement out of existence. The National Award would become the new ‘gold standard’ on which building industry wages and conditions would be based. The Victorian agreement would become a relic of the past and all negotiations would be resolved based on the lowest interstate common denominator. Employers would be able to use their presence in smaller states to control what was available to workers in states such as Victoria and NSW, where building and construction were historically strongest and most profitable. If unions chose to fight such arguments, they would be bogged down in lengthy and costly court proceedings.<sup>53</sup> Conversely, this centralisation of negotiations around wages and conditions would significantly ease the pressure under which the officials of tradesmen’s unions had laboured for many years – pressure applied by their members seeking to achieve the kinds of gains that Gallagher and the BLF were consistently able to win for labourers.

Clancy’s union denied BLF allegations that the BWIU had effectively agreed to a freeze on the wages of building and construction workers by agreeing to a maximum rates clause in the National Award.<sup>54</sup> According to a leaflet distributed in July 1975 on behalf of the BWIU and four other unions, Clancy had ‘strongly opposed inclusion of’ the maximum rates clause, but that when the final agreement had been presented to BLF officials, they had remained silent.<sup>55</sup> The problem that existed for Clancy and the BWIU, however, was that being ‘strongly opposed’ to the inclusion of a maximum rates clause did not amount to outright rejection of that clause, and neither did it prevent the BWIU from accepting and promoting the final agreement. On the other hand, where the BLF was concerned, remaining silent on an agreement about which it had been either wholly or partially prevented from negotiating did not equate with acceptance of that agreement. Moreover, for Gallagher and the BLF, the primary concern was not that a National Award had been agreed to, but that such an agreement would not preclude a renewal of the VBIA. By only agreeing to return to work on pre-lockout conditions in the Victorian building industry shutdown of June-August

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<sup>52</sup> ‘United Action Wins New National Standards’, BWIU flyer, Karslake papers, Box 3.

<sup>53</sup> ABCE&BLF Victorian Branch Newsletter No. 4 of 1975, Karslake papers, Box 3.

<sup>54</sup> ‘The Truth About the Victorian Industry Dispute’, BLF leaflet, July 1975, Karslake papers, Box 3.

<sup>55</sup> ‘Facts rebut BLF leaders’ lies’, BWIU leaflet, July 1975, Karslake papers, Box 3; ‘The Truth About the Victorian Industry Dispute’, BLF leaflet, July 1975, Karslake papers, Box 3.

1975, and by immediately launching guerrilla action in pursuit of a new VBIA, Gallagher and his union had done much more than strongly oppose the inclusion of a maximum paid rates clause in the national agreement. They had fought to ensure that whether such a clause was included or not, the VBIA would continue to be the ‘gold standard’ around which the wages and conditions of builders’ labourers, and consequently, all building workers, would be forged.

This was the industrial scene in which the Whitlam Government had, by mid-1975, begun to lay the blame for spiralling inflation and unemployment squarely at the feet of militant trade unionism. Wage indexation was pursued as the most effective response to inflation, unemployment and the recalcitrant trade unions that purportedly caused those problems. It was against that backdrop that the lockout of mid-1975 and the negotiation of a National Building Trades Construction Award occurred. And it was in the context of those events that Gallagher and others on the Left suspected that Bob Hawke was complicit in Whitlam’s moves, and that Hawke and Whitlam were together laying the ground for the savage attack on workers that would surely come when Malcolm Fraser became Prime Minister of Australia.

The signs were ominous, warned a BLF pamphlet entitled ‘Fight Attack by Multi-Nationals! Make the Rich Pay!’ Labor leaders had used the Terrigal Conference to declare ‘their full support for “free enterprise” (read multi-nationals)’; the Labor Cabinet was being purged of ‘unreliable’ people such as Cairns and Cameron; the Arbitration Commission had, with Whitlam and Hawke’s approval, reintroduced wage indexation; Fraser had succeeded Billy Snedden as Liberal Leader and announced that a Liberal-Country Party government would hit workers hard, if they united to strike ‘for their just claims to a better life’.<sup>56</sup>

BLF accusations that Hawke and Whitlam were conspiring to pave the way for an assault on working-class living standards echoed CPA allegations of a few months earlier. In analysing the 1975 National Wage Case in which the return to wage indexation had been announced, the CPA had suggested that the return to the system of automatic adjustments had been duplicitously made, with Hawke’s imprimatur, but independently of the ACTU interstate executive under whose authority Hawke should have been acting.<sup>57</sup> According to the CPA, the Arbitration Commission had, in explaining its reasons for returning to wage indexation, suggested that an ACTU statement made ‘on the last day of the hearing’ had

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<sup>56</sup> ‘Fight Attack by Multi-Nationals! Make the Rich Pay!’, BLF pamphlet, August 1975, Karslake papers, Box 2.

<sup>57</sup> ‘Analysis of the 1975 National Wage Case’, Communist Party of Australia, 5 May 1975, p.4. Karslake papers, Box 2.

indicated ‘that increases relating to work value and special considerations would have a negligible effect on the total wage and salary bill’, and that statement had been ‘a material influence on the outcome of the case’.<sup>58</sup> According to the CPA, ‘This open support by the ACTU for trading wage restraint for indexation’ was ‘in conflict with the declaration of the [ACTU] Interstate Executive of rejection of wage restraint, prior to the case’.<sup>59</sup> Furthermore, Hawke and the Whitlam Government were reading from the same page because in its submission to the Wage Case, the Government had argued that

...it would support the introduction of indexation only under certain conditions. These were that wage increases, other than those by indexation, would be limited to those on account of changes in national productivity, work value or other special circumstances, which would be rare and would not include changes in relativities.<sup>60</sup>

In addition, the ACTU and Hawke in particular, had suggested the necessity of bringing the majority of wage increases back under the control of the Arbitration Commission. In a climate where price increases would be universally borne, workers’ wages would, in a world run by R.J. Hawke, be subjected to annual productivity hearings. They would have their work value cases arbitrated by individual Commissioners, and other increases, which would in any case be rare, would also come under the control of the Commission.<sup>61</sup> Hawke’s intention was clear, the CPA suggested: the trade union movement generally would pull into line militant unions whose industrial action threatened to disrupt the continuation of indexation.<sup>62</sup>

This Communist analysis has a point. The ACTU was, at the very least, advocating the application of shackles to the negotiating power of trade unions, undermining the autonomy of its affiliates and attempting to establish itself as the pre-eminent advocate of workers’ demands before the Arbitration Commission, whilst simultaneously returning the Commission to a position in which it would become the pre-eminent arbiter of workers’ rights and living standards. Alternatively, it might be argued that what was being foreshadowed would eventuate a decade later under the ALP-ACTU Accord. That agreement was, of course, largely overseen by the trade union movement itself, with dissenters running the risk of alienating those unions or sections of the trade union movement whose interests were better served by arbitration and automatic wage adjustments.

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<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.



There is no doubt that Hawke acted in the best interests of the Whitlam Labor Government, but whether that equates with acting in the best interests of the organised working class is another question. Arguably, Gallagher and other BLF leaders were justifiably sceptical about the compatibility of these interests. That was no less the case where the reintroduction of wage indexation was concerned. In fighting employers in Victoria during the 1975 lockout, and in criticising BWIU-led negotiations for a National Award for building workers – which Gallagher described as a union-imposed wage freeze – the BLF leader unquestionably presented a challenge to Labor's efforts to rein in working class demands, as well as to both those sections of the union movement that supported indexation, and to the employers whose profitability would be enhanced under such an arrangement. In that way, Gallagher also presented a challenge to the overall viability of the Whitlam Government, and to those who would have Labor in government, regardless of the affect on workers. Whether Hawke acted duplicitously and against the interests of the ACTU Interstate Executive in agreeing to a return to wage indexation is perhaps less important than the perception that he had done so.

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Whatever ambiguity there might have been around Whitlam's attitude to the trade union movement, there was no mistaking the approach that his usurper was going to adopt upon coming to office in December 1975. To be sure, as Singleton suggested, Malcolm Fraser promised harmonious relations with the trade unions, both in the course of campaigning for the 1975 election, and in the earliest days of his reign. But the rhetoric implicit in the new Prime Minister's gathering of government, business and union leaders 'to sow the seeds of co-operation deemed necessary by the Prime Minister to assist in Australia's economic recovery'<sup>63</sup> was simply 'not...matched by performance'.<sup>64</sup> Indeed, as Mitchell and O'Lincoln have argued, Fraser came to power in truth determined to wage war on the trade unions.<sup>65</sup>

Fraser's approach to the trade unions was informed by the hostility to unionism that is traditionally associated with conservative governments and political parties. In that sense, his hostility was of a general nature. Given the timing of Fraser's prime ministership, however, it

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<sup>63</sup> *Australian*, 16 January 1976, cited in Singleton, *The Accord*, p.51.

<sup>64</sup> Singleton, *The Accord*, p.51.

<sup>65</sup> Richard Mitchell, 'Industrial Relations under a Conservative Government: The Coalition's Labour Law Programme 1975- 978, *Journal of Industrial Relations*, Vol. 21, No.4, 1979, pp.435-465; O'Lincoln, *Years of Rage*: ch.4.

must be acknowledged that his government's anti-unionism was also informed by what is often referred to as Fraser's 'inflation first' approach to economic policy, in which it was deemed necessary to clamp down on wage rises and on the militant trade unions that made them possible. There was little new about this determination to defeat inflation by attacking wages and trade unionism; the battle had in fact begun under Whitlam. What was different, however, was the severity of Fraser's assault and the lengths to which his government was prepared to go to bring the industrial working class to heel.

Prior to the first meeting of his much-touted tripartite summit, Fraser announced his intention to establish an Industrial Relations Bureau (IRB). This exemplified how far he was prepared to go both to disrespect and to disempower the trade union movement, since the announcement was made without consultation with the ACTU.<sup>66</sup> Here, Singleton suggested, was an authority whose intended purpose was 'to bear down on recalcitrant unions and, in particular, take the initiative in invoking penal provisions of the Conciliation and Arbitration Act'.<sup>67</sup> For its part, Mitchell argued, the ACTU was, when the IRB finally came to be established in May 1977, gravely mistaken in its decision to accept the imposition of an anti-union authority in return for what turned out to be the temporary shelving of that body's strongest provisions.<sup>68</sup> Had that body actually operated as Fraser intended, labour historian, John Hagan, contended, it would have been 'both policeman and prosecutor'.<sup>69</sup>

That the IRB did not become the weapon that Fraser clearly meant it to be was largely due to the new body's increasingly bureaucratic nature. , Despite a dramatic recent upsurge in activity, by early 1981 it had become largely moribund and a target for the government that had created it.<sup>70</sup> But for an authority that was established to rein in militant trade unionism, the IRB, despite its indolence, nevertheless shone a very harsh light on employers and, in a totally unintended way, demonstrated the need for union vigilance and workers' militancy. In the six months to December 1980, for example, the IRB carried out 13,000 inspections to determine whether employers and/or unions were adhering to Awards. Yet whilst the Bureau detected 70 breaches per 100 inspections, it managed to make just one prosecution for breach

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<sup>66</sup> Singleton, *The Accord*, p.51. The IRB was not actually established until mid-1977 when it came into being under the Conciliation and Arbitration Amendment Act. See Mitchell, 'Industrial Relations under a Conservative Government', p.439.

<sup>67</sup> Singleton, *The Accord*, p.51.

<sup>68</sup> Mitchell, 'Industrial Relations under a Conservative Government', pp.438-9. As Mitchell explained, the more draconian powers with which Fraser intended to invest the IRB were in fact put in place 'in virtually the same form' within a matter of months, p.440.

<sup>69</sup> Jim Hagan, *The History of the ACTU*, Melbourne: Longman Cheshire, 1981, p.429, cited in Singleton, *The Accord*, p.54.

<sup>70</sup> The IRB conducted more than 13,300 inspections in the six months to 31 December 1980 – only about 700 short of the total number of inspections conducted over the previous three years. *Age*, 21 February 1981, p.13.

of an award, and two prosecutions for “obstructing” an inspector’.<sup>71</sup> During the same period, underpayments to workers totalling more than \$600,000 had been detected and recovered without the need to take matters to court.<sup>72</sup> Had IRB inspection and prosecution performances been more rigorous, it is arguable that the recovery of monetary and other shortfalls being suffered by workers would have been significantly greater, and the light being shone on wayward employers all that much harsher. But the IRB had not, of course, been established to penalise employers, any more than John Howard, as Minister for Business and Consumer Affairs had intended in his amendment to Section 45D of the Trade Practices Act to punish employers for ‘unfair practices’.<sup>73</sup> Indeed, as Mitchell demonstrated, the raft of amendments to the Conciliation and Arbitration Act that accompanied the establishment of the IRB, and which it became the IRB’s role to implement, were intended ‘to effectively castrate the union movement’.<sup>74</sup>

From ‘protecting’ unionists from the ‘ideological beliefs’ of their leaders, to excusing ‘conscientious objectors’ from participating in union membership or strike action, to obstructing the operation of closed shops that provided the numerical and financial strength of trade unions, to providing the IRB with ‘sweeping powers of intrusion into union records and files’,<sup>75</sup> to amending deregistration provisions of the Act in ways that could force the isolation and removal of certain sections or classes of members ‘whilst retaining the registration of more moderate elements’, to increasing the degree of control that could be exerted over the property and finances of deregistered unions, to provisions that would exclude striking workers from strike pay or social security benefits – all of these changes, and more, were squarely aimed at the most militant sections of Australian trade unionism.<sup>76</sup> And, as the following chapters will demonstrate, Gallagher and the BLF were, as militants, perfectly placed to attract the full force of Fraser’s anti-union initiatives.

This chapter has identified mid-1975 as a time when building and construction industry employers began to consider ways in which Gallagher and the BLF could be isolated from the rest of the trade union movement. Their motivation, it has been suggested, was the

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<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Howard’s recommended amendment to s45D of the Trade Practices Act was enacted in August 1977. National Archives of Australia, 1977 Cabinet records – the historical context and issues of interest, Available at <http://www.naa.gov.au/collection/publications/papers-and-podcasts/cabinet-release/jim-stokes-transcript-77.aspx> Accessed 9 March 2012.

<sup>74</sup> Mitchell, ‘Industrial Relations under a Conservative Government’, p.455.

<sup>75</sup> Munro, “The Industrial Relations Bureau: Freedom of the Individual and Confrontation in Industrial Relations”, Paper presented at Monash University Seminar on Industrial Law Relations – the 1977 Initiatives, 1977, p.34, in Mitchell, ‘Industrial Relations under a Conservative Government’, p.454.

<sup>76</sup> Mitchell, ‘Industrial Relations under a Conservative Government’, pp.443-57.

return to corporate profitability envisaged by employers, government and ACTU leaders alike, and by the opposition that Gallagher and the BLF threw up to those plans. As we have seen, the opportunity to implement strategies to isolate the labourers' union and its general secretary arose when Gallagher and the union refused to be intimidated by a major lockout in the Victorian building industry or to be contained by the National Building Trades Construction Award that fed into that lockout, and which had primarily been negotiated by a major BLF rival – the BWIU. Notions of destroying BLF power in ways that incorporated rival unions were also developed in the context of a significant sharpening in the jostling for position that had long characterised relations between unions such as the BLF and the BWIU. Such moves were initiated at a time when the BLF was, on the one hand, unconstrained by the forces of arbitration and conciliation, but on the other hand, potentially weakened by events surrounding Gallagher's takeover of the NSW branch of his union. Overlaying all of this was the unique situation surrounding the Whitlam Labor Government, efforts to save that administration through the reintroduction of wage indexation and a clamp down on militant trade unionism, and preparations for a transfer of power from Whitlam to Fraser.

The transition from Whitlam to Fraser acted to temporarily derail the convergence of agendas that would ultimately ensnare Gallagher and the BLF. But with the labourers' union determined both to fight their way out of wage restraint and to grow their strength in what promised to be a mining and energy resources-led economic recovery, there arose, following chapters will argue, new opportunities for employers and rival trade unions to sharpen their anti-BLF actions and attitudes. Moreover, with the fundamental continuation of wage indexation and desires to contain militant trade unionism that characterised the transition from Whitlam to Fraser to Hawke, there existed the conditions necessary for both the ACTU and the ALP to combine with employers and rival trade unions to destroy Gallagher and the BLF.

## Chapter Seven

### From Newport to Loy Yang, the Struggle for Power

The previous chapter identified the mid-1970s as marking the beginning of what might be called the industrial encirclement of the BLF. That encirclement, it was suggested, was a process that began in the context of a return to wage indexation and government moves to rein in militant trade unionism. But it was a development that also occurred against the backdrop of sharpening union rivalry, and in which employers sought to involve a major BLF competitor – the BWIU. The purpose of this chapter is to extend that theme of encirclement by outlining and analysing two interlocking disputes in which the BLF faced the combined forces of federal and state governments, an employers' organisation, a State Electricity Commission renowned for its poor industrial relations record, and yet another rival union – the FIA. The disputes in question occurred during 1979-1980 at Loy Yang, where a power station was being built for the SECV. In the first instance, the BLF clashed heavily with the FIA over coverage of steel erection workers; in the second, a strike involving a handful of concrete batchers<sup>1</sup> morphed into a highly provocative and protracted lockout, in which various forces sought to crush the BLF.

Gallagher identified those disputes as primary drivers in federal and state Liberal government moves to destroy his union.<sup>2</sup> However, they have received surprisingly scant attention in other histories of the BLF.<sup>3</sup> One reason for this paucity of consideration may be the difficulty that confronts the researcher who, in attempting to decipher events at Loy Yang, looks naturally to media reports of the time. Whilst reportage on the lockout was not

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<sup>1</sup> Concrete batchers operate plant and equipment used in the manufacture of concrete on a large scale. They are responsible for the mechanical mixture of relevant materials – sand, gravel, cement, water and other additives – and for the transfer of the finished product to the trucks used to transfer the material from the plant to the site at which it is to be used.

<sup>2</sup> Norm Gallagher & Stewart Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*, 1992. Gallagher's view is supported by ex-BLF (NSW) organiser, John Tognolini, Personal correspondence with John Tognolini, 10 April 2012.

<sup>3</sup> Numerous references to Loy Yang may be found in Boyd's *Inside the BLF*, but none extend beyond a few lines and most are made to support Boyd's overarching contention that Gallagher used industrial disputes to fight the Victorian and Federal Government initiated Royal Commission that he (Gallagher) perceived as being aimed at him personally. Boyd, *Inside the BLF*, p.22ff. In two separate histories of the union, McQueen made just two references to Loy Yang, only the second of which identified attacks on the BLF in Victoria as having their roots in the union's victories at Loy Yang. McQueen, *Framework of Flesh*, p.233; McQueen, *We Built this Country*, p.330. Ross went further, dedicating almost one-and-a-half pages to the concrete batchers' dispute and the attendant lockout. But whilst Ross did, in a smaller reference to Loy Yang, identify events there as a factor in generating Government, employer and rival trade union hostility towards the BLF, she nevertheless failed to adequately describe or analyse the issues that underlay that hostility. Ross, *Dare to Struggle, Dare to Win!* p.40; pp.43-4.

inconsequential, there was a tendency for media outlets to neglect other, seemingly less important disputes, such as that involving the BLF and the FIA. This was particularly the case as the lockout progressed and came to dominate news stories emanating from Loy Yang. Indeed, it is only through examination of rather unwieldy archival material held at the Public Records Office of Victoria (PROV) that the origins and significance of the BLF-FIA dispute outlined in this chapter are fully revealed.<sup>4</sup> It is only by scrutinising that same material that the researcher uncovers the Arbitration Commission findings that were made in favour of the BLF and the way in which forces as diverse as the FIA, the Metal Trades Industry Association (MTIA), Electric Power Transmission Pty Ltd (EPT) and the SECV combined to frustrate those deliberations. Moreover, it is only by reference to the PROV archive that we discover why resolution of the BLF-FIA dispute discussed in this chapter came to be so intricately bound up with settlement of a lockout whose origins lay elsewhere – in a dispute centred round a handful of concrete batchers and their struggle for better wages and conditions.

The dearth of material available in newspaper accounts of the BLF-FIA dispute has a number of other consequences. As noted, it has made more difficult the task of disentangling the BLF-FIA dispute from the lockout in whose shadow it largely occurred. Secondly, it results in this chapter making extensive use of the SECV memoranda, Arbitration Commission transcripts and other documents of which the PROV archival material is comprised. However, in having to rely so heavily on that material, the chapter will present a more comprehensive record that is, for example, less reliant on media interpretation, and in which the voices of those who represented builders' labourers at Loy Yang can be actively heard. This is highly significant because it enables us to hear, first hand, as it were, just how determined BLF members and officials were not only to secure better wages and conditions, but to protect and enhance the position that they had carved out for themselves in the Australian building and construction industry.

This chapter also includes a summary of events at Newport in Melbourne's west, where the SECV and the state government combined with employers to circumvent a VTHC ban on construction of a new, gas-fired power station. Discussion and analysis of that dispute is warranted for several reasons. Firstly, and as academic and power industry expert, Aynsley Kellow, has noted, the industrial relations legacy of Newport carried over to Loy Yang and

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<sup>4</sup> The PROV material is made more unwieldy by the dearth of background information that is available, either through media reports or in histories of the BLF.

the quarrels in which the BLF and other unions at that site became involved.<sup>5</sup> Secondly, the Victorian government and the SECV managed to raise an army of scab labour with which they were not only able to break union bans, but indeed to build a revised version of the Newport project on-time, and under budget.<sup>6</sup> Thirdly, the Newport dispute provides valuable insight into the attitudes of both the state Liberal government of the day and of Jack Johnson, the SECV assistant general manager whose anti-union activities unquestionably came into play at Loy Yang. Finally, the lessons learned, and the ‘achievement’ gained at Newport went some way towards framing the kind of industrial relations environment favoured by the New Right<sup>7</sup> of Australian politics. Some time would pass before New Right dreams could be more fully realized as John Howard’s Work Choices and, later, in the form of Labor’s Fair Work legislation. However, it is important to bear in mind that emerging New Right agendas coincided with shifts in the ALP and the broader labor movement – the kind of shifts that led to the destruction of the BLF, and which both paved the way for and made New Right goals easier to achieve. Before either Newport or Loy Yang can be discussed, however, it is important to establish the broader industrial relations context in which those disputes occurred.

Writing in the *Bulletin* magazine in August 1980, Bob Carr suggested that ‘high unemployment and the constraints of wage indexation’ were doing ‘what all Malcolm Fraser’s anti-union industrial laws’ had been unable to do. Unemployment and wage restraint had, he maintained, produced a series of significant set-backs for the union movement, particularly, though by no means exclusively, where the manufacturing sector was concerned.<sup>8</sup> Not only had there been ‘a five-year decline in wages, an erosion of the gains made by workers during the wages boom of 1974-75’, but there had also been a marked reduction in the financial status of union members, and indeed, in union membership itself.<sup>9</sup>

The problems faced by unions whilst operating under Fraser’s overtly anti-working class regime and in a situation of rising unemployment and wage restraint were compounded

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<sup>5</sup> Aynsley Kellow, *Transforming Power: The Politics of Electricity Planning*, New York: Cambridge University Press, 1996, p.142.

<sup>6</sup> From an initial recruitment of 21 men, 16 of whom actually turned up to work on the first day of construction, the Government, SECV and participating contractors were able to secure the services of 1048 workers. This number was reached in the third year of construction. Lindsay Thompson, ‘Parliamentary Government or Union Tyranny’, in *Light on the Hill: Industrial Relations Reform in Australia*, Proceedings of the Queen’s Birthday weekend conference at Mooloolaba, 6-8 June 1987, Vol. III, Melbourne: H R Nicholls Society, 1987, pp.36-8.

<sup>7</sup> A term used to denote radical thinkers on the political right for whom a return to laissez-faire economic policies was paramount. Adherents of the New Right abhorred reliance on social welfare and championed notions of liberty over equality. See for example, John Hoffman, *A Glossary of Political Theory*, Edinburgh: Edinburgh University Press, 2007, pp.126-7.

<sup>8</sup> *Bulletin*, 5 August 1980, pp.48-9.

<sup>9</sup> *Ibid.*, pp.49-51.

by the onset of new technologies and new work patterns, both of which meant increasingly fewer job opportunities and consequently shrinking union density.<sup>10</sup> In this context, financial membership of the Amalgamated Metal Workers and Shipwrights Union (AMWSU) was, for example, running at little more than 50 per cent, whilst membership of the AWU had slipped by more than 10,000 over the previous five years.<sup>11</sup> Charlie Oliver, secretary of the AWU in NSW put the situation into perspective when he argued that worksites that would have employed 200 men only a decade earlier were, going into the 1980s, likely to employ only 40 or 50 workers. The Botany wharves in Sydney served as a prime example – where once they had given employment to 50,000 people that number had, by 1980, shrunk to about 12,000.<sup>12</sup>

However, the news was not all bad. Whilst the AWU had seen its membership decline by 15 per cent in the period 1969-1979 and by 22 per cent in the period 1976-1981, other unions had, during those same periods, been more fortunate. The FIA – with which Gallagher and the BLF were destined to clash heavily – increased its membership by 21 per cent in the latter period. Similarly, the BWIU, with which the BLF was also to come into ever greater conflict, grew its membership by 19 percent during that same timeframe. Other unions to which the labourers' union would ultimately fall foul were less consistent, however. The Amalgamated Society of Carpenters and Joiners (ASC&J), having grown by 59 percent in the first period (1969-79), lost 22 percent of its membership in the second (1976-81), whilst the FEDFA grew its membership by eight percent in the first era, but only by 3 percent in the second.<sup>13</sup>

Fluidity of union membership was influenced by economic circumstances and the evolution of new technologies and work practices; this was especially the case with the building and construction industry, where a sharpening trend towards self-employment and sub-contracting was under way. Between 1970-71 and 1980-81, for example, the number of self-employed persons working in the industry rose from 20 to 35 per cent of all workers.<sup>14</sup> It was abundantly clear from a Master Builders Federation of Australia (MBA) submission to the 1983 National Economic Summit Conference, that the trend towards self-employment and sub-contracting that already existed in the housing sector of the building and construction industry provided the model to which employers in the non-dwelling sector should be aiming. Discussing how greater stability might be achieved in the building and construction industry,

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<sup>10</sup> Ibid., p.52.

<sup>11</sup> Ibid., p.51. Creigh *et al* suggested that decline in AWU membership in the period 1976-1981 was closer to 12,000. Creigh *et al*, *Aspects of industrial relations*, Appendix A, A4.

<sup>12</sup> *Business Review*, 30 November – 6 December 1980, p.12.

<sup>13</sup> Creigh *et al*, *Aspects of industrial relations*, Appendix A, A4.

<sup>14</sup> Creigh *et al*, *Aspects of industrial relations*, p.5.



the MBA pointed to the housing division where virtually all work was performed on a sub-contract basis, and where ‘very few traditional employer/employee or employer/union relationships exist[ed]’.<sup>15</sup>

This trend towards greater use of contract labour in the building and construction industry was made all the more important for two closely related reasons: the shifts that were occurring in the types of projects coming online; and the changes in investment that were producing significant growth in private sector speculation and a sharpening decline in public sector activity. As a report prepared for the Royal Australian Institute of Architects suggested:

For most of the 1970s about two thirds of total spending on non-dwelling construction came from the public sector. A peak was reached in 1975/76 and thereafter the public sector share tended to decline. In the last two years the balance... changed sharply with private sector activity doubling and public sector spending falling by 20 per cent. Thus in 1980/81 alone non-dwelling Gross Fixed Capital Expenditure (GFCE) grew 9 per cent in total with private sector growth being 27 per cent<sup>16</sup>

The industrial landscape was clearly changing. New technologies and work patterns were putting downward pressure on job opportunities; private sector investment and expectations of profitability were growing; and employers were ever eager to increase their use of sub-contract labour. In Canberra, meanwhile, there was a federal government about whose anti-union attitudes there was absolutely no question. All in all, it was, as Charlie Oliver suggested, a set of circumstances in which a union that stood still was a union destined to go backwards.<sup>17</sup>

To stand still or retreat was not the BLF way. In stark contrast to many of its rivals, the labourers’ union had, in the period 1969-79, experienced an 89 percent growth in membership.<sup>18</sup> Nor did success end there. The union was, for example, almost unique in its ability to keep pace with the inflation spiral of the late 1970s / early 1980s. In 1979, under the Construction On-Site Award, the lowest paid builders’ labourer earned \$212 for a 40 hour week. By mid-1982, they would earn \$309.30 for a 38 hour week – an increase of 46 per cent.<sup>19</sup> Under Gallagher’s leadership, it was acknowledged, builders’ labourers ‘attained

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<sup>15</sup> Master Builders Federation of Australia, ‘Submission to the National Economic Summit Conference, April 1983’, p.23, Boyd papers, University of Melbourne Archives, Box 58, 10/1-13/2.

<sup>16</sup> Creigh *et al*, *Aspects of industrial relations*, p.3.

<sup>17</sup> *Business Review*, 30 November – 6 December 1980, p.12.

<sup>18</sup> Creigh *et al*, *Aspects of industrial relations*, Appendix A, A17.

<sup>19</sup> ‘Your Union and You’, BLF pamphlet, 1982, NBAC, Z398/50.

wages and conditions that set them apart from many other unions, and in some cases, put them on a higher scale than tradesmen'.<sup>20</sup>

To continue being successful, however, the BLF would not only have to overcome shifts in the building and construction industry in which it traditionally operated, but would also have to avail itself of every opportunity to move into and/or expand its presence in other areas of the economy.<sup>21</sup> But as Gallagher and his supporters surely understood, that would mean war, not only with rival unions, but with employers, state and federal governments and a range of other entities for whom the presence of such a militant organisation was completely intolerable. It was in that context that the giant Loy Yang power station in Gippsland, Victoria, became a major battlefield.

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Prior to the 1920s, Victoria's electricity supplies had relied almost exclusively on the availability of black coal from NSW.<sup>22</sup> The discovery of vast quantities of brown coal, and the development of a power industry in the Latrobe Valley region of Victoria ended that dependency and promised to negate the crippling effects of any industrial disputes that might arise in the NSW mining sector.<sup>23</sup> It was in that context, too, that a coal-fired power station was built in the west Melbourne suburb of Newport.<sup>24</sup> But the virtual centralisation of its power industry in the Valley and, to a lesser extent at Newport, meant that Victoria had, in some respects merely succeeded in bringing all industrial disputation in that industry closer to home.<sup>25</sup> It was a situation made all the worse by the SECV's infamously poor industrial relations record.<sup>26</sup> Nor had that predicament altered to any great extent by 1976 when the state government and the Electricity Commission gained parliamentary approval for the construction of a new power station at Loy Yang, south-east of Traralgon.

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<sup>20</sup> *Age*, 31 January 1981, p.4.

<sup>21</sup> Shifts away from big, publicly-funded infrastructure and other projects would also inevitably see unions that had traditionally benefited from those programs – the AWU and the FIA – gravitate towards other areas of the economy, with the building and construction industry an obvious destination.

<sup>22</sup> Kellow, *Transforming Power*, p.134; *Age*, 18 March 1980, p.132; McDonald, *FEDFA*, p.8.

<sup>23</sup> The Victorian Government had been particularly perturbed by the NSW miners' strike of 1916. McDonald, *FEDFA*, p.8; Kellow, *Transforming Power*, p.132.

<sup>24</sup> Newport Power Station was fuelled by black coal sourced from the Victorian Government's Wonthaggi mine. Completed in 1914, it was designed to power trains on Melbourne's burgeoning suburban rail network. McDonald, *FEDFA*, p.6.

<sup>25</sup> Kellow, *Transforming Power*, p.132.

<sup>26</sup> Alford suggested that the SECV and the trade union movement had, prior to 1982, been engaged in 'a state of constant war'. Alford, 'Industrial relations: Labor's special but difficult relationship', p.157.

## Newport

Endorsement of the Loy Yang facility coincided with a bitter dispute at Newport, where the government and the SECV sought to replace the black coal-fired power station built in 1914, with a facility driven by natural gas. At Newport, left-wing unions, including the BLF, sided with local residents and environmentalists opposed to construction of the new power station.<sup>27</sup> This refusal to override resident concerns had a number of implications, not only for the unions involved – the dispute was back-grounded by a building industry recession – but for the VTHC and Victorian Labor Party with which the unions were affiliated.<sup>28</sup> In the first instance, the ability of left-wing unions to perpetuate bans against the wishes of a right-dominated Council was a serious embarrassment.<sup>29</sup> The Trades Hall Executive made numerous attempts to have the bans lifted. But recommendations made to that effect in May, October and November 1976, were all narrowly defeated.<sup>30</sup> For its part, the Victorian Labor Party was forced to withdraw the support that it had initially, and enthusiastically, given to the Newport project. An indication of that enthusiasm, and the level of disappointment derived from having to abandon it, may be gauged from comments the local Labor member, Larry Floyd, made when legislation for the Newport Power Station upgrade was passed in Parliament. Having congratulated the SECV and the Minister of Fuel and Power, Jim Balfour, not once but three times, Floyd enthused:

I welcome this proposed station to the Williamstown electorate and I am pleased it is being built at Newport because, with due respect to the newcomers to Williamstown who are more concerned about the balance of nature, conservation and so on, Williamstown is still an industrial suburb and relies to a certain extent on the Newport railway workshops and other industries to allow local businessmen to make a living.<sup>31</sup>

Floyd's use of the phrase 'with due respect' was telling. His attitude to Williamstown 'newcomers' and the broader environmental movement was, moreover, entirely consistent with the arrogant stance adopted by the SECV and its assistant general manager, Jack Johnson.<sup>32</sup> That haughtiness clearly weighed on the members of a Panel established to

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<sup>27</sup> See for example, Burgmann & Burgmann, *Green Bans, Red Union*, p.50; McDonald, *FEDFA*, p.99.

<sup>28</sup> See Kellow, *Transforming Power*, p.133.

<sup>29</sup> VTHC secretary, Ken Stone, was, for example, a strong advocate for construction of the Newport facility. See Thompson, 'Parliamentary Government or Union Tyranny', p.35.

<sup>30</sup> *Ibid.*, p.32.

<sup>31</sup> Cited in Thompson, 'Parliamentary Government or Union Tyranny', p.31.

<sup>32</sup> Johnson referred to the Green Bans movement in NSW as 'Jack Munday and his greenies'. Jack Johnson, 'The Newport Power Station: A History of Conflict', in *Light on the Hill: Industrial Relations Reform in*

consider what detrimental effects might stem from locating the power station at Newport. And it was evident, too, in Johnson's dismissal of arguments presented in the Panel's Final Report. The Report suggested that Panel members had been

... greatly concerned throughout this very serious and difficult review, by the attitude of the State Electricity Commission which to say the least has not been in keeping with the way in which the Panel has endeavoured to conduct its proceedings. The SEC has appeared to be most reluctant to concede that any of its decisions, whether technical, commercial, financial or environmental were open to challenge. Such an inflexible attitude does not bode well for the future.<sup>33</sup>

Johnson rejected the Panel's finding in rather condescending fashion by suggesting that it was 'understandable that such comments should eventuate', given that the Panel was '*determined* to develop reasons why the station should be located somewhere else'.<sup>34</sup> The Panel, he implied, was not only incapable of understanding and accepting the 'soundly based' premises on which government and SECV justifications for the Newport Power Station rested, but was, in any case, a front for those opposed to the project.<sup>35</sup> It was a spurious response, given the makeup of the Panel, which was headed by former Monash University Vice Chancellor, Sir Louis Matheson, and which included Neil Smith, Chairman of the Gas and Fuel Corporation; Jack Fraser, Chairman of the Environment Protection Authority (EPA); and Jack Ellis, President of the VTHC.<sup>36</sup> It was specious, too, given that neither the unions nor the VTHC had made submissions to the public inquiry carried out by the Panel; Matheson and his colleagues took evidence from the SEC, independent experts, conservationists and members of the public.<sup>37</sup> But it was entirely predictable given Johnson's overarching view that none of the 'diverse reasons behind the opposition' to Newport as the site of a 1000 megawatt, gas-fired power station, 'had any material justification'.<sup>38</sup> It was, as the Panel suggested, an attitude that did not auger well for the future.

The decision to use 'voluntary' labour at Newport arose when the VTHC reneged – 'with an astonishing display of stubbornness, usually only associated with members of the mule family' – on an undertaking to be bound by the recommendations of the Matheson

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*Australia*, Proceedings of the Queen's Birthday weekend conference at Mooloolaba, 6-8 June 1987, Vol. III, Melbourne: H R Nicholls Society, 1987, p.48.

<sup>33</sup> Newport Review Panel, Final Report, cited in Johnson, 'The Newport Power Station', pp.45-6.

<sup>34</sup> Johnson, 'The Newport Power Station', p.46.

<sup>35</sup> Ibid.

<sup>36</sup> Thompson, 'Parliamentary Government', pp.32-3; Johnson, 'The Newport Power Station', p.45. Emphasis added.

<sup>37</sup> Ibid., p.33.

<sup>38</sup> Johnson, 'The Newport Power Station', p.41.

Panel.<sup>39</sup> The Panel found that whilst a 1000 megawatt power station would be inappropriate in an urban area such as Newport/Williamstown, it would, with some caveats, be acceptable for the government and the SECV to construct a 500 megawatt facility. The vote at Trades Hall was 136 in favour of lifting the bans, 173 against. In October of the previous year (1976), the vote had been locked at 169 all. A month later, i.e. November 1976, those against lifting the bans had prevailed 179 to 175.<sup>40</sup> The unions were not only maintaining their resolve, but it was in fact spreading.

‘Parliamentary Government or Union Tyranny’ – the title of Lindsay Thompson’s contribution to the H.R. Nicholls publication, *Light on the Hill: Industrial Relations Reform in Australia* – concisely expressed Liberal Party/New Right views that what was at stake at Newport was not merely a question of whether Victoria would get a new power station. Rather, it was a question of who was running the state, if not the country. But it fell to SECV assistant general manager, Jack Johnson, to more fully illuminate those concerns. For Johnson, Newport represented a direct challenge to capitalistic government. Communist-controlled, left-wing unions, acting in concert with militant pressure groups had, he suggested, attempted to use the environmental/conservation movement and the concerns that it both embodied and promoted to bring about revolution and a transition to socialism.<sup>41</sup> But if Newport highlighted the damage that could be done by militant unions and pressure groups, particularly when they acted in concert, it had, Johnson contended, also demonstrated ‘the high productivity and harmonious working’ that could be derived from Australian workers when they were ‘freed from manipulation by union organisers’.<sup>42</sup> He was, of course, referring to the usefulness of scab labour employed at Newport.

If Johnson’s conspiracy theory makes for fascinating reading, it is instructive to note the context in which it was delivered – a major conference of the H.R. Nicholls Society – a grouping whose membership included ‘all the principal figures in the vanguard of right wing politics in Australia’.<sup>43</sup> In delivering the opening address for that conference, Queensland Premier, Sir Joh Bjelke-Petersen, reminded the audience of the ‘Statement of Purposes’ of their Society:

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<sup>39</sup> Thompson, ‘Parliamentary Government or Union Tyranny’, p.33.

<sup>40</sup> Ibid.

<sup>41</sup> Johnson, ‘The Newport Power Station’, p.49.

<sup>42</sup> Ibid., p.51.

<sup>43</sup> Paul Pickering, ‘Glimpses of Eternal Truth’: Chartism, Poetry and the Young H.R. Nicholls’, *Labour History*, No. 70, May 1996, p.53.

- To support the reform of Australian industrial relations with the aim of promoting the rule of law in respect of employer and employee organisations alike;
- The right of individuals to contract freely for the supply and engagement of their labour by mutual agreement, and;
- The necessity for labour relations to be conducted in such a way as to promote the economic development of Australia.<sup>44</sup>

Consistent with these ‘purposes’ and the tone of Bjelke-Petersen’s opening address, Queensland Attorney General, Paul Clauson, delivered a paper replete with references to ‘irresponsible strike action’, ‘irresponsible union leaders’, ‘illegitimate union action’, and ‘blatant abuse of union power’. He also raised the spectre of what would become one of the core principles of Work Choices – the individual contract.<sup>45</sup> That particular aspect of New Right vision was then more comprehensively covered by Andrew Brown, Chairman of Bjelke-Petersen’s Employment and Industrial Affairs Committee.<sup>46</sup> Indeed, as a reading of the Conference proceedings attests, not only was the tone of the gathering overwhelmingly anti-union, but accounts given there of disputes and famous ‘victories’ – such as that achieved at Newport with the use of scab labour – were intended as both justification and encouragement for further assaults on the working class.

The New Right gala described above may have occurred several years after the Newport Power Station had been completed, but it is arguable that the motivations and guiding principles underpinning many of the papers given at the Conference were in place when Lindsay Thompson, Jack Johnson and select employers were using non-union labour to build the power plant.<sup>47</sup> Efforts to divide workers and the working class were not, of course, new. But Newport had provided a salutary example of that possibility and, as its inclusion in the pantheon of New Right ‘victories’ demonstrates, it opened a window onto a world in which workers ‘free of the manipulation of union organisers’ could be encouraged towards

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<sup>44</sup> Sir Joh Bjelke-Petersen, Opening Address, *Light on the Hill: Industrial Relations Reform in Australia*, Proceedings of the Queen’s Birthday weekend conference at Mooloolaba, 6-8 June 1987, Vol. III, Melbourne: H R Nicholls Society, 1987, p.9.

<sup>45</sup> Paul Clauson, ‘The Queensland Industrial (Commercial Practices) Act’, *Light on the Hill: Industrial Relations Reform in Australia*, Proceedings of the Queen’s Birthday weekend conference at Mooloolaba, 6-8 June 1987, Vol. III, Melbourne: H.R. Nicholls Society, 1987, pp.17-23.

<sup>46</sup> Andrew Brown, ‘Voluntary Agreements Between Employers and Employees in Queensland’, *Light on the Hill: Industrial Relations Reform in Australia*, Proceedings of the Queen’s Birthday weekend conference at Mooloolaba, 6-8 June 1987, Vol. III, Melbourne: H R Nicholls Society, 1987, pp.25-9.

<sup>47</sup> Cahill, for example, locates the emergence of the New Right in the mid-1970s. Damien Cahill, ‘The radical neo-liberal movemena and its impact upon Australian politics’, Refereed paper presented to the Australasian Political Studies Association Conference, University of Adelaide, 29 September-1October 2004, p.2. Available at <http://www.adelaide.edu.au/apsa/papers/> Accessed 17 May 2012.

‘high productivity and harmonious working’.<sup>48</sup> A world devoid of trade unions was, in the late 1970s, at least, only a pipedream. But an industrial relations landscape in which moderate union officials held sway was certainly something to which employers and their supporters in government could aspire. It is with that understanding that we now turn to events at Loy Yang.

## Loy Yang

Located five kilometres south-east of Traralgon and incorporating two power plants (‘A’ and ‘B’), each with a capacity of 2000 megawatts, the Loy Yang facility was to be ‘the biggest electricity generating station in Australia’ and the largest project ever undertaken in Victoria.<sup>49</sup> It represented what Kellow contended was an opportunity to exploit the widening differential that existed between the cost of mining locally-available brown coal and the electricity that could be generated from that coal.<sup>50</sup> More importantly, it provided an opening for Victoria to share in the resources boom then being touted as Australia’s economic saviour.<sup>51</sup> Indeed, it was in this context, and because of predicted growth in demands for electricity that the SECV and the Victorian state government planned to build an additional 21 power stations across the state.<sup>52</sup> But it was in this context, too, that coverage of even a small number of workers could lead to enormous inter-union strife.

Given the huge labour force and myriad unions needed to build the complex – upwards of 2000 people were employed in the construction phase – Loy Yang naturally had the potential to generate massive industrial trouble. For that reason, the SECV was well advised to appoint an onsite industrial relations advisor. But in selecting the MTIA for that

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<sup>48</sup> Other anti-union victories celebrated by the New Right include those won at Dollar Sweets in Melbourne, Mudginberri in the Northern Territory, and the South East Queensland Electricity Board (SEQEB) dispute in Queensland. See Peter Costello, ‘The Dollar Sweets Story’, *In Search of the Magic Pudding*, Proceedings of the H R Nicholls Society Conference, Lorne, August 1988, available at <http://www.hrnicholls.com.au/archives/vol5/vol5-contents.php> Accessed 17 May 2012; Paul Houlihan, ‘A Brief History of Mudginberri and its Implications for Australia’s Trade Unions’, *Arbitration in Contempt*, Proceedings of the H R Nicholls Society Conference, Melbourne, February 1986, available at <http://www.hrnicholls.com.au/archives/vol1/vol1-contents.php> Accessed 17 May 2012; Wayne L Gilbert, ‘The Queensland Power Dispute’, *Arbitration in Contempt*, *Arbitration in Contempt*, Proceedings of the H R Nicholls Society Conference, Melbourne, February 1986, available at <http://www.hrnicholls.com.au/archives/vol1/vol1-contents.php> Accessed 17 May 2012.

<sup>49</sup> Kellow, *Transforming Power*, p.134; *Age*, 18 March 1980, p.20; *Age*, 18 March 1980, p.20; *Age*, 15 April 1980, p.5.

<sup>50</sup> Kellow, *Transforming Power*, p.132.

<sup>51</sup> A primary function of the Loy Yang power station was to provide electricity for an aluminium smelter at Portland, in western Victoria. *Ibid*.

<sup>52</sup> Forecasts suggested that demand for electricity in Victoria would treble between 1980 and 2000, and that it would double again between 2000 and 2020. *Ibid*.

role, the Electricity Commission succeeded in bringing potential difficulties to the surface. The MTIA was an employer body both with designs on moving into the construction industry and a sectional interest in promoting the fortunes of ‘tame cat’ unions such as the FIA.<sup>53</sup>

## Steel

Having secured the contract to build the Loy Yang facility, International Combustion Australia Limited (ICAL) sub-contracted EPT to design, detail, fabricate, paint, transport and erect the 30,000 tonnes of steel needed to build four boiler supporting structures.<sup>54</sup> Conducted at EPT’s factory in Marayong, NSW, the manufacturing aspects of that work came under the Metal Industry Award and the purview of the FIA.<sup>55</sup> On arrival at Loy Yang, however, the steel was to be unloaded, sorted, reloaded and locally transported by a four-man yard gang, all of whom were BLF members.<sup>56</sup> It was at that juncture that conflict between the BLF and the FIA flared, with the Ironworkers claiming that the yard gang work was properly theirs, by virtue of the fact that steel work at Loy Yang was to come under the Metal Industry Award.<sup>57</sup>

Since the FIA did not have any members on the ground at Loy Yang, it was obliged to shore up its claim for the yard gang work by placing bans at the EPT factory in NSW, with particular emphasis ‘on certain work necessary for the transport of steel to Loy Yang’.<sup>58</sup> This imposition of bans at the Marayong plant provided EPT with a trigger and a welcome opportunity to lodge a notice of dispute with the Conciliation and Arbitration Commission, not with respect to events at Marayong, but concerning the yard gang at Loy Yang. The

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<sup>53</sup> ‘AWU lines up with Fraser, multinationals’, the BL, March 1981, p.5. Whilst BLF language may have been inflammatory, it was nonetheless recognized, even by the Australian Conciliation and Arbitration Commission, that EPT, the company contracted to build the boiler houses at Loy Yang, preferred to operate solely with FIA labour. EPT was a member organisation of the MTIA. See Public Record Office Victoria (PROV), 79/857 Pt 1, VPRS 8916/P0001/192, Demarcation Dispute, Federated Ironworkers Association/Australian Building Construction Employees & Builders Labourers Federation, 1979-1980, Item 19, Mr Justice Alley, Australian Conciliation and Arbitration Commission Order, 12 March 1980, Decision notes, pp.3-4. Contractors at Loy Yang also supported the view that the MTIA pursued sectional interests at Loy Yang, rather than working to manage industrial relations there in an even-handed way. See *Age*, 30 October 1980, p.15.

<sup>54</sup> Justice Alley, ‘Draft Order, in the matter of the Federate Ironworkers Association of Australia and the Australian Building Construction Employees and Builders Labourers Federation, and in the matter of the Australian Building Construction Employees and Builders Labourers Federation and the Federated Ironworkers Association’, Australian Conciliation and Arbitration Commission, PROV, 79/857 Pt 1, VPRS 8916/P0001/192, Item 19, Decision notes, p.2.

<sup>55</sup> Ibid; Internal memorandum from Acting Manager, Industrial Relations, SECV, 8 October 1979, PROV, 79/857 Pt 1, VPRS 8916/P0001/192, Item 5.

<sup>56</sup> Alley, ‘Draft Order’, p.2.

<sup>57</sup> Internal memorandum, Acting Manager, Industrial Relation, SECV, 6 February 1980, PROV 79/857 Pt 1, VPRS 8916/P0001/192, Item 15.

<sup>58</sup> Alley, ‘Draft Order, p.4. There was no suggestion that FIA bans at Marayong affected the actual manufacturing process. EPT operations were only impacted where transportation of the finished product to Loy Yang was concerned.



purpose, it seems, was to create the impression that disagreements about which union should cover the unloading of steel in Gippsland constituted an inter-state dispute, in which EPT was the meat in the sandwich.

The matter came before the Commission on 4 May 1979. Commissioner Turbet affirmed the existence of a dispute and recommended that unloading of the steel continue whilst the case was being heard. But since the FIA had no members on site, the unloading and sorting process would in the interim continue to be carried out by BLF labour.<sup>59</sup> Gallagher's union understood, however, that the absence of FIA members from the site at that particular time would not serve as a long-term guarantee that the work would remain BLF property. They understood, too, that this was merely a prelude to the battle that would have to be fought for coverage of steel erection crews, once construction of the boiler houses got under way. But since EPT had lodged its notification of a dispute under section 25 of the Arbitration Act, there was an opportunity – which the BLF readily grasped – to appeal to the High Court of Australia for a Writ of Prohibition that might block the Commission from hearing the case. In making that appeal, the BLF hoped to show that issues at Loy Yang were not of an inter-state nature and, consequently, that the Commission did not have jurisdictional authority to conduct hearings into those matters.<sup>60</sup> An added and infinitely more promising aspect of any such appeal was that a High Court result could take as long as 12 months to materialise, during which time the BLF could firmly entrench itself as the union of choice for steel workers at Loy Yang. It was a classic example of Gallagher and his union putting into practice, one of the general secretary's most famous dictums: 'what you can't win on the battlefield, you won't win at the conference table'.<sup>61</sup>

Laurie Short and the FIA attempted, in their own way, to emulate Gallagher's tactics by maintaining bans on the transportation of steel from Marayong to Loy Yang for a further eight weeks.<sup>62</sup> But their action proved unsustainable and, by August 1979, they had decided to approach the Commission with two dispute notifications of their own; the first, a direct reversal of that which had been lodged by EPT; the second, a notification under Section 142A

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<sup>59</sup> Ibid; Internal memorandum, Acting Manager, Industrial Relations, SECV, 8 October 1979, PROV 79/857, Pt 1, VPRS 8916/P0001/192, Item 5.

<sup>60</sup> Alley, 'Draft Order', p.4; See also, Australian Conciliation and Arbitration Commission, Transcript of Proceedings, In the matter of the Federated Ironworkers Association of Australia and Australian Building Construction Employees and Builders Labourers Federation and Electric Power Transmission Pty Ltd, and in the matter of Electric Power Transmission Pty Ltd and the Federated Ironworkers Association of Australia, Melbourne, 24 September 1979, PROV 79/857 Pt 1, VPRS 8916/P0001/192, Item 3C.

<sup>61</sup> Media reports on Gallagher and/or the BLF frequently included one or more of the general secretary's aphorisms. See for example, *Herald*, 3 February 1981, p.4; *Age*, 7 June 1992, p.3.

<sup>62</sup> Alley, 'Draft Order', p.4.

– that part of the Arbitration Act concerning demarcation.<sup>63</sup> In submitting their notification of a dispute, *or* ‘an industrial situation... likely to give rise to an industrial dispute’, Short and the FIA demanded demarcation with respect to all work

performed, or to be performed, by all persons employed –

(a) By Electric Power Transmission Pty Limited or any contractor or sub-contractor bound by the Metal Industry Award, 1971

(b) On work connected with the Loy Yang Power Station, Victoria

(c) In a classification covered by Division II – Ironworking and General Clause 8, Weekly Wage Rates, of the Metal Industry Award, 1971, varied.<sup>64</sup>

When the parties met on 24 September, the BLF again argued that since the work in question was confined to Loy Yang – the union had made no claim to steel manufacturing work or to the transportation of the steel from NSW – the Commission had no jurisdictional authority to conduct hearings into or make decisions regarding matters brought before it under S25 of the Act.<sup>65</sup> An appeal to the High Court was once more invoked and Counsel for the FIA, EPT and the MTIA, which had successfully sought leave to intervene in the matter, were at the very least forced to have the S25 matters stood over.<sup>66</sup> Moreover, since S142A hearings had to be conducted by a deputy president of the Arbitration Commission, Turbet was obliged to adjourn matters until a later date. Before the case was adjourned, however, there was an opportunity for the MTIA to raise allegations about BLF intimidation and apparent recalcitrance in complying with the processes of arbitration and conciliation.

On the previous Friday (21 September), and again on the morning of the hearing, builders’ labourers at the nearby Yallourn ‘W’ site and at Loy Yang had struck in support of their union and the case it was about to make before the Commission.<sup>67</sup> These actions were, according to Counsel for the MTIA and EPT, entirely consistent with the ‘considerable history of disruption’ of which the BLF was guilty.<sup>68</sup> Assurances were sought that both Yallourn and Loy Yang would remain free of BLF industrial action for the remainder of the hearing, and whilst matters were being referred to the High Court. No such guarantees could be given. Indeed, as BLF organiser, Jim Capogreco (representing the labourers’ union)

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<sup>63</sup> Australian Conciliation and Arbitration Commission, Transcript of Proceedings, 24 September 1979, op.cit.

<sup>64</sup> Federate Ironworkers Association of Australia, letter to the Industrial Registrar, Australian Conciliation and Arbitration Commission, 13 August 1979, PROV 79/857 Pt 1, VPRS 8916/P0001/192, Item 3A.

<sup>65</sup> The FIA had lodged two submissions with the Commission; the first, under S25, mirrored that which had earlier been made by EPT.

<sup>66</sup> Federate Ironworkers Association of Australia, letter to the Industrial Registrar. Op.cit.

<sup>67</sup> Mr B Hungerford, Counsel for MTIA and EPT, Australian Conciliation and Arbitration Commission, Transcript of Proceedings, 24 September 1979, p.20.

<sup>68</sup> Ibid., p.21.

argued, builders' labourers would continue to fight on the ground to protect themselves and their union from the encroachment of 'tame cat' organisations.

The MTIA, EPT, the FIA, and the Commission were warned that the BLF would never take a backward step where coverage of workers at Loy Yang was concerned:

If the employers or the FIA think that the Builders Labourers Federation [sic] is going to stand idle while they seek to steal our membership on the side, well they are wrong. Our members, some of whom are here today, have fought hard for their conditions and they are not going to stand idle and see some other union [the Ironworkers] creep up on them... That is our position. We are going to fight, as the resolution was put on Friday, boots and all.<sup>69</sup>

Nor would the union or its members allow other organisations to concede the wages and conditions that they had won through long hard years of struggle.

We are not going to stand idle and see these other unions or employers acting in concert and try to get our membership and in some way undo what our members have done over the years with very hard struggles.<sup>70</sup>

This was no ordinary situation, Capogreco implied. It was not simply a matter of employers *supporting* the FIA in its challenge for coverage of the steel workers at Loy Yang. It was, rather, a question of *collusion* in which the employers and the Ironworkers were working hand-in-glove to foment a dispute that could be used as a pretext for pushing the BLF off the site and out of the industry.

We have never had and still do not have, as far as we are concerned, any dispute on the [Loy Yang] site. We have our members; they are happy. As far as we are concerned the only troubles we have are with the employers... [But] if now and then we have another union trying to get on to our members *and who know[s] what the aim behind that is*, then I think the members have made it plainly clear on Friday that we are not going to stand by and see that situation being corroded.<sup>71</sup>

The employers had a choice, Capogreco suggested: they could have their job completed; or they could continue to fight a proxy war against the BLF by encouraging other unions to do their dirty work for them. Either way, the BLF was ready to engage.

They are trying to claim our members and if they are now asking what our attitude to it is, well this is it: We are not conceding to that... Do not expect our members to

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<sup>69</sup> J Capogreco, Australian Conciliation and Arbitration Commission, Transcript of Proceedings, 24 September 1979, p.23.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid. (Emphasis added)

stand idle and not express their opinions because they will. If the employer is concerned with his work we want to tell the employer that the builders [sic] labourers are ready and willing to proceed, but of course it is subject to what the other unions have to say. It is up to them. They have created all this trouble; we did not.<sup>72</sup>

The case finally came before a deputy president (Justice Alley) of the ACAC on 19 November 1979 and continued intermittently thereafter until February of the following year.<sup>73</sup> By now, the dispute had expanded to cover not only the yard gang, but, as the BLF had expected, the steel erection crews who would be responsible for construction of four multi-storey boiler houses. Once again, Gallagher's union faced the interlocking arguments of legal counsel representing the FIA, EPT and the MTIA.

For their part, the Ironworkers insisted that boilers were items of plant, rather than buildings; that the structural steel being erected at Loy Yang was for the purpose of supporting the boilers and other components – i.e., its purpose was to support plant, not buildings; that boilers and the structural steel that supported them were integrated structures; and that arguments to suggest that the BLF had in the past carried out such work in the Latrobe Valley were redundant since the method of erecting boilers had changed over time.<sup>74</sup> The FIA also argued that since cost was a potential remedy under S142A of the Act, and since it was true that using BLF labour would be significantly more costly than FIA labour, coverage of the work should be given exclusively to the Ironworkers.<sup>75</sup> To demonstrate that BLF labour costs were higher than their own, the Ironworkers asked the Commission to compare costs at Yallourn, where BLF labour was being used, with those at sites such as Wallerawang in NSW, where the FIA had exclusive coverage of steel erection work.<sup>76</sup> The irony of trade union officials seeking coverage of work based on their ability to suppress the wages and conditions of union members was apparently lost on the FIA.

In supporting FIA efforts to win exclusive coverage of steel erection crews, the MTIA and EPT argued that such work came under the Metal Industry Award to which both EPT and the FIA were respondent, but to which the BLF was not respondent; that EPT were not signatories to the Building Trades Agreement under which the BLF normally operated; and that the work being carried out at Loy Yang was 'not merely rigging work, but also crane

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<sup>72</sup> Ibid., pp.23-4.

<sup>73</sup> Alley, 'Draft Order', pp.1-22.

<sup>74</sup> Internal memorandum, Acting Manager, Industrial Relations, SECV, 6 February 1980, Item 15, p.2.

<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

chasing, bolting up, and attaching handrails and grid floors.’<sup>77</sup> The MTIA and EPT also insisted that employers had certain rights when it came to selecting the type of labour they wished to utilise, and that preferences for the use of FIA labour were warranted by the plain fact that employment of BLF labour always resulted in more industrial stoppages.<sup>78</sup>

It was not unreasonable for the FIA to lay claim to work at Loy Yang – inter-union skirmishes around demarcation and representation were, as the Omega case described in the next chapter of this thesis demonstrates, an industrial reality. Less reasonable, however, was the willingness of Ironworker officials to join with employers in undermining the wages, conditions and recognition traditionally afforded riggers.

At Loy Yang, the Ironworkers and EPT agreed, only those directly responsible for the placement of steel should be defined as ‘riggers’.<sup>79</sup> In practice, this meant that just one steel erection team member – an EPT foreman – would come under that classification. The remainder would, as had been the case at the Kurri Kurri aluminium smelter site in NSW, be categorised as ‘other employees’.<sup>80</sup> At Kurri Kurri, it was claimed, FIA members did some of the work expected of certified riggers, such as slinging and un-slinging loads and bolting girders together. But that work was, in line with orders handed down by a Full Bench of the Arbitration Commission, carried out under the supervision of persons who actually held rigger certificates and who were, therefore, responsible for the work being performed, i.e. company foremen.<sup>81</sup> This meant, of course, that FIA members were generally free to operate as trades assistants/labourers, doing rigging work when required, and performing other duties as necessary.<sup>82</sup>

The Ironworkers’ willingness to accommodate multi-tasking in NSW was one thing. Introducing such arrangements into the Victorian power industry was something else. As Gallagher’s union clearly understood, once entrenched in the construction phase of power industry operations, such practices would inevitably creep further and further a-field, into those areas in which the BLF traditionally operated. The upshot would be fewer job opportunities for riggers and dogmen. It would mean, as EPT complaints to the Commission

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<sup>77</sup> Ibid.

<sup>78</sup> Internal memorandum, Acting Manager, Industrial Relations, SECV, 6 February 1980, PROV 79/857, Pt 1, VPRS 8916/P0001/192, Item 16.

<sup>79</sup> The NSW Construction Safety Act defined riggers as those responsible for ‘the placing in position of the members of a building or structure, other than scaffolding in the course of erection and for the manner of ensuring the stability of such members, for dismantling or demolishing structures, other than scaffolding or for setting up cranes and hoists.’ See Alley, ‘Draft Order’, p.15.

<sup>80</sup> ‘The Iron Workers Leadership Attacks All Riggers’, BLF (Victorian Branch) leaflet, PROV 79/857, Pt 1, VPRS 8916/P0001/192, Item 20; Alley, ‘Draft Order’, p.16.

<sup>81</sup> Alley, ‘Draft Order’, p.16.

<sup>82</sup> Ibid.

demonstrated, that employers would push to have the number of dogmen assigned to each crane lowered from as many as four to as few as one – agreements struck between EPT and the FIA provided for such arrangements elsewhere.<sup>83</sup> It would mean, too, that responsibility for occupational health and safety would be transferred directly into company hands. As the only certified rigger on the team, it would be up to the EPT foreman to determine whether working with or on wet steel was appropriate; and whether, for example, it was safe for workers to ‘place’ one piece of steel whilst others, taken up as part of a multiple lift, dangled about their heads.<sup>84</sup>

Justice Alley found FIA, MTIA and EPT arguments thoroughly unconvincing. For him, the matter was quite simple: it was not a question of demarcation, but representation. Coverage should be awarded not on the basis of the award being applied at Loy Yang, but on which union’s constitution was best equipped to cover the type of work being carried out. FIA rules provided for coverage of

... all labourers, general or special, engaged in the iron steel and metal industries... riggers and scaffolders (other than riggers on ships and riggers and scaffolders employed in shipyards, dockyards and in building operations.)<sup>85</sup>

BLF rules stated, by contrast, that the Federation should consist of

... an unlimited number of persons employed or usually employed as Builders’ [sic] labourers throughout Australia on or about any building or assisting... any tradesmen engaged in building operations; or employed on any making or construction job in wood, stone, brick, concrete, iron or steel, or combination of those or other materials incidental to building construction, and any labourer engaged in the construction... of buildings, or as scaffolder, rigger, gear hand, gantry hand or crane hand or as dogman, or as driver on all building contracts...<sup>86</sup>

Since the boiler support structures would have three sides and a roof, and since they would also have lifts, stairways and floors, they would, Alley argued, in ‘the viewpoint of the ordinary reasonable man’, appear to be entirely similar to and have many of the characteristics of conventional buildings.<sup>87</sup> It followed, he contended, that if the structures should be described as ‘buildings’, and if EPT could, therefore, be said to be engaged in

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<sup>83</sup> ‘The Iron Workers Leadership Attacks All Riggers’.

<sup>84</sup> Ibid.

<sup>85</sup> Alley, ‘Draft Order’, p.8.

<sup>86</sup> Ibid., p.9.

<sup>87</sup> Ibid., pp.12-13.

building operations, then coverage of the steel erection crews could not be awarded to the FIA; the Ironworkers' own rules made such an outcome impossible.<sup>88</sup>

BLF claims to the work did not rest solely on eligibility rules. Custom and practice also played their part. The labourers' union had enjoyed coverage of steel erection work on Latrobe Valley power stations for at least three decades and, as Alley recognised

...any departure from that practice would [have been] regarded by members of that union... as a deprivation of what they had come to regard as one of their legitimate areas of work.<sup>89</sup>

Nor was Alley ready to be swayed by emotive arguments to suggest that giving the BLF coverage of steel erection crews would result in industrial mayhem. The reality was, he insisted, that power station construction sites in the Latrobe Valley had, regardless of which unions were involved, always been prone to industrial disputation. He was 'by no means convinced that the record of the BLF in this respect' was 'significantly worse than that of the metal trade unions'.<sup>90</sup>

Alley's order, granting the BLF exclusive coverage of all labourers, scaffolders, riggers, gear hands, gantry hands, crane hands or dogmen 'in or in connection with the construction of boiler supporting structures and the erection and installation of grid floor panels and handrails' on the Loy Yang site was made on 29 February and formally handed down on 12 March 1980.<sup>91</sup> It was an outcome that all but the BLF found intolerable and one which the FIA, with considerable support from ICAL, EPT, the MTIA and the SECV, lost little time in appealing.

In lodging their petition on 14 March, the Ironworkers insisted, among other things, that Alley had erred in declaring the boiler support structures to be built at Loy Yang buildings 'within the eligibility and industry rules' of the BLF, and that he had erred in finding 'that any of the employees would be "riggers employed in building operations" within the eligibility rule of the FIA'.<sup>92</sup> Submitting a sworn affidavit in support of his union's appeal, Laurie Short insisted that the BLF would use Alley's decision as a green light to

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<sup>88</sup> Ibid., p.14.

<sup>89</sup> Ibid., p.18.

<sup>90</sup> Ibid., p.20.

<sup>91</sup> N F Dalton, Chief Engineer, Power, SECV, to heads of Queensland, NSW, South Australia, West Australian and Tasmanian electricity authorities, 19 March 1980, PROV, 79/857 Pt.1, VPRS 8916/P0001/192, Item 24.

<sup>92</sup> 'In The Matter of applications by the Federated Ironworkers' Association of Australia and the Australian Building Construction Employees and Builders Labourers Federation pursuant to Section 142A relating to Loy Yang Power Station (C Nos. 3631 and 1568 of 1979) And In The Matter of an appeal by the Federated Ironworkers' Association of Australia against the making of an Order and the refusal to make an Order in the said application', Appeal documents lodged with the ACAC on 14 March 1980, PROV 79/857 Pt 1, VPRS 8916/P0001/192.

claim similar work at power stations across Australia. Any such claims would, he warned, be strenuously resisted by the FIA.<sup>93</sup> A meeting of MTIA, ICAL, EPT and SECV senior officials held at Electricity Commission headquarters on the same day noted that the FIA would amend its rules with respect to types of workers that it could cover; resolved that the MTIA should also lodge an appeal against Alley's decision; determined that an urgent plea for support be sent to the heads of the electricity authorities in all other Australian states; and agreed to delay commencement of steel erection work at Loy Yang until such time as an appeal could be successfully made.<sup>94</sup>

FIA and MTIA applications for a stay on Alley's Order were favourably received by a Full Bench hearing of the Arbitration Commission on 1 April 1980.<sup>95</sup> When the Full Bench met three weeks later to hear the actual appeal, Sir John Moore and his fellow Commissioners granted the MTIA leave to appear before them as an 'aggrieved party'. The BLF again had an opportunity, which it readily took up, to tie matters up with a High Court injunction. It agreed that High Court proceedings should be as expeditious as possible, but as the final section of this chapter demonstrates, resolution of the BLF-FIA struggle for coverage of steel erection crews at Loy Yang ultimately turned not on High Court decisions, or even on the question of steel itself. It turned, rather, on resolution of a dispute centred round the BLF's favourite medium – concrete.

## **Concrete**

Faced with sixteen-hour days and seven-day-a-week shifts, nine concrete batchers at the Loy Yang site had, in August 1979, lodged a claim with Readymix Concrete for a special disability allowance that would see them adequately compensated both for their efforts and for the excessive amounts of time that they were expected to be away from their families.<sup>96</sup> By Easter 1980, it was apparent that Readymix was neither prepared to concede the allowance nor take on additional workers to ease the pressure under which the men

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<sup>93</sup> Laurie Short, Affidavit sworn at Sydney, 14 March 1980, and submitted 'In The Matter of applications by the Federated Ironworkers' Association of Australia and the Australian Building Construction Employees and Builders Labourers Federation pursuant to Section 142A relating to Loy Yang Power Station (C Nos. 3631 and 1568 of 1979) And In The Matter of an appeal by the Federated Ironworkers' Association of Australia against the making of an Order and the refusal to make an Order in the said application', Appeal documents lodged with the ACAC, PROV 79/857 Pt 1, VPRS 8916/P0001/192.

<sup>94</sup> Internal memorandum, Acting Manager, Industrial Relation, SECV, 24 March 1980, PROV 79/857 Pt 1, VPRS 8916/P0001/192, Item 26, p.2.

<sup>95</sup> Internal memorandum, Acting Manager, Industrial Relation, SECV, 1 April 1980, PROV 79/857 Pt 1, VPRS 8916/P0001/192, Item 29.

<sup>96</sup> 'The SEC Wastes Your Taxes', BLF flyer, December 1980, Boyd papers, Box 2, 1/13 – 1/24; *Age*, 15 April 1980, p.5.



laboured.<sup>97</sup> The batchers – all BLF members – imposed overtime bans and were dismissed on the spot.<sup>98</sup> Matters were escalated exponentially when, immediately after the Easter break, contractors at the site – Lewis Construction (Concrete Constructions), Watts, Dillingham, John Holland and the much smaller Donpra – stood down and locked out 600 workers, of whom almost 400 were BLF members.<sup>99</sup> What followed was a nine-month debacle in which blame and counter-blame were bandied about by all involved, but in which the SECV, the MTIA, employers and state and federal governments were ultimately shown to have acted callously, ineptly and irresponsibly.<sup>100</sup>

The pretext for the mass sacking and lockout was that with industrial action putting the Readymix plant out of operation, it would be impossible to proceed with the project as planned.<sup>101</sup> This was inaccurate, since Pioneer Concrete also operated a batching plant at the Loy Yang site, and that facility was not subject to industrial disputation.<sup>102</sup> But claims that work bans at the Readymix plant were responsible for large sections of the site coming to a halt were duplicitous for at least two other reasons.<sup>103</sup> Firstly, those sacked included a number of plumbers and plant (earthmoving) operators, whose work did not rely upon the availability of concrete.<sup>104</sup> Secondly, and more importantly, the decision to sack the workers had actually been taken before the concrete batchers imposed their overtime bans.<sup>105</sup>

Union officials, including Mick Clarke of the FEDFA and Des Kelly of the BWIU, were immediately suspicious. Whilst they were apparently unable to identify exactly what had occurred, Clarke and Kelly pointed to the existence of some kind of plot in which an excuse for locking out hundreds of workers had been deliberately manufactured.<sup>106</sup> Like many people across Victoria, they may have been influenced by reports then circulating to the effect that the SECV was experiencing financial difficulties and that consequently, both it

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<sup>97</sup> The matter went before a State Wages Board on five separate occasions, on each of which Readymix refused to make any concessions. ‘Loy Yang Lock-Out: Smash the Employers Lock Out Tactic, Remember its Loy Yang Today, It Could Be You Tomorrow’, BLF leaflet, April 1981, Karslake papers, Box 2.

<sup>98</sup> The concrete batchers were sacked on 3 April 1980. *Age*, 30 October 1980, p.15.

<sup>99</sup> ‘MBA target for June’, BLF flyer, May 1980, Boyd papers, Box 2, 1/13 – 1/24; ‘The SEC Wastes Your Taxes’. The lockout affected about one-third of all workers employed at the Loy Yang site. See, *Age*, 15 April 1980, p.5.

<sup>100</sup> See for example, *Age*, 30 October 1980, p.15; *Sun*, 2 December 1980, p.59. The dispute was believed to have added an additional \$300 million to the \$3 billion dollar cost of the project, making it one of the most costly industrial battles ever fought in Victoria. See *Age*, 29 November 1980, p.1.

<sup>101</sup> See for example, *Age*, 17 April 1980, p.5.

<sup>102</sup> ‘MBA target for June’. Op. cit.

<sup>103</sup> The Master Builders Association warned that hundreds more men would be sacked, if the dispute was not quickly resolved. *Age*, 15 April 1980, p.5.

<sup>104</sup> Ibid.

<sup>105</sup> *Age*, 30 October 1980, p.15.

<sup>106</sup> For Clarke’s comments, see *Sun*, 11 April 1980, p.2. For Kelly’s views, see *Age*, 15 April 1980, p.5.

and the Victorian government were seeking opportunities to temporarily shut down the Loy Yang project.<sup>107</sup> Had they been aware of discussions held at SECV headquarters the previous month, however, Clarke, Kelly and others might well have concluded that the lockout was (in some way) connected to SECV, MTIA and contractor desires to delay steel erection work on the Loy Yang boiler houses, not because of cash-flow problems, but until such time as that work could be undertaken by FIA labour.<sup>108</sup> The unavailability of concrete would naturally mean that foundation work for the boiler houses could not be completed, which, in turn, would mean that erection of the steel supporting structures could not commence, or at least not until the FIA and its supporters in government and capital could secure a victory over the BLF.

The lockout decision was made on 26 March 1980 at a meeting held on SECV premises and attended by contractors and senior managers and officials of both the Electricity Commission, and the MTIA. At that meeting, SECV assistant general manager, Jack Johnson, delivered what employers described as a ‘fire and brimstone’ speech. It was, they implied, an unmistakable declaration of war in which the BLF was the primary target.<sup>109</sup> If the contractors had any lingering doubts about what was to be achieved, they were quickly dispelled by news of the blacklist that was to be drawn up and circulated throughout the Latrobe Valley. Those who were to be locked out were, MTIA officials insisted, to be deprived of any opportunity of finding alternative work in the area.<sup>110</sup> They were to be starved into submission.

Plans to bring about BLF capitulation by this means were boosted by federal government moves to block locked out workers from receiving social security payments – a decision that was ultimately overruled by the Social Security Appeals Tribunal, but not until

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<sup>107</sup> Victorian Premier, Rupert Hamer, described the rumors as ‘absolute rubbish’. *Sun*, 12 April 1980, p.7. The SECV also denied suggestions that it was experiencing financial difficulties, but those denials were undermined by written complaints that the Australian Federation of Construction Contractors (AFCC) filed with the Electricity Commission on behalf of contractors at Loy Yang. In those submissions, the AFCC criticised the SECV’s poor payments record. *Age*, 30 October 1980, p.1. Documents leaked later in the year to the ALP and from there to the *Age* newspaper seemed to confirm that the SECV had indeed been in financial difficulty. *Age*, 4 October 1980, p.3. But evidence that the Electricity Commission was experiencing financial problems does not negate the possibility that locking out 600 workers, the majority of whom were BLF members, was also used to attack the union. If anything, it makes the decision to lock those workers out all the more sinister.

<sup>108</sup> See footnote 89.

<sup>109</sup> Contractors interpreted Johnson’s speech as an incitement to sack large numbers of workers. Johnson later claimed that he had endorsed the sackings, but only because he had been advised by the MTIA that it was the only in which the concrete batchers’ dispute could be resolved. *Age*, 30 October 1980, p.15.

<sup>110</sup> *Ibid*.

the following October.<sup>111</sup> However, any hope the employers and others party to the lockout might have had of bringing the labourers to heel in that way had, in fact, been undermined before the Loy Yang project even commenced. For in their ignorance and arrogance, the SECV and the state government had ignored Gallagher's advice that a camp be established adjacent to the Loy Yang site, not only to accommodate those working there, but to keep them in the area, should a protracted dispute occur.<sup>112</sup> It was not, of course, that Gallagher wished to do employers, the Electricity Commission, or the government any great favour; rather, he wished to avoid responsibility for resolving disputes from falling entirely on the union office – a situation that would surely arise if striking or locked out workers drifted away from the job site.<sup>113</sup>

With little to tie them to the area and with avenues to alternative employment in the Latrobe Valley largely closed off by the blacklist that had been circulated throughout the region, those who were locked out began, as Gallagher had predicted, almost immediately, to leave the area.<sup>114</sup> Within days, the pressure that employers and others had hoped to put on the BLF had all but disappeared, as the hundreds of workers who might have been made reliant on strike pay dwindled to less than 50.<sup>115</sup> Important as this was to a union that operated without a strike fund,<sup>116</sup> of greater significance was the fact that as more and more members found alternative sources of employment, any pressure that the BLF might have been under to resolve the dispute on terms favourable to employers, the state government, the SECV and the MTIA, correspondingly declined.<sup>117</sup>

Of the strategy that had been devised at the 26 March meeting, the first tactic – to isolate the BLF by having it blamed for the lockout and thus turning the tradesmen's unions against it – had already failed. Indeed, not only did other building industry unions refuse to turn on the BLF, but they in fact united with the labourers in fighting what was clearly a

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<sup>111</sup> *Age*, 30 October 1980, p.1. Legislation to prevent striking or locked-out workers from accessing social security payments had been passed by Federal Parliament in December 1979. See 'Loy Yang Lock-Out: Smash the Employers'.

<sup>112</sup> Norm Gallagher & Stewart Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*, 1992.

<sup>113</sup> Gallagher's reluctance to have responsibility for resolving a major dispute foisted entirely upon the union office was underpinned by his firm belief that the outcome of any dispute between workers and their boss had to be to the workers' satisfaction. Having once been described by Bill Kelty of the ACTU as an industrial cannibal because, in Kelty's view, there was, with Gallagher, never any sense of give-and-take, Gallagher retorted that *it* (whatever *it* might have been) was never his to give. *Ibid.*

<sup>114</sup> *Age*, 30 October 1980, p.15; *Sun*, 2 December 1980, p.59. The blacklist was not entirely successful; some men even managed to find employment with local Government bodies such as the water and sewerage board. *Age*, 5 December 1980, p.5.

<sup>115</sup> *Age*, 30 October 1980, p.15; *Sun*, 2 December 1980, p.59. See also 'Building Workers Action Decisive', BLF flyer, June 1981, Karslake Papers, Box 2.

<sup>116</sup> Stephen Creigh *et al*, Appendix A, A17.

<sup>117</sup> *Age*, 30 October 1980, p.15; *Sun*, 2 December 1980, p.59.

common enemy – a combination of employers, the state government, the SECV and its industrial relations advisor, the MTIA.<sup>118</sup> With the locked out workers streaming out of the Valley, the employers, the Electricity Commission, the MTIA and the state government were now not only unable to divide the workers, but were, in fact, at the mercy of Gallagher and his union. The BLF general secretary intended to ‘impose a penalty’ on those responsible for sacking his members and attempting to crush the union.<sup>119</sup> But more importantly, as the final outcome would prove, he had been handed a mechanism to determine the result of the fight that his union was having with the FIA over coverage of steel erection crews at Loy Yang.

At Newport, the state government, the SECV, and the MTIA had so successfully managed to circumvent Trades Hall bans that they had managed to build that project under budget and ahead of schedule. Indeed, where industrial relations were concerned, they had enjoyed what *Sun* journalist, Ben Ainsworth, described as ‘a virtual dream run’.<sup>120</sup> So sweet had life been at Newport, in fact, that the MTIA had actually appeared before the Arbitration Commission to argue *for* a \$19 a week pay rise for its ‘volunteer’ labour force.<sup>121</sup> At Loy Yang, however, they came up against what Ainsworth accurately described as ‘a seasoned bunch of construction workers experienced in the art of industrial brinkmanship’.<sup>122</sup> And in Gallagher, they confronted a union leader who was never afraid to press home his advantage. What Ainsworth might have added was that Gallagher and the BLF rarely if ever confined themselves to fighting on other people’s terms, or at locations that others had chosen. The latest battle might have begun at Loy Yang, but it quickly spread.

First to feel Gallagher’s wrath were the employers. The ‘big three’ at Loy Yang – Watts, Lewis Construction, and John Holland – came in for special attention.<sup>123</sup> Across Melbourne, major projects, including Collins Place, the Victorian Arts Centre, the World Trade Centre and the Melbourne underground railway, were targeted as labourers staged lighting strikes and work bans, often leaving half-finished concrete pours in their wake.<sup>124</sup> The labourers were going in ‘boots and all’, Gallagher warned, with the objective of bringing

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<sup>118</sup> Ibid. Metal trade unionists in the Latrobe Valley were also unimpressed with what they saw as political interference in an industrial dispute. A meeting of 1500 metal workers condemned the lockout and what they saw as the Government’s attempt to protect the SECV by shutting down the Loy Yang site. See, *Sun* 12 April 1980, p.7.

<sup>119</sup> *Age*, 30 October 1980, p.15.

<sup>120</sup> Ben Ainsworth, ‘A tale of two sites’, *Sun*, 2 December 1980, p.59.

<sup>121</sup> *Sun*, 2 December 1980, p.59.

<sup>122</sup> Ainsworth, ‘A tale of two sites’, *Sun*, 2 December 1980, p.59.

<sup>123</sup> *Sun*, 17 April 1980, p.21.

<sup>124</sup> *Age*, 17 April 1980, p.5; *Sun*, 17 April 1980, p.21; *Sun*, 19 April 1980, p.15; *Sun*, 22 April 1980, p.15.

about a resolution of matters at Loy Yang.<sup>125</sup> Contractors must not be allowed to think that they could ‘behave like bastards at Loy Yang and have their other jobs left in peace’, Gallagher fumed.<sup>126</sup> But if the BLF was quick to begin softening up the employers, the union was equally keen to pile pressure on the state government. It was in that context that Gallagher scuttled government plans to redevelop Melbourne’s Victoria Market.<sup>127</sup>

The Victoria Market site certainly had considerable historical value, and was unquestionably significant where community use and heritage were concerned. For that reason, Labor Member for Melbourne, Keith Remington, was quickly able to compile a 43,000 strong petition against the redevelopment.<sup>128</sup> As a popular and affordable source of fresh vegetables and other foodstuffs, the Market and the battle to save it were clearly tailor-made for the kind of green ban action in which the BLF often engaged. It was, as Gallagher argued, ‘a people’s market’.<sup>129</sup> Yet there is no denying that banning work on the site also provided Gallagher’s union with an opportunity to squeeze a state government with which they were in major dispute.<sup>130</sup>

The government and the SECV were not without weapons of their own. In May, the Hamer administration succeeded in having a ‘bans clause’ inserted into the labourers’ Victorian Award. But it proved both short-lived and unsuccessful – it was withdrawn the following month, thanks to ‘united and determined action on the job’, Gallagher’s euphemism for bringing building companies to their knees.<sup>131</sup> A longer-lasting tactic was a secret agreement that the government and the SECV struck with employers, in which the contractors were paid 50 percent of their overheads without having to do any work.<sup>132</sup> But that also proved unsustainable. By comparison with what was to come when Labor took on the BLF, the Liberals of the early 1980s were, at least where the war against the union and bankrolling of employers in that war was concerned, both amateurish and tentative.

The signs had been ominous almost from the beginning. By July, however, it seemed increasingly likely that employers would be left one-out against the BLF. For it was at that point, and under cover of an agreement termed ‘procedures for resolution’ that the

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<sup>125</sup> *Sun*, 17 April 1980, p.21; *Sun*, 22 April 1980, p.15.

<sup>126</sup> ‘Loy Yang Lock-Out: Smash the Employers’.

<sup>127</sup> *Sun*, 19 April 1980, p.11.

<sup>128</sup> *Ibid.*

<sup>129</sup> *Ibid.*

<sup>130</sup> Boyd hinted that bans on redevelopment of the Victoria Market were connected both to disputes at Loy Yang, and to the strategy of ‘permanent disruption’ that Gallagher employed to fend off Victorian (Liberal) Government attacks being made against the BLF through the Winneke Royal Commission. Boyd, *Inside the BLF*, p.35.

<sup>131</sup> See ‘Building Workers Action Decisive’.

<sup>132</sup> *Age*, 30 October 1980, p.15.

government and the SECV extricated themselves from frontline negotiations.<sup>133</sup> In removing themselves from direct negotiations, the government and the SECV also agreed that they would abide by any agreement reached before the Arbitration Commission.<sup>134</sup> In other words, were the matter to go before the Commission, and were the Commission to find in favour of the BLF, neither the government nor the SECV would lodge an appeal. In that situation, the MTIA would be left every bit as hamstrung as the employers.

The government, the SECV, the MTIA and the employers were clearly on the back foot, but Gallagher was not inclined to release the pressure. By October, the cost of maintaining the fight was rapidly escalating and the state was looking for an escape route. The government and the SECV turned on employers and suddenly terminated perhaps the only thing keeping the contractors in the battle – the secret payments that had enabled them to keep their plant and equipment at Loy Yang lying idle.<sup>135</sup> Having delivered the ‘fire and brimstone’ speech that propelled employers into sacking and locking out hundreds of workers, assistant general manager, Johnson, informed reporters:

I must be brutal. There has been irresponsible management at the contractor level. Irresponsible and inexperienced. They caused the dispute. We endorsed the sacking decision in that it was recommended as the only way they could resolve the dispute. But they have not been working hard enough to solve it. We believe we have given them adequate support.<sup>136</sup>

Johnson’s statement was weasel-like; the Minister for Minerals and Energy, Jim Balfour, had months earlier admitted to Parliament his knowledge of an SECV memo in which contractors had been directed to lock out Loy Yang building workers.<sup>137</sup> The employers had every reason to be bitter at what they saw as the SECV’s desertion of agreements made at the 26 March meeting.<sup>138</sup> But as the conspirators continued to turn on each other, it was clear that worse was yet to come.<sup>139</sup>

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<sup>133</sup> Ibid.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid.

<sup>136</sup> *Age*, 30 October 1980, p.15.

<sup>137</sup> Balfour made his admission on 15 April 1980. He attempted to back-pedal on his admission in late September, but it was clearly a case of trying to shut the stable door long after the horse had bolted. See *Age*, 4 October 1980, p.3.

<sup>138</sup> *Age*, 30 October 1980, p.15.

<sup>139</sup> Johnson’s criticisms of the contractors and the role they played in staging the ill-considered lockout were, in turn, leveled against his own organization. Days after the Loy Yang peace deal had been announced, Premier Hamer suggested that the SECV needed to have a long hard look at itself, and that it needed to urgently address its approach to project management, not only at Loy Yang, but throughout the Latrobe Valley. Rupert Hamer, quoted in *Age*, 29 November 1980, p.1.

Details of the secret meetings and secret payments that had been used to shore up the attack on the BLF began to emerge on 30 October 1980.<sup>140</sup> Less than a month later, on 25 November, there came what could only be described as an absolute bombshell. In a severely embarrassing capitulation, the state government announced that not only would the 600 workers be reinstated, but that they would receive pay increases of between \$24 and \$27 a week, and ‘hardship payments’ running into thousands of dollars.<sup>141</sup> The government’s euphemism fooled no one; what it sought to pass off as ‘hardship payments’ were, in reality, payments for lost time that amounted to \$12,000 per locked out worker.<sup>142</sup> The labourers needed only one more thing to complete their Christmas cheer: an end to the beer strike that was threatening to make Victoria a ‘dry’ state.<sup>143</sup>

When the lockout commenced in April 1980, men had left to find work in places as far a-field as New Guinea. By early December, they were already drifting back, both to increased wages and the promise of hefty lump sum payments.<sup>144</sup> But the men were not the only winners, since the government had, to its chagrin, also agreed to reimburse the BLF and other affected unions for strike pay handed out during the dispute. Whilst the labourers’ union had been forced to make those payments to significantly fewer members than the employers, the SECV, the MTIA and the government had initially anticipated, it nevertheless stood to reap as much as \$100, 000 in damages.<sup>145</sup> But the real *coup de grâce* was that in agreeing to end the lockout, the government and the SECV were forced also to agree that work on boiler house steel erection at Loy Yang would be allocated according to past custom and practice.<sup>146</sup> It would, in other words, be done by BLF labour.

The lockout and the deal to end it added an estimated \$300 million to the cost of building Loy Yang.<sup>147</sup> Of greater significance, however, was the political embarrassment that

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<sup>140</sup> See *Age*, 30 October 1980, p.1; p.15.

<sup>141</sup> *Age*, 25 November 1980, p.1. The concrete batchers at the centre of the dispute were to receive a pay rise of \$28 a week. *Age*, 29 November 1980, p.1. Other reports suggested that pay rises ranged from \$22 to \$40 a week. See *Australian*, 2 December 1980, p.59.

<sup>142</sup> *Sun*, 2 December 1980, p.59; *Age*, 5 December 1980, p.5.

<sup>143</sup> See *Age*, 5 December 1980, p.5.

<sup>144</sup> *Ibid.*

<sup>145</sup> *Australian*, 2 December 1980, p.59.

<sup>146</sup> Settlement also included agreement to abide by an Arbitration Commission decision concerning a demarcation dispute in which the BLF and the Australian Workers Union (AWU) were involved, and in which the issue was which union should have coverage of foundation work for a coal conveyor at Loy Yang. *Age*, 25 November 1980, p.1.

<sup>147</sup> *Ibid.*

stemmed from what was a disastrously failed attempt to isolate and seriously damage the BLF.<sup>148</sup>

Having done its bit to aid the encirclement of Gallagher's union, the federal government was incensed to see the BLF emerge not only unscathed, but stronger and probably richer to boot. Indeed, not only had the union come away from the lockout in good shape, but Gallagher had also found a way to entrench his union in the energy resources sector by tying together the settlement of the concrete batchers' dispute with the steel erection row. Federal Industrial Relations Minister, Andrew Peacock, attempted to sidestep any blame that might come his way by suggesting that the employers and the Victorian government had been 'equally at fault in their response to union action'.<sup>149</sup> The outcome was a 'sorry situation', Peacock insisted, and one that could not be supported by the Fraser administration.<sup>150</sup> Joining with employers, he attacked Premier Hamer for what they insisted was the establishment of a dangerous industrial precedent.<sup>151</sup> The settlement and particularly that part of it which pertained to lost time payments would, Peacock and the employers argued, act as a trendsetter for union militancy and erode the credibility of the Arbitration Commission whose job it would be to rubber stamp the deal.<sup>152</sup> But if the agreement threatened to diminish the integrity of the Arbitration Commission and the system of arbitration itself, it also posed what Peacock acknowledged was a serious threat to the federal government's industrial relations and wages policies.<sup>153</sup>

The major focus of this chapter has been to describe and analyse two interlocking disputes that occurred during construction of the Loy Yang power station in Victoria, during the late 1970s and early 1980s. Those disputes, which were back-grounded by significant shifts in the Australian political, industrial and economic landscapes, represented what this chapter has suggested were vigorous attempts to keep the BLF out of the burgeoning mining, energy and resources boom on which Australia's economic recovery was seemingly reliant. The chapter has also suggested that insofar as efforts to lock the labourers' union out of the boom involved the coming together of state and federal governments, a major employers' organization, a state electricity commission and a rival trade union, they also represented

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<sup>148</sup> Boyd argued that the extraction of lost time payments at Loy Yang – what the Hamer regime preferred to call 'hardship payments' – caused 'severe heartache', both for the employers and for the Liberal Government. It was, Boyd argued, 'a stinging defeat', for which the 'powers that be' were never to forgive Gallagher. Boyd, *Inside the BLF*, p.22; p.27.

<sup>149</sup> *Age*, 29 November 1980, p.1.

<sup>150</sup> *Ibid.*

<sup>151</sup> *Australian*, 2 December 1980, p.59.

<sup>152</sup> *Ibid.*

<sup>153</sup> *Age*, 29 November 1980, p.3.



serious developments in a project of industrial and political encirclement of the BLF. The next chapter of this thesis will deal primarily with a closely related dispute in which the BLF and the FIA again clashed: the struggle for coverage of a small number of riggers at the Omega navigational base in South Gippsland. In focusing on that confrontation, the following chapter will further develop the theme of encirclement. It will also illuminate the precise conditions under which federal and state governments determined to pursue deregistration of the BLF.

## Chapter Eight

### Signalling Intent

By the early 1980s, hopes of economic recovery in Australia had turned all eyes towards a promising mining, energy and resources boom. 'If even a small portion of the government's much-touted \$29 billion worth of development projects' got underway, Bob Carr argued, Australia would be 'hit with a desperate shortage of skilled tradesmen' and that, he suggested, 'would give the tradesmen's unions much greater bargaining power'.<sup>1</sup> Implicit in Carr's statement was that unions would have an opportunity to break free of the wage constraints that had heavily damaged their members' pay packets from 1975 onwards.<sup>2</sup> Also implicit in Carr's assertion was the opportunity that increased employment would provide for union growth, not only for tradesmen's unions, but for those covering labourers as well. Since much of the mining and energy boom was to be centred on NSW and the Hunter Valley in particular, there would be, moreover, an opportunity for the BLF to claw back some of the membership losses that it had suffered in NSW in the early to mid-1970s. During that time, the focus of the NSW branch had been so intensely upon Sydney, Green Bans, and power struggles with Gallagher and the federal office of the BLF, that recruiting and servicing members in other areas of the state had all but stopped.<sup>3</sup>

In the Hunter Valley, construction unions, including the BLF and the AWU, engaged in a 'battle to the death'.<sup>4</sup> At Eraring, on the shores of Lake Macquarie, Dillingham Australia, which had been contracted to build the chimney stack for a coal-fired power station, were caught in the crossfire. The BLF threatened to disrupt other Dillingham projects around Australia, unless there was a significant increase in the number (38) of its members employed onsite. The AWU, which had more than 400 Eraring workers on its books, also threatened to sever concrete supplies should any such increase in BLF presence occur at its expense.<sup>5</sup> "We're sick to the back teeth of you weak-kneed employers backing down before BLF blackmail and thuggery at the expense of

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<sup>1</sup> *Bulletin*, 5 August 1980, p.52.

<sup>2</sup> See Chapter Seven, this thesis.

<sup>3</sup> Whilst it is acknowledged that BLF membership grew overall during the 1974-1976 period of deregistration, the union nevertheless claimed that membership in NSW had, in the period 1972-1975, declined from 9000 members to 4000 members. 'On Expelled Persons, ABLF Rank and File Dossier, 1981, Brian Boyd papers, Box 2, January 1981 folder. See also, *Business Review*, 30 November – 6 December 1980, p.12.

<sup>4</sup> *Business Review*, 30 November – 6 December 1980, p.12.

<sup>5</sup> *Ibid.*

our members and the community generally””, Charlie Oliver allegedly informed Dillinghams.<sup>6</sup> It was a predictable response from a union leader whose members’ pay and conditions always lagged behind those of their BLF counterparts.<sup>7</sup> And, as journalist Ross Greenwood implied, it was a response that was also calculated to mask the empire building that Oliver and the AWU had been engaging in across rural NSW, particularly when the BLF had been preoccupied with internal conflict.<sup>8</sup>

At Eraring, as elsewhere, occupational health and safety became not only an issue around which builders’ labourers could agitate for an increased presence, but also one which was, given the appalling record of that particular site – eight workers dead and scores injured in a three year period – totally legitimate.<sup>9</sup> What might present itself as a demarcation dispute or an attempt at ‘body-snatching’, Stewart Harris argued, also had to be understood as ‘a serious attempt to make sure that Australian workers were protected from injury and exploitation by a tough union’ that insisted upon ‘the highest safety standards and the highest rewards for the skill and labour of its members’.<sup>10</sup> When the BLF sought to impose itself on mining and resource-related construction sites, it sent a message, both to Australians and to employers, whether foreign or locally owned, ‘that the interests of Australian workers and their families must be considered by their *strongest* trade-union representatives as the *prime* component in all initial planning’.<sup>11</sup> Yet the struggle for membership and the need or desire to lock the BLF out of the growing mining and resources sector was clearly more important to unions such as the AWU and the BWIU which, together with six other unions, formed an anti-BLF bloc centred round Trades Hall in Sydney.<sup>12</sup> The alliance existed, Carr contended, ‘specifically to combat BLF influence’ and ‘Plans for a merger of the NSW AWU and the BWIU’, that fed into the formation of the eight union alliance, were

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<sup>6</sup> *Bulletin*, 12 August 1980, p.33.

<sup>7</sup> Creigh *et al*, suggested that in the early 1980s, for example, AWU members were ‘generally paid about \$50 a week less than the BLF for similar unskilled work on civil engineering projects.’ Creigh *et al*, *Aspects of industrial relations*, p.22.

<sup>8</sup> *Business Review*, 30 November – 6 December 1980, p.12.

<sup>9</sup> BLF leaflet, ‘Dig Deep – To Support BLF Pickets’, 29 September 1981, Boyd Papers, Box 2, 1/13-1/24.

<sup>10</sup> Stewart Harris, ‘The BLF – A Personal View, 2’, *Canberra Times*, 28 July 1982, p.28. This was the second of three articles that Harris wrote about the BLF, and which were published in the *Canberra Times* on 27, 28, and 29 July 1982. The three articles were later published in booklet form by the NSW branch of the BLF. ‘From the *Canberra Times*: The BLF, a personal view’, Sydney: ABCE&BLF NSW Branch. A copy of the booklet is located in the Brian Boyd collection at the University of Melbourne Archives. Boyd papers, Box 66, 15/12-15/15.

<sup>11</sup> *Ibid.* (Emphasis added)

<sup>12</sup> *Business Review*, 30 November – 6 December 1980, p.12; *Bulletin*, 12 August 1980, p.33.

‘specifically directed at elbowing the BLF out of NSW building sites’.<sup>13</sup> Taken to their final conclusion, the *Bulletin* suggested, these developments could result in the destruction of the BLF as an industrial force.<sup>14</sup> It was, in retrospect, a chillingly prescient remark.

The struggle for supremacy at Eraring was repeated again and again across not only NSW, but the whole of Australia.<sup>15</sup> Gallagher claimed through a Federal Management Committee leaflet that the AWU and the FIA in particular were conspiring with multinational corporations, the federal government and the Arbitration Court to lock his union out of the resources boom. In NSW alone, the AWU was complicit in anti-BLF activities at Tomago, Koorangang Island, Bayswater Power Station, the Saxonvale coal washing facility at Singleton, and the ICI petrochemical plant in Sydney.<sup>16</sup>

At Tomago on the northern shores of the Hunter River near the city of Newcastle, companies such as Dravo, Citra, and White Industries (all USA) were, together with the Australian company, Hornibrook, engaged in building an aluminium smelter. Workers starting at that site were told that membership of the AWU was non-negotiable.<sup>17</sup> Indeed, the lead company, Dravo, refused – contrary to Arbitration Commission recommendations – even to meet with, talk to or afford BLF officials entry to the site.<sup>18</sup> The attitude of the Dravo corporation was entirely consistent with what Melbourne activist and BLF stalwart, Dave Kerin, suggests was the arrival of a new paradigm: a situation in which international capital began to look beyond the opportunities for growth that imperialist adventures such as that in Vietnam had erroneously promised; a set of circumstances in which the protection of profits entailed waging war on the post-World War II gains that the international working classes had made.<sup>19</sup> In Australia, this meant taking on those organisations which most successfully represented working class interests and advances. Since the BLF was, on any number of levels, one of the most successful trade unions in Australia, it was, Kerin argues, logical that it would be among the first to be attacked.<sup>20</sup>

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<sup>13</sup> *Bulletin*, 17 February 1981, p.22.

<sup>14</sup> *Bulletin*, 12 August 1980, p.33.

<sup>15</sup> BLF literature suggested that during 1981 alone, the union was involved in 30 demarcation disputes involving either or both the FIA and the AWU. ‘Your Union and You’, Butlin Archives, Z398/50.

<sup>16</sup> ‘Dig Deep – To Support BLF Pickets’.

<sup>17</sup> *Ibid.*

<sup>18</sup> ‘Tomago Dispute: Allegations of “poaching” cop well-earned roast’, BLF flyer, October 1981, NBAC Z398/50.

<sup>19</sup> Personal conversation with Dave Kerin, 1 August 2011.

<sup>20</sup> *Ibid.*

Upon recognising that they had indeed signed on with what the BLF pejoratively referred to as Australia's Weakest Union<sup>21</sup> – and that because 'bosses men' were appointed rather than elected union delegates, there would be no possibility of onsite action overcoming that weakness – dozens of Tomago workers, including Len Brown and Duke Eketone, tore up their AWU tickets and switched their allegiance to the BLF. They were sacked on the spot and pickets were immediately established.<sup>22</sup> The AWU, Eketone and Brown suggested, was 'more concerned with keeping the BLF out [of Tomago and the resources sector] than with winning things for its members'. Indeed, the picketers argued, the BLF rival was willing to keep its members' pay and conditions at levels acceptable to the employers, and was willing to overlook safety concerns because demanding improvements in that area would pose a threat to the profits of companies such as the Dravo corporation.<sup>23</sup> The parallels that could be drawn between the AWU and unions such as the FIA – if only on the basis of arguments that the Ironworkers mounted during the struggle for coverage of steel workers at Loy Yang in Victoria – were all too obvious.

It might be tempting to suggest that contentions put forward by picketers such as Eketone and Brown were little more than BLF propaganda. They appeared, after all, in leaflets that Gallagher authorised for publication. Yet it was recognised, even in the business press, that if the AWU failed to hold its line in the Hunter Valley, its membership across Australia would 'almost certainly dwindle'.<sup>24</sup> Pointing to the role that personality could and did play in struggles between unions such as the AWU and the BLF, Ross Greenwood of *Business Review* argued that AWU state secretary, Charlie Oliver, would 'not... give an inch', because all he had worked for over many long, hard years was at stake. Conversely, for Gallagher, victory in the Hunter would see him become general secretary of the most powerful building and construction union in Australia.<sup>25</sup>

Events in NSW mirrored those in Victoria, where the BLF clashed heavily with federal and state governments, statutory authorities and employers, as well as with unions such as the FIA. Front and centre of the war in Victoria was, as the previous chapter demonstrated, a battle for coverage of steel workers building the Loy Yang power station. Construction of the Omega

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<sup>21</sup> 'Dig Deep – To Support BLF Pickets'.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> *Business Review*, 30 November – 6 December 1980, p.12.

<sup>25</sup> Ibid.

navigational tower in South Gippsland became another locus of battle and, once again, it was the FIA that provided the opposition.

## Omega

Mooted shortly after Malcolm Fraser came to power, the Omega facility was to be the eighth and final link in an international navigational system.<sup>26</sup> To begin with, Gallagher and the BLF had declared the project 'black'. At that time, Alan Reid suggested, 'the US was No.1 hate for all three of Australia's Communist parties', and Omega represented 'another manifestation of US imperialism, structured to service US atomic submarines and hence likely to turn Australia into a nuclear target in any outbreak of hostilities'.<sup>27</sup> But for the Peking-aligned Gallagher in particular, Reid suggested, the Soviet invasion of Afghanistan on Christmas Eve, 1979, changed everything. Suddenly, there was a need for American protection – the Russians were coming and all that could be done to stop them had to be done. To that end, Reid implied, not only did Gallagher no longer object to Omega, but in keeping with the political line in Peking, he insisted on doing his bit to ensure that BLF members contributed to Australia's defence.<sup>28</sup> It was colourful stuff, and it provided the media with opportunities to put an international twist on what otherwise might have been a relatively small demarcation dispute involving the BLF and the FIA. But emphasising Gallagher's *volte-face* on the project and tying it to international events also provided a smokescreen behind which the true implications of the Omega dispute could be concealed. The

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<sup>26</sup> *Age*, 6 January 1981, p.1. The tower at Woodside was to form part of a chain that included towers in Norway, Liberia, Réunion island in the Indian Ocean, Argentina, Japan and the United States. International Maritime Organization, 'Information on the Omega Radionavigation System', Ref. T2/6.01, 14 January 1993, available at [http://www.navcen.uscg.gov/pdf/marcomms/imo/SN\\_Circulars/SN%20Circ158.pdf](http://www.navcen.uscg.gov/pdf/marcomms/imo/SN_Circulars/SN%20Circ158.pdf) Accessed 10 April 2012.

<sup>27</sup> Alan Reid, 'Tough test for Peacock as Omega fight looms', *Bulletin*, 27 January 1981, p.20. Arguments mounted against Omega and carried in BLF literature were not quite as simplistic as Reid implied. The 1977 edition of *The Federation*, for example, contained a two-page article in which the possibility of America and the Soviet Union exchanging tit-for-tat strikes against 'remote' installations was discussed. Rather than launch direct strikes against each other, *The Federation* suggested, the Americans and the Soviets might, in an escalating conflict, opt to demonstrate their respective capabilities by attacking installations and allies such as Omega and Australia, or, where Soviet bases were concerned, parts of Africa or Cuba. *The Federation*, 1977, pp.45-6, NBAC N130/2036, Folder S319.

<sup>28</sup> The *National Times*, for example, suggested that 'the attitude of the BLF and other Australian Maoists changed... when Peking revised its assessment of the world situation. Adopting the Chinese line that the Soviet Union, not the US, was the main imperialist aggressor, they accepted the necessity for Omega.' *National Times*, 25-31 January 1981, p.12. This actually ran counter to Gallagher's explanation, included in a later edition of the same newspaper that whilst the union had initially opposed the tower on principle, it had changed course because the majority of BLF members were against withholding labour from the site. *National Times*, 8-14 February 1981, p.26.

real question to be answered was whether erection of a steel tower constituted building work.<sup>29</sup> The response would help determine whether Gallagher's union had a role to play in the promised mining and energy resources boom.

BLF members had, in fact, been working at Omega prior to the invasion of Afghanistan – the tower required a concrete base on which to sit, and coverage of that and associated anchorage work, which began early in 1979, had fallen to Gallagher's union.<sup>30</sup> It was only over the Christmas 1979-80 holiday period, that Electric Power Transmission Pty Ltd (EPT) – the same company responsible for building the boiler houses at Loy Yang – began moving rival FIA members on to the site.<sup>31</sup> Work commenced on building the tower proper in February 1980 and was scheduled for completion by July of that year.<sup>32</sup> But by early March, with BLF and Painters Union<sup>33</sup> pickets firmly entrenched, the project began to be starved of equipment and material. Work stopped completely on 11 April with 127 metres of the 427 metre tower completed.<sup>34</sup>

It took 15 months, two Full Bench Arbitration Commission hearings and a High Court challenge for the Omega dispute to be finally resolved in favour of the BLF.<sup>35</sup> Throughout that time, governments, sections of the media and, of course, the FIA accused Gallagher and the BLF of every conceivable sin.<sup>36</sup> That matters were being pursued through legitimate channels – the Arbitration Commission and the High Court – mattered not. The problem, where Gallagher's enemies were concerned, was that neither he nor his union would accept arguments to suggest

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<sup>29</sup> Emphasising the international political dimensions of the Omega dispute and placing Gallagher's about-face on those also conveniently ignored the fact that whatever Gallagher's allegiances to Peking, he had, as General Secretary of the BLF, a duty to observe the wishes of his members, particularly when they opposed withholding BLF labour from construction of facilities such as Omega. This was a point made by Gallagher himself, but usually overlooked in the mainstream media. See, for example, *National Times*, 8-14 February 1981, p.26.

<sup>30</sup> *Sun*, 2 February 1981, p.3; *BL*, March 1981, No.3, p.4.

<sup>31</sup> 'Omega', BLF notice, *Age*, 9 February 1981, p.9; The *BL*, No. 3, March 1981, p.4, Boyd papers, Box 2, 1/13-1/24. The *BL* was published by the NSW branch of the ABCE&BLF.

<sup>32</sup> *Bulletin*, 27 January 1981, p.20. Other reports suggested that late 1980 had been the nominated completion date. See for example, *Sunday Press*, 11 January 1981, p.1.

<sup>33</sup> The Painters' Union picketed Omega because, in a deal struck before the Arbitration Commission between the FIA, the Metal Trades Industry Association, Electric Power Transmission Pty Ltd (EPT), the Ironworkers were also to have coverage of workers employed to paint the tower. 'Building workers stand up to FIA', 1980, NBAC Z398/50.

<sup>34</sup> *National Times*, 25-31 January 1981, p.12.

<sup>35</sup> *Age*, 24 June 1981, p.3.

<sup>36</sup> Fraser branded the BLF "the most outrageous union" ever seen in Australia. Malcolm Fraser, cited in 'Police put guard on site', *Age*, 31 January 1981, p.4; The *Bulletin* magazine suggested that the establishment of BLF pickets at Omega was 'completely contrary to trade union tradition under which picket lines are established to embarrass employers', *Bulletin*, 27 January 1981, p.21; Harry Hurrell, acting FIA national secretary for much of the dispute, frequently labeled Gallagher and the BLF as thugs and extortionists. *Age*, 31 January 1981, p.4, *Sun*, 3 February 1981, p.5. Such accusations also found their way into newspaper editorials. See for example, *Herald*, 3 February 1981, p.4.

that builders' labourers had no business at Omega, once the concrete base and anchorage works had been completed.<sup>37</sup>

Whether the BLF had any right to cover workers building the Omega tower could arguably be determined by whether that union had traditionally been involved in similar projects. There was ample evidence to demonstrate that this had indeed been the case. BLF riggers had in the 1930s built two 700 foot radio masts at Sydenham, west of Melbourne, for radio stations 3LO and 3AR. And in 1963, they had been exclusively employed by EPT to erect the Channel 'O' (SBS) tower at Mount Dandenong.<sup>38</sup> In addition, builders' labourers had erected the Channel Seven television mast in Melbourne, had built a communications mast on top of the Russell Street police station, and had constructed a communications tower atop the *Herald/Sun* building, also in Melbourne.<sup>39</sup> Arguing that BLF members had also built an American satellite communications disc at Watsonia army barracks, the union suggested, not unreasonably, that the 'true position' was that the building of communications towers had always been the work of builders' labourers.<sup>40</sup>

Efforts to resolve the dispute initially fell to the Arbitration Commission where, in July 1980, Justice Marks declared that the tower was not, in his opinion or that of experts, 'a building' which would come within the scope of BLF operations. He duly awarded coverage of the site to the FIA.<sup>41</sup> A Full Bench hearing conducted four months later upheld Marks' judgment.<sup>42</sup> Gallagher rejected both verdicts and took his union's case to the High Court of Australia.<sup>43</sup> Peter Nolan, secretary of the ACTU, also sought to settle the row, but in terms that might be agreeable to both sides. He suggested, and Gallagher indicated agreement, that riggers employed at Omega could, for that job and that job alone, hold simultaneous memberships of the BLF and the FIA.<sup>44</sup> It was an arrangement that had been used to settle demarcation disputes elsewhere, not at ACTU

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<sup>37</sup> The *Age* newspaper, for example, had no hesitation in suggesting that Omega was 'a metal construction and [therefore] the rightful property of the ironworkers.' *Age*, 31 January 1981, p.4. 'Rightful property' was, of course, a curious description of FIA connections to Omega, since it not only conferred upon that union the right to cover workers engaged on the project, but indeed ownership of the project itself.

<sup>38</sup> 'Communication Towers are BL's Work: A statement by the Executive of the ABCE&BLF (Vic Branch)', 3 February 1981, Boyd Papers, Box 2, February 1981 folder.

<sup>39</sup> 'Omega', BLF advertisement, *Age*, 9 February 1981, p.9.

<sup>40</sup> 'Communication Towers are BL's Work'.

<sup>41</sup> *National Times*, 25-31 January 1981, p.12.

<sup>42</sup> The Full Bench decision was handed down on 5 November 1980. *Ibid.*

<sup>43</sup> *Sun*, 6 February 1981, p.15.

<sup>44</sup> *Sun*, 3 February 1981, p.5.



or Arbitration Commission insistence, but as a gesture of goodwill made by the BLF itself.<sup>45</sup> The FIA would have none of Nolan's peace efforts; his suggestion was rejected not once, but on five separate occasions.<sup>46</sup> Where the FIA was concerned, acting national secretary, Harry Hurrell explained:

Any suggestion that [FIA] members take out dual union membership tickets would be regarded... as tantamount to asking our members to pay protection money to a gang of thugs.<sup>47</sup>

Gallagher and the BLF were pursuing rights to cover workers at Omega through legitimate channels – the Arbitration Commission and the High Court – and the ACTU was of the view that the dispute could be resolved

... based on the premise that any settlement... would be isolated from awards and agreements regarding manning of any other construction site in Victoria... that any agreement on the Omega site would not be regarded as a precedent for any other construction sites.<sup>48</sup>

The FIA, however, preferred to see the Omega case as one of 'law versus thuggery'.<sup>49</sup> In explaining that the FIA did not relinquish its coverage, Hurrell insisted:

We never have and we never will [give our work away]... if he [Gallagher] intends to try to do our work or try and get our members into his union, he will get nowhere. So far, we see the dispute as being law versus thuggery and we do not intend to bow to thuggery, now or ever.<sup>50</sup>

Allegations of thuggery are common wherever trade unions are found, and they are particularly prevalent where building industry unions are concerned. Hurrell's virulent remarks and implications were echoed by his superior, FIA national secretary, Laurie Short; by federal government members, including the Prime Minister; by other unions, such as the BWIU and the AWU; and by sections of the media.<sup>51</sup> Yet, proof that BLF members or officials engaged in

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<sup>45</sup> At Loy Yang, the BLF had agreed to share work with the FIA, even though the Arbitration Commission had ruled exclusively in favour of Gallagher's union, *National Times*, 25-31 January 1981, p.12. The BLF had also shared landscaping work at the High Court site in Canberra with the AWU, *Australian*, 2 February 1981, p.1.

<sup>46</sup> *Bulletin*, 17 February 1981, p.22.

<sup>47</sup> *Age*, 3 February 1981, p.1; *Sun*, 3 February 1981, p.5.

<sup>48</sup> ACTU secretary, Peter Nolan, quoted in *Sun*, 3 February 1981, p.5.

<sup>49</sup> Hurrell, quoted in *Sun*, 3 February 1981, p.5.

<sup>50</sup> *Age*, 31 January 1981, p.4.

<sup>51</sup> See for example, *National Times*, 8-14 February 1981, p.26; *Australian*, 17 February 1981, p.1; *Sun*, 18 February 1981, p.7; *Financial Review*, 4 March 1981, p.12; *Bulletin*, 12 August 1980, p.33; *Age*, 18 February 1981, p.13.

anything untoward at Omega was, it seems, virtually non-existent. Indeed, Richard L'Estrange of the *Australian* suggested that whilst phrases such as thuggery, blackmail, vendetta, intimidation and threat were liberally bandied about by anti-BLF forces, it had to be acknowledged that in an industry that gave rise 'to such inflammatory rhetoric', it was 'a difficult task to establish' what was myth and what was reality.<sup>52</sup> Much of the anti-BLF language in currency during the Omega dispute was, L'Estrange argued, generated from outside of the industry and largely attributable to the fact that the federal government was seeking a politically-motivated confrontation with the labourers. But for all its bluster, he suggested, the Federal Department of Industrial Relations had 'about as much specific information on the BLF as the average newspaper library file'.<sup>53</sup>

L'Estrange's assessment naturally resonated with the BLF. To the union, the Omega demarcation dispute was a set-up from beginning to end. It had been engineered in order to bring about a confrontation from which the BLF would, if it emerged at all, come away bloodied and bowed.<sup>54</sup> The union claimed it was a smokescreen behind which lay government plans to outlaw the BLF and promote the interests of pliant, 'responsible' and 'sane' union leaders such as Charlie Oliver of the AWU and Laurie Short of the FIA – the type of union leaders whose record on issues such as lost time payments, no ticket no start, workers' compensation, over-award payments and improvements to the awards under which workers toiled, were abysmal.<sup>55</sup> Andrew Peacock, the Minister for Industrial Relations, did nothing to dispel such views: he described Omega as being 'a tailor-made situation' from which to launch an attack on the BLF.<sup>56</sup>

The High Court challenge to FIA coverage of the Omega project was initially scheduled to begin on 10 February 1981.<sup>57</sup> But neither the federal government, the employer (EPT), nor the FIA could wait for the due processes of law to unfold.<sup>58</sup> The FIA informed the government that its members were ready to resume work on the site at any time, provided they were given

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<sup>52</sup> Richard L'Estrange, 'Make-or-Break Men: But BLF only pushes so far, says builder', *Australian*, 27 February 1981, p.9.

<sup>53</sup> Ibid.

<sup>54</sup> *BL*, No. 3, March 1981, p.4.

<sup>55</sup> 'Union Bashing – 1981 Style: Fraser, Peacock Attack BLF', *BL*, No. 3, March 1981, pp.1-2.

<sup>56</sup> *Age*, 2 February 1981.

<sup>57</sup> *National Times*, 25-31 January 1981, p.12.

<sup>58</sup> Peacock had been informed by Attorney General, Peter Durack, that whilst the BLF's High Court challenge presented no legal barriers to an order for resumption of work at Omega, the normal, sensible course of action would be to await the Court's decision. Ibid.

‘adequate police protection’.<sup>59</sup> On 31 January 1981, it was decided as a consequence of talks between the Ironworkers, the federal and Victorian state governments, and EPT that from Monday, 2 February, Commonwealth and Victorian police would be used to guarantee both the flow of material and the return of FIA workers to the site.<sup>60</sup> If necessary, a spokesman for Peacock suggested, armed forces would also be involved.<sup>61</sup> Describing the BLF as ‘the most outrageous union we have ever seen’, and accusing Gallagher and his followers of having driven developers out of Victoria, Fraser declared that the time had come for the BLF to be stopped. The issue was ‘much bigger than Omega itself’, Fraser thundered, and that was why the BLF could not and *would* not be allowed to win.<sup>62</sup>

Announcements that police and possibly even the army would be used to break up BLF pickets at Omega should have caused great unease in the union movement, regardless of the underlying intentions. But whilst ACTU secretary, Nolan, expressed his ‘deep concern’ about the government’s decision to force a resumption of work, the response to what was happening was rather muted.<sup>63</sup> Indeed, where ACTU president, Hawke, was concerned, the difficulty the government faced in involving the police was that ‘a number of unions who would have sympathised with the FIA [and, by extension, with the government]’ would ‘now see it as an issue between unions and the police’.<sup>64</sup>

Gallagher and sections of the media were fully alert, however, to the deeper implications of federal government efforts to pre-empt the findings of a High Court challenge brought on to decide which union would have coverage of just 16 riggers. Fraser and Peacock were in the business of provocation, and it was clear that the government intended to incite the BLF into a bloody confrontation, in which it could be destroyed.<sup>65</sup> Fraser’s intimation – that there was much more to the involvement of police at Omega than met the eye – was obvious. The federal

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<sup>59</sup> Reid, ‘Tough test for Peacock’, *Bulletin*, 27 January 1981, p.20. There were conflicting reports about FIA attitudes at that time, with the *National Times* suggesting that the Ironworkers were disinclined to move until the High Court challenge had been heard. *National Times*, 25-31 January 1981, p.12. However, the Ironworkers’ return to work on 2 February 1981 would seem to confirm the veracity of Reid’s argument. An FIA Victorian State branch official was quoted as saying ‘We don’t consider it a picket line. There is no strike, so we don’t regard it as being a picket line.’ *Sun*, 3 February 1981, p.3.

<sup>60</sup> Commonwealth and Victorian police were required because the jurisdiction of the latter did not extend to Commonwealth property. *Age*, 31 January 1981, p.4.

<sup>61</sup> *Ibid*.

<sup>62</sup> *Age*, 31 January 1981, p.4.

<sup>63</sup> See *Age*, 31 January 1981, p.4.

<sup>64</sup> Hawke, quoted in *Age*, 30 January 1981, p.1.

<sup>65</sup> *BL*, March 1981, p.4.

government was vehemently opposed to the peace deal that had been struck to bring the Loy Yang lockout to a close.<sup>66</sup> Now, Gallagher insisted, it was working hand-in-glove with the Metal Trades Industry Association (MTIA) to scupper that deal by manipulating events at the Omega site.<sup>67</sup>

Victorian government sources established the cogency of Gallagher's argument when they told reporters that they were coming under intense political pressure to mount a final showdown with the union.<sup>68</sup> If the BLF could be provoked into some form of violent response at Omega, trustees of the fund that had been established to oversee distribution of the Loy Yang 'hardship payments' might be persuaded to defer those disbursements. That would surely provoke further trouble at Loy Yang – a development that would not only cast a shadow over the settlement that had been reached there, but would, some suggested, release the Victorian government from any legal obligation to uphold its end of the bargain.<sup>69</sup> The possibility of further, heightened conflict between the BLF, employers and the Victorian government seemed both ominous and probable.

The BLF refused to be drawn into such dangerous territory, preferring instead to keep the fight for coverage of the Omega riggers in the courts. Therefore, when police arrived on site on 2 February 1981 they encountered only token resistance in the shape of a three-man picket.<sup>70</sup> Gallagher informed the media that his men had been told to 'play it cool'.<sup>71</sup> There might well be a few minor skirmishes – it was a picket line situation, after all – but, Gallagher argued:

We weren't going to play into the hands of Fraser and sections of the media, who had built the whole thing up into a potential bloodbath... We weren't going to fight on the Government's battleground: We pick our own battlefields.<sup>72</sup>

As media reports of the 'picnic' cricket match that sprang up between picketers, police officers and members of the media demonstrated, what occurred as a result of police being involved in the dispute was more farce than fierce.<sup>73</sup>

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<sup>66</sup> See Chapter Seven, this thesis.

<sup>67</sup> *Australian*, 7-8 February 1981, p.4.

<sup>68</sup> *Ibid.*

<sup>69</sup> *Ibid.*

<sup>70</sup> *National Times*, 8-14 February 1981, p.25; *BL*, March 1981, p.4.

<sup>71</sup> *National Times*, 8-14 February 1981, p.25.

<sup>72</sup> Norm Gallagher, quoted in *National Times*, 8-14 February 1981, p.25.

<sup>73</sup> See for example, *Sun*, 3 February 1981, p.5, where it was suggested that tempers only threatened to boil over on one occasion: when someone bowled underarm to a police batsman in a 'picnic' cricket match organized between picketers, police and members of the media. The *Age* suggested that television coverage of events at Omega had

With Gallagher and his charges refusing to be suitably inflamed, the government was forced into playing a trump card: deregistration of the BLF. The language was industrial, but there was little doubt either in the minds of BLF officials or sections of the media that the motives were purely political. To begin with, the government was coming under increasing pressure from the Americans whose global navigation system was being held up by a recalcitrant, Peking-aligned Communist trade union official.<sup>74</sup> Moreover, Fraser desperately needed to distract public attention away from his government's abysmal performance, particularly when a string of by-elections loomed on the horizon. The Prime Minister couldn't talk about the economy, Gallagher taunted, when he was overseeing 'the highest [rate of] unemployment since the Depression', and 'he couldn't talk about the low cost of petrol' because Australians were 'paying international prices for... local product'. What better way to take people's minds off Fraser's economic wreckage, the BLF supremo wanted to know, than a bit of good old fashioned union bashing.<sup>75</sup>

If Gallagher's response seems predictable, arguments that carried perhaps much greater weight were those that suggested that the Omega dispute had been heightened in order to pave the way for deregistration of the BLF, and that deregistration of the union was, in turn, to be a platform for Andrew Peacock, the Minister for Industrial Relations, to launch his bid for the leadership of the Liberal Party and the prime ministership of Australia. The *National Times* suggested that Peacock wished 'to project an aura of toughness' to those Cabinet colleagues who remained unconvinced that he was a worthy successor to Fraser.<sup>76</sup>

News that the federal government was to seek deregistration of the BLF broke on 17 February 1981. Legislation introduced by the Fraser administration in 1979 would, the

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been sensationalised. According to the *Age*, The scruffy dirt drive off the South Gippsland Highway up to the gate of [the] Omega base site was not the scene of unionist versus law and order government that had been implied on television reports of 2 February 1981. *Age*, 3 February 1981, p.6.

<sup>74</sup> According to the *Sunday Press*, Fraser had been warned by the US that unless he could guarantee a quick re-start of the Omega project, defence relations between America and Australia would come under strain and the Americans would seriously consider re-locating the eight and final link in the global navigational system elsewhere. *Sunday Press*, 11 January 1981, p.1. See also *National Times*, 25-31 January 1981, p.12. The Omega navigational system was, ostensibly, to be a jointly owned and operated affair with Norway, Liberia, Réunion island in the Indian Ocean, Argentina, Japan, Australia and the United States as equal partners. But it seems reasonable to suggest that in such a line-up, America would be overwhelmingly dominant. See International Maritime Organization, 'Information on the Omega Radionavigation System'.

<sup>75</sup> Norm Gallagher, quoted in *National Times*, 8-14 February 1981, p.25.

<sup>76</sup> *National Times*, 25-31 January 1981, p.12. The *Bulletin*, for example, echoed this view, and Bob Carr suggested that Omega gave Peacock the opportunity to prove to Liberal back-benchers that he could act firmly when required. *Bulletin*, 17 February 1981, p.22.

*Australian* reported, enable Peacock to apply to a Full Bench for deregistration on the basis that two or more union members who were engaged in industrial action were likely to have ‘a substantially adverse affect on the community’s safety, health or welfare’.<sup>77</sup> Elsewhere, it was argued that there were ‘11 possible grounds upon which the Federal Court’ could make an order for deregistration of the BLF, or any other union, for that matter. These included ‘the continued breach or non-observance of an award, continued failure to ensure that union members’ complied with an award’, and ‘engaging in action that... prevented, hindered or interfered with trade or commerce with other countries, or between States, or the provision of any public service’.<sup>78</sup> There were, in short, any number of pretexts on which a union could be outlawed, and where the BLF was concerned, any pretext would suffice.

Bob Hawke proposed round-table discussions when Peacock informed him during a televised debate that the government would not back down on its anti-BLF action.<sup>79</sup> Hawke, newspaper reports implied, did not object to deregistration of the BLF *per se*. Rather, he argued that what was ultimately important was not whether the BLF was deregistered, but whether that would result in improved national industrial relations. The government had erred, Hawke suggested, in not holding round-table talks with other trade unions in order to get them onside in the war that was about to be waged against the BLF.<sup>80</sup> And whilst other unions were opposed to BLF tactics, the ACTU chief argued in his debate with Peacock, they were not likely to support deregistration of that union, unless the government consulted them about it beforehand.<sup>81</sup> It was sound advice from a man the BLF referred to as ‘Fraser’s Unofficial Labor Minister’, and it was a strategy that Hawke would certainly act upon when his turn to attack Gallagher and BLF eventuated.<sup>82</sup>

There was little doubt that Hawke and sections of the mainstream media were singing from the same hymn sheet. An *Age* editorial, for example, worried that the government’s deregistration moves might prove counter-productive, because unions ‘which could conceivably eclipse the BLF’ would be ‘forced by traditions of solidarity and a common hostility to the

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<sup>77</sup> *Australian*, 17 February 1981, p.1.

<sup>78</sup> Bob Carr, ‘Norm Gallagher takes his biggest gamble’, *Bulletin*, 17 February 1981, p.22.

<sup>79</sup> *Australian*, 19 Feb 1981, p.1.

<sup>80</sup> *Ibid*.

<sup>81</sup> *Ibid*. On the day prior to the televised debate he had told reporters that he understood the government’s concerns about the BLF, and that they were concerns shared by a number of ACTU affiliates. *Herald*, 18 February 1981, p.3.

<sup>82</sup> For BLF references to Hawke as Fraser’s unofficial minister for labour, see NBAC, Journals (1) 1977, N130/522, *The Federation*, Official publication of the BLF NSW Branch, 1977, pp.61-2.

Fraser Government to support and succour the outlaw'.<sup>83</sup> Implicit in this emotionally-charged argument was the notion that isolating the BLF would be much easier under a Labor government. But the ultimate solution, the *Age* presciently editorialised, would be to submerge the BLF 'in a single, less belligerent union covering the entire building industry'.<sup>84</sup>

The government's declaration of war drew from Gallagher and his union the same response they had given when police were used to break their pickets: the fight would be contained to the courtroom. But if that failed, the battle would unquestionably shift to the jobsite.<sup>85</sup> It would take several months and an unseemly game of musical chairs involving Peacock and his successor as Minister for Industrial Relations, Ian Viner, for the deregistration case to finally materialise.<sup>86</sup> Then, BLF Research Officer, Harry Nowicki, argued, a decision was taken by the BLF leadership to fight the case 'to the bitter end'.<sup>87</sup> This was to be in marked contrast to the attitude taken in 1974 when the political and industrial climate had been significantly different. On that occasion, the applicant in the case for deregistration had been the Master Builders Association of NSW, and the Whitlam government had remained uninvolved. Now, Nowicki argued,

...there was a Federal Liberal government, supported by leading sections of the building industry, determined to crush the BLF. The only alternative perceived by the BLF leadership was to meet this threat head on and fight...deregistration...as long and as hard as it could.<sup>88</sup>

Underpinning this realisation that the fight would be long and difficult was the knowledge that whilst the ACTU might mount some token opposition to federal government moves on the BLF, rival unions such as the AWU and the BWIU would move quickly to sign up its members.<sup>89</sup>

In the meantime, Gallagher's patience and his refusal to be drawn into a bloody confrontation with the federal government over the Omega dispute reaped handsome dividends.

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<sup>83</sup> *Age*, 18 February 1981, p.13. The *Age* was clearly unable to see the contradiction in its own argument: the context in which the newspaper chose to label Gallagher an 'outlaw' was one in which the BLF leader was operating fully within the law to secure what he perceived to be the rights of his union and its members.

<sup>84</sup> *Ibid.*

<sup>85</sup> *BL*, No.3, March 1981, p.2.

<sup>86</sup> The political maneuverings that surrounded the Fraser government's preparation of the case for deregistration of the BLF will be discussed in Chapter Nine of this thesis.

<sup>87</sup> Harry Nowicki, 'Civil Procedure Assignment 1984, BLF De-Registration Case, Federal Court of Australia', Faculty of Law, Monash University, [7/28], in Boyd papers, Box 66, 15/12-15/15.

<sup>88</sup> *Ibid.*, [8/28].

<sup>89</sup> *Bulletin*, 17 February 1981, p.22.

The High Court challenge to FIA coverage of the Omega riggers drew to its conclusion on 23 June 1981.<sup>90</sup> Of the five High Court Judges ruling on the case, only Mr Justice Aickin and Mr Justice Wilson saw cause to uphold the Arbitration Commission decisions made the previous year. Conversely, Mr Justice Mason, Mr Justice Murphy, and Mr Justice Brennan found that the tower was a building project, and so was not covered by the eligibility rules of the FIA.<sup>91</sup> According to Lionel Murphy, erection of the Omega tower was

... within the meaning of ‘building operations’ in the exclusion clause of the FIA’s rules.

It followed [therefore] that the FIA was not entitled to enrol persons engaged as riggers or scaffolders in that work, and that S.142A of the Conciliation and Arbitration Act... was not applicable to enable an order to be made giving representation to the FIA.<sup>92</sup>

In explaining his decision to award coverage of the Omega tower to the labourers, Justice Mason had argued:

‘Building operations’ is an expression more often used to describe the erection of a mere structure, for the very good reason that the words make no attempt to describe what it is that is being built. Thus the building of a bridge, an oil refiner, a petro-chemical plant or even a transmission tower is accurately described as a building operation, and the company carrying out the work is correctly described as being engaged in ‘building operations’.<sup>93</sup>

Mason’s finding was reinforced by Murphy when he declared that the FIA presented

... no answer to the powerful argument [mounted by the BLF] that the consistent course of industrial decision over half a century has been in favour of the view that the riggers employed in construction of the Omega mast are engaged in building operations.<sup>94</sup>

Mindful of the accusations that were being levelled against him, and with tongue firmly in cheek, Gallagher quipped that the decision would have been unanimous, if only he had been able to bribe Aickin and Wilson.<sup>95</sup>

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<sup>90</sup> *Age*, 24 June 1981, p.3.

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid.*

<sup>93</sup> Mr Justice Mason, High Court of Australia, quoted in ‘High Court says BLs Right All Along’, BLF flyer, July 1981, Boyd papers, Box 2, 1/13-1/24.

<sup>94</sup> *Ibid.*

<sup>95</sup> Personal conversation with Malcolm McDonald, 2 May 2012. McDonald is a former Victorian state secretary and federal president of the FEDFA.



The High Court decision made a mockery of government, media and FIA allegations that the BLF was, in the Omega case, engaging in poaching and body snatching. The union was merely seeking to protect work that had come under its rules for half a century. The ruling was the culmination of fifty years of legal precedents that declared work such as that being carried out at Omega the rightful property of the BLF.<sup>96</sup> As such, it had implications that reached far and wide, but most particularly and importantly in the context of the burgeoning mining and resources boom in areas such as the Hunter Valley in NSW. Moreover, the ruling posed a serious threat to the government's plans to deregister the labourers' union. It seemed, as a consequence of the High Court decision, Michael Gordon suggested, that the government's plan was not only damaged, but in tatters.<sup>97</sup>

This chapter has identified the convergence of what might be called the industrial and political encirclements of the BLF. It has, together with chapters five and six, pointed to the way in which employers, state and federal governments and sections of the trade union movement came, over time and in the context of shifting political, economic and industrial realities, to see the BLF as a common enemy. This chapter has also suggested that where senior members of the trade union hierarchy were concerned, the prospect of an industrial landscape free from recalcitrant, militant unions such as the BLF was becoming not only acceptable, but desirable.

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<sup>96</sup> See 'High Court says BLs Right All Along', BLF flyer, July 1981, Boyd papers, Box 2, 1/13 – 1/24.

<sup>97</sup> *Age*, 24 June 1981, p.3.

## **Chapter Nine**

### **It's Not All about the Working Class**

Previous chapters sketched developments in what might be termed the industrial encirclement of Norm Gallagher and the BLF. Chapters five, six and seven also alluded to the political encirclement of the union, and the way in which the two processes were converging. This chapter will focus on the political attacks to which the union was subjected in the period February to December 1981. Proceeding in three parts, it will, through the prism that a major Labor Party inquiry provides, critically evaluate ALP responses to those assaults. The first part will outline sections of a 1979 National Committee of Inquiry Report in which it was argued that ALP electoral success would depend on a reassessment of the party's relationship with the trade union movement, and militant, blue-collar unions in particular. In the middle part, I will highlight the way in which Labor parliamentarians came to the assistance of a beleaguered member of the federal Liberal Party, whilst leaving an affiliated body – the BLF – totally exposed.<sup>1</sup> The third and final part of the chapter will address the way in which Labor Party leaders in Victoria curtailed parliamentary protest against an arguably undemocratic piece of legislation that was aimed directly against Gallagher and his union. In illuminating Labor Party apathy towards the attacks that conservative governments were making on the BLF and, by extension, the broader trade union movement and the Australian working class, this chapter will demonstrate ways in which the party shifted towards being a 'catch-all' organisation – one that would willingly sever an affiliate in the pursuit of power.

#### **The National Committee of Inquiry, 1979**

For many people, the failure to restore the Whitlam Government to power in 1975 had been an aberration. There was, therefore, an expectation that the 1977 electoral results would be different. However, Labor recorded, in its own official assessment that 'only a minimal recovery from the electoral disaster of 1975' had occurred.<sup>2</sup> As a consequence of that failure to progress, a Committee of Inquiry was established to discover why Labor had performed so poorly, as well as to recommend strategies for future success. It was, activist Michael

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<sup>1</sup> It is acknowledged that trade union affiliation with the ALP occurs at State level. However, this does not excuse the Federal body from acting in support of trade unions, or at the very least, working to prevent their destruction.

<sup>2</sup> Australian Labor Party, Committee of Inquiry, *National Committee of Inquiry Report and Recommendations to the National Executive*, Australian Labor Party, Canberra: 1979, p.1. [Henceforth, *Committee of Inquiry*]

Thompson argued, a body overly-representative of professional opinion, an agency with just one truly blue-collar participant, and a gathering whose findings and recommendations consigned the 'blue-collar, male, Anglo-Irish' heritage of the party 'to the dustbin of history'.<sup>3</sup> Be that as it may, Committee members had as their goal the establishment (or re-establishment) of the ALP as 'the dominant political force in this country'.<sup>4</sup>

What the Committee's report stated about the relationship between the ALP and the trade union movement, and how that relationship should be managed into the future is significant. These findings and recommendations *vis-à-vis* the party's relationship with the unions were underpinned by two factors. Committee members understood that Australian society was becoming inexorably altered by social processes as diverse as immigration, education, technology, the expansion of white-collar employment and the growing number of women in the workforce. They also recognised that, fortuitously, 'the ALP's blue collar, male, Anglo-Irish image' was impeding the party's ability to appeal to the forces that were, as a consequences of these changes, emerging in Australian society.<sup>5</sup> The 'shifts in social class identification' stemming from these developments meant, the Committee suggested, 'that political party allegiances' had 'become more complex and more fluid'.<sup>6</sup> The assumption was that the working class was shrinking and that Labor was, by refusing to shed its allegiances to the shrinking vestiges of that section of Australian society, denying itself the opportunity to become the natural party of government.

The perception that the working class was irreversibly waning was, activist-cum-academic Andrew Scott argued, one that conservative forces in the ALP were eager to promote, since an absence of class differentiation in a nation whose political parties had originally formed and solidified along class lines could only boost conservative support.<sup>7</sup> But as Thompson and Scott have separately contended, whilst it was true to say that manufacturing, for example, was in serious decline, this did not necessarily mean that Australia was becoming a classless society, or that working-class numbers were really declining.<sup>8</sup> On the contrary, and as sociologist Russell Lansbury argued in the late 1970s, the

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<sup>3</sup> Thompson, *Labor Without Class*, p.22.

<sup>4</sup> *Committee of Inquiry*, p.1.

<sup>5</sup> *Ibid.*, pp.6-7.

<sup>6</sup> *Ibid.*, p.6.

<sup>7</sup> Scott, *Fading Loyalties*, pp.17-21.

<sup>8</sup> Thompson, *Labor Without Class*, pp.68-70; Scott, *Fading Loyalties*, 10-17.

boom in white-collar employment that occurred after World War II had merely blurred distinctions between white and blue-collar work.<sup>9</sup>

The further down one was in the chain of authority, the less likely one was to enjoy the status differentials that had historically set white-collar, intellectual employees apart from the manual, skilled or unskilled worker.<sup>10</sup> Indeed if occupation is taken as an indicator of social difference, both Thompson and Scott suggested, those who enjoy little control or authority at work, who have meagre opportunities for promotion, 'who are relatively vulnerable to redundancy at times of recession' and whose wages dictate that they exist in insecure financial circumstances – those with white or blue-collar *jobs*, in other words – can be categorised as working-class. Conversely, those who enjoy 'some degree of control and authority at work, who have visible opportunities for advancement, who are financially secure' and whose working lives follow a *career* path, can be described as 'middle class'.<sup>11</sup> Merely referring to someone as an employee rather than a worker, or as a white-collar worker, rather than a blue-collar worker, does not, however much one might wish it to be so, change the material circumstances of that person.

The party's Committee of Inquiry acknowledged the blurring of distinctions between white and blue-collar work. However, it chose to see this development not as evidence that the working class was being differently constituted, but rather as proof that a process of class mobility was underway.<sup>12</sup> This misinterpretation of the growth in white-collar employment as an affirmation of upward mobility naturally influenced the Committee's attitudes and recommendations concerning Labor's relationship with the trade union movement in general, and the blue-collar trade unions in particular.

The Committee's report lamented Labor's inability to reach out to the burgeoning union membership among white-collar workers. Not only were very few white-collar unions affiliated with the party, but a majority of their members were, with the exception of 1972, disinclined to support Labor at election time.<sup>13</sup> Conversely, the report suggested, Labor was struggling under the millstone that affiliation with unpopular, militant, blue-collar unions produced. The party was too often conflated with 'the ideological and interest conflicts' of those unions with which it was historically linked.<sup>14</sup>

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<sup>9</sup> Russell Lansbury, 'The Growth and Unionization of White-collar Workers in Australia: Some Recent Trends', *Journal of Industrial Relations*, Vol. 19, No. 1, March 1977, p.34.

<sup>10</sup> *Ibid.*, p.35.

<sup>11</sup> Thompson, *Labor without class*, pp.69-70; Scott, *Fading Loyalties*, pp.10-11.

<sup>12</sup> *Committee of Inquiry*, pp.6-15.

<sup>13</sup> *Ibid.*, pp.15-16.

<sup>14</sup> *Ibid.*, p.15.

The dilemma facing the Labor Party was clear. Trade union affiliation provided both the financial and electoral lifeblood of the ALP. But those sections of the movement with which Labor was affiliated were, to all intents and purposes, presenting an unacceptable face to the Australian voting public. Moreover, the more militant or sectional the union, the greater damage it was capable of inflicting on Labor's electoral aspirations. One solution to this problem would have been for Labor to end affiliation with the unions, or at least to become less financially dependent on them. However, and as the report acknowledged, there was 'little prospect...of conservative governments agreeing to' the introduction of 'Government funding of political parties' – a practice that was widespread abroad, and for which Labor had been continually advocating.<sup>15</sup> The second possibility was for the ALP to actively engage in altering the image of the trade union movement. This was an outcome that could be achieved not only by developing affiliations with less-militant, more conservatively-minded, white-collar unions, but also by the amalgamation of blue-collar unions, the development of industrial democracy and the incorporation of trade unions into government decision-making processes.<sup>16</sup>

According to the authors of the Committee of Inquiry report, their work had been informed by '320 original submissions', most of which came from individuals, many of which 'came from branches or from meetings called especially to discuss the work of the Committee', and only some of which came from trade unions. Contributions were also sourced by Committee members attending 'Party meetings, seminars and conferences called to discuss the work of the Committee of Inquiry'.<sup>17</sup> Given the origins of most inputs and the make-up of the Committee, between which there appears to have been considerable resonance, it is perhaps unsurprising that 'the issue of the traditional links between the ALP and the trade unions' was seen to constitute 'a problem of considerable magnitude'.<sup>18</sup> Nor is

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<sup>15</sup> Ibid., p.36. Government funding for political parties was one of the first acts undertaken by the Hawke Government. Zareh Ghazarian, 'State of assistance? Political parties and state support in Australia', *Australian Review of Public Affairs*, Vol. 7, No. 1, October 2006, p.63. The Commonwealth Electoral Legislation Amendment Act received Royal Assent on 22 December 1983. Commonwealth of Australia Numbered Acts, Australasian Legal Information Institute, available at [http://www.austlii.edu.au/au/legis/cth/num\\_act/celaa1983425/](http://www.austlii.edu.au/au/legis/cth/num_act/celaa1983425/) Accessed 19 October 2011. Within two years, Ghazarian argued, legislation that had been introduced allegedly to encourage 'new parties to contest elections and win representation in parliament' and to help parties 'defray the direct costs incurred in a federal election campaign' had been amended so that 'parties were no longer to be reimbursed for their election expenditure, but were to be rewarded for the number of votes they received at an election.' Ghazarian, 'State of assistance?', pp.62-4. The introduction of government funding and the changes that were made to it were, Ghazarian argued, calculated not to bolster democracy, but to buttress the position of Australia's established political parties. Ibid., p.62

<sup>16</sup> *Committee of Inquiry*, p.15.

<sup>17</sup> Ibid., p.3.

<sup>18</sup> Ibid., p.14.

it surprising that the question of party-union connections was ‘an exceedingly vexed’ one. Perhaps it was for that reason that when it came to publishing and distributing discussion papers in the second half of 1978 – papers that were supposed to generate further contributions to what would be the Committee’s final report and recommendations – it was not until December that that document which concerned the relationship between the unions and the ALP was distributed.

Whilst the final report was presented to the National Executive at its meeting of 8-9 April, 1979, it had been published for sale the previous month. The window of opportunity in which the trade unions were able to offer their responses to that part of the inquiry concerning their relationship with the ALP was, like the time available to digest and incorporate those reactions into the final report, exceedingly short. The Committee expressed regret that ‘the late publication of its final discussion papers’ concerning Unions and the ALP and Ethnic Communities and the ALP ‘permitted little or no feedback from Party members’.<sup>19</sup> There was no expression of regret about the inability to incorporate trade union responses. Perhaps such an apology was considered unnecessary, given the presence on the Committee of John Ducker, secretary of the NSW TLC,<sup>20</sup> and John (Jack) Garland, joint secretary of the Amalgamated Metal Workers’ and Shipwrights’ Union.

A systematic analysis of Committee of Inquiry members is beyond the scope of this chapter or thesis. But it is, I suggest, significant in the context of this project to note briefly both the credentials of those NSW trade union officials who sat on the Committee and the absence from the Committee of Victorian trade union representatives. Of the two NSW officials, Ducker had deep roots stretching back to the ALP Split of the mid-1950s. Whilst countless others chose to leave the Party after the Split, Ducker and his trade union and political mentor, Laurie Short, elected to stay and fight the new Executive from within.<sup>21</sup> A convert to Catholicism and a staunch anti-Communist, Ducker was a strong supporter and member of Santamaria’s Movement and possibly a card-carrying member of the DLP.<sup>22</sup> He

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<sup>19</sup> Ibid., p.4.

<sup>20</sup> Ducker was identified in the Committee of Inquiry report as Senior Vice-President of the ALP and President of the NSW branch of the ALP. Ibid., p.2. He was also Secretary of the NSW TLC between 1975 and 1979, and a Member of the Legislative Council of NSW between 1972 and 1979. *Workers Online*, No. 291, 25 November 2005, available at [http://workers.labor.net.au/291/news7\\_ducker.html](http://workers.labor.net.au/291/news7_ducker.html) Accessed 25 September 2011.

<sup>21</sup> Ducker joined the FIA in 1950 and became an organiser with that union in 1954, by which time Short had deposed Communist, Ernie Thornton, as National Secretary. Marilyn Dodkin, *Brothers: eight leaders of the Labor Council of New South Wales*, Sydney: University of New South Wales Press, 2001, pp.92-3

<sup>22</sup> Whilst Ducker’s membership of the DLP could not be absolutely proven, it seems he was at the very least a member of the Rank and File Rights Group formed to carry the fight against the new ALP Executive, and from which emerged the DLP. Ducker’s name appeared on a document purporting to be an ‘attendance list of people

has since been credited by former NSW Premier, Bob Carr, with being one of those whose ‘names should be recorded on some kind of honour roll’ for the parts that they played in saving the ALP from the clutches of Communism.<sup>23</sup> A hard man of the NSW Right, Ducker served on the Committee of Inquiry as Bob Hawke’s proxy.

John (Jack) Garland, the second NSW trade union official appointed to the Committee, was of the Left. However, as joint national secretary of the AMWSU, he oversaw within that union what academics Sean Scalmer and Terry Irving termed ‘The Rise of the Modern Labour Technocrat’,<sup>24</sup> and what Tom Bramble argued was the precipitation of a form of class collaboration that ultimately resulted in the ALP-ACTU Accord.<sup>25</sup> As Scalmer and Irving suggested, the expert intellectuals who came to inhabit the Australian trade union movement became the natural interlocutors of those tertiary-educated, middle-class professionals who had analogously risen to prominence in the ALP.<sup>26</sup>

Whilst the technocratic caste within the trade union movement were recruited and promoted to serve the interests of union members, the position into which they were manoeuvred through their relationship with the upper echelons of industry and the ALP soon made them suppressors of rank-and-file activity. Together with the union leaders who recruited them, the expert intellectuals made a rightward trajectory in which they subordinated union members’ interests to those of the employing class and the State. And as Scalmer and Irving on one side, and their critic Bramble on the other, agree, this prioritisation of employer and State interests over those of union members, this so-called ‘alternative path to socialism’, in which the capitalist system was accepted ‘for the time being’, and in which militant unionism was stripped of its potency, was a development that found both encouragement and reflection in the CPA, against which Gallagher and the BLF were fiercely opposed.<sup>27</sup> By the mid-1980s, a later chapter will demonstrate, the defection of leading CPA cadres to the Victorian branch of the ALP would not only see left-wing support for the Accord shored up, but would simultaneously see the left-wing support – that Gallagher and the BLF needed to survive deregistration – undermined and fatally divided.

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at... Rank and File Committee meetings’ held on 29 September 1956. It was at that meeting that Jack Kane ‘presented the executive resolution’ that led to the formation of the DLP. Ibid., pp.95-8.

<sup>23</sup> *Australian* online, 5 July 2010, available at <http://www.theaustralian.com.au/news/opinion/thankfully-whitlam-and-co-rescued-labor-from-the-reds/story-e6frg6zo-1225887763473> Accessed 23 September 2011.

<sup>24</sup> Scalmer & Irving, ‘The Rise of the Modern Labour Technocrat’, pp.64-82.

<sup>25</sup> Bramble, Historical Debate: ‘The Rise of the Modern Labour Technocrat’, pp.179-83.

<sup>26</sup> Scalmer & Irving, ‘The Rise of the Modern Labour Technocrat’, pp.64-76.

<sup>27</sup> Bramble, Historical Debate: ‘The Rise of the Modern Labour Technocrat’, pp.181-2; Scalmer & Irving, ‘The Rise of the Modern Labour Technocrat’, pp.70-7.

The National Committee of Inquiry was established to investigate the causes of Labor's 1977 electoral loss and recommend strategies through which future successes could be assured. But it marked a very important turning point in the ALP's relationship with the Australian trade union movement. It identified Labor's affiliation with militant blue-collar unions as a major impediment to the party's electoral ambitions; suggested the Australian working class was in numerical decline; advocated the requirement for greater appeal to a burgeoning population of white-collar workers and their unions; and implied the need to provide the blue-collar union movement with a more agreeable public face. In other words, it precipitated both a turning away from Labor's working-class heritage, and the mounting of a challenge to the trade union movement. In all of this, the Committee was ably assisted by right-wing union officials and those on the Left whose judgment has since been seriously questioned.

### **Defending the Kooyong Colt: That's What Friends are For**

Major industrial disputes at Loy Yang and the Omega navigational facility in Gippsland, Victoria, provided the backdrop against which federal and state Liberal government plans to deregister the BLF were framed. In both instances, the BLF came up against a rival union in the form of the FIA, a metal industry employer (EPT) and that company's representative body, the MTIA. At Omega and Loy Yang, the labourers' union also confronted federal and state governments intent on locking it out of a burgeoning mining and energy resources boom. At Loy Yang, moreover, Gallagher and the BLF encountered the SECV, a public authority with strong anti-union credentials and a poor industrial relations record.<sup>28</sup> The BLF achieved major victories in each of those disputes. But if those triumphs provided the union with an opportunity to cement its place in the mining and energy resource sectors of the Australian economy, they nevertheless came at significant political and industrial costs. It was one thing to embarrass Australian political, industrial and trade union elites; getting away with such effrontery was an entirely different matter.

Wherever there is cost, political or otherwise, there is also opportunity for gain. Where deregistration of the BLF was concerned, the increasingly maligned Fraser Government stood to benefit from taking on what many understood to be a rogue trade

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<sup>28</sup> Alford suggested that the SECV and the trade union movement had, prior to 1982, been engaged in 'a state of constant war'. Alford, 'Industrial relations: Labor's special but difficult relationship', p.157.



union.<sup>29</sup> Gallagher's analysis – that deregistration was being driven by Fraser's need to divert attention away from his government's poor performance, particularly when it faced a string of by-elections<sup>30</sup> – may have been simply or even crudely put.<sup>31</sup> But that did not make it any less valid.<sup>32</sup> Nor would Gallagher have been inaccurate had he suggested that personal political gain played a role in the decision to pursue deregistration of his union. It was, after all, widely acknowledged that in taking on industrial relations, Andrew Peacock had secured a domestic portfolio that would enable him to boost his credibility with government backbenchers, and from which he would be able to launch bids for the leadership of the Liberal Party and the Prime Minister's position.<sup>33</sup> It was under those circumstances that Peacock successfully took plans for deregistration of the BLF to Cabinet on 17 February 1981.<sup>34</sup>

Peacock's hopes of building the momentum necessary to unseat Fraser were soon dashed, however. By mid-April, the temperamental Kooyong Colt<sup>35</sup> had well and truly tired of what he perceived as the Prime Minister's constant interference in the industrial relations arena, and of Fraser's relentless efforts to undermine him.<sup>36</sup> Having delivered a stinging rebuke to the Prime Minister, both in a widely publicised letter of resignation, and in numerous media interviews, Peacock retired to the backbench to lick his wounds and rebuild his drive towards the top job.<sup>37</sup> But the appointment of Ian Viner as his successor ensured that

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<sup>29</sup> See for example, *Australian*, 27 February 1981, p.9.

<sup>30</sup> Fraser made a number of virulent attacks on the BLF whilst campaigning for simultaneous by-elections in Curtin (West Australia), Boothby (South Australia) and McPherson (Queensland), with several of those coming in McPherson alone. See for example *Australian Financial Review*, 25 September 1981, p.1.

<sup>31</sup> See *National Times*, 8-14 February 1981, p.25.

<sup>32</sup> See *Age*, 18 February 1981, p.13. The *Age* suggested that the Government was, in attacking the BLF, entering into an 'unwinnable war', but that since it was by-election time, the Fraser regime hoped to benefit from an extension of its 'long record on talking tough and acting soft... of filling the statute books with legislation that sounds Draconian but cannot be enforced.'

<sup>33</sup> See for example, *National Times*, 25-31 January 1981, p.12; *Bulletin*, 17 February 1981, p.22; *Age*, 16 April 1981, p.4.

<sup>34</sup> The *Age* newspaper, for example, suggested that Peacock was keen to demonstrate, where the BLF was concerned, that he understood the distinction between conciliation and appeasement. *Age*, 18 February 1981, p.13.

<sup>35</sup> A nickname given to Peacock around the time that he gained Liberal Party pre-selection for blue ribbon seat of Kooyong. See 'Excuse Me!', cartoon by Geoff 'Jeff' Hook, available at <http://www.geoffhook.com/>. Peacock's temperamental disposition was seen as a major weakness and a contributing factor in his decision to resign from Cabinet. An *Age* editorial from the day after his resignation suggested that his decision gave the impression of 'impetuosity, vulnerability and want of stamina.' *Age*, 16 April 1981, p.13.

<sup>36</sup> See *Age*, 16 April 1981, p.1. The final straw, where Peacock was concerned, was Fraser's intervention in negotiations between trade unions and Imperial Chemical Industries (ICI) over a 35-hour working week. Fraser took it upon himself to meet with ICI management without having consulted or invited Peacock to participate. See for example, *Age* 16 April 1981, p.5. See also Paul Kelly, 'The Peacock Crisis', Chapter 7, *The Hawke Ascendancy*, pp.120-41.

<sup>37</sup> *Age*, 16 April 1981, p.1.

Peacock's time on the backbench would be eventful, and that the political machinations surrounding deregistration of the BLF would continue.

Viner's appointment was not well received in trade union circles, where he was allegedly 'disliked and distrusted more than most Ministers in the Fraser Cabinet'.<sup>38</sup> Nor did it come as welcome news to his government or Liberal Party colleagues, many of whom despised what they saw as his toadying attitudes towards Fraser.<sup>39</sup> Their views were summed up by former Prime Minister, John Gorton. He suggested that the change in personnel was lamentable because the outgoing Minister had

...the capacity to bring Australians together to do the things we have got to do in the future. He could bring Labor and Liberal together in a consensus of opinion, which is quite different from Fraser's attempts, which seem to do nothing but divide them all the time.<sup>40</sup>

In his new appointee, however, Fraser had a man through whom he could certainly ensure a significant sharpening of government-trade union relations.<sup>41</sup> More importantly, he had someone upon whom he could rely in his struggles with the deposed Peacock. Within months, those confrontations were not only cutting across plans to destroy the BLF, but were, it appeared, of even greater import than the national interest that deregistration of the labourers' union was supposed to protect and enhance.

When asked on 19 August 1981 about the state of preparedness of the case being built against the BLF, Viner informed Parliament that 'a great deal of work' had 'gone into... preparation of the case to be lodged with the Federal Court'; that the work was 'very well advanced'; and that he expected, the following week, to be able to tell the House that the application for deregistration had been lodged.<sup>42</sup> Next day, Viner advised Parliament that the federal and Victorian governments had joined in instituting a royal commission into the BLF; that establishment of that inquiry had been requested by the Thompson Government in Melbourne; and that it was initiated on the basis of 'a joint [Commonwealth and Victorian]

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<sup>38</sup> Kenneth Davidson, 'Industrial authority eroded', *Age*, 16 April 1981, p.13.

<sup>39</sup> *Age*, 16 April 1981, p.4. Viner was described as Fraser's 'strongest echo' in Federal Cabinet; he had, since coming into Parliament in 1972 'played the willing farm hand to... Fraser's grazier', and had been one of Fraser's strongest supporters in his push for the Liberal Party leadership in 1975. *Age*, 24 September 1981, p.13.

<sup>40</sup> John Gorton, *Age*, 16 April 1981, p.4.

<sup>41</sup> ACTU president, Cliff Dolan, highlighted the difference in approach to industrial relations that Peacock's resignation foreshadowed. Whilst Peacock had 'attempted to deal with industrial relations in one way', Dolan argued, Fraser's attitude was: 'If you see a head, kick it.' *Age*, 16 April 1981, p.4. Viner's appointment was thought to signal 'the most pronounced change in the Government's approach to' industrial relations 'since 1975.' Michael Gordon, *Age*, 16 April 1981, p.4.

<sup>42</sup> Commonwealth of Australia, Parliamentary Debates, House of Representatives, 19 August 1981, p.395 [Henceforth, CPD]; *Age*, 20 August 1981, p.17.

police report into the activities of officials of the [Builders' Labourers] Federation'.<sup>43</sup> He neglected to add that the police investigation, which had been conducted full-time over seven months, by a team of four officers, had at no point approached BLF members or officials, either to gather information or to take statements.<sup>44</sup> Nor did he acknowledge that investigators had balked at recommending the laying of charges, either against Gallagher or any other BLF member or official.<sup>45</sup> Rather, Viner suggested that 'On the basis of the evidence revealed by that [police] report the Commonwealth Government [had] thought the matter to be of such seriousness that following the request from the Victorian Government', they had decided 'to join that Government in a royal commission'.<sup>46</sup> It was, John Cain and others suggested, an outcome that had all the hallmarks of a 'political stunt'.<sup>47</sup>

Having been forced to resign the coveted, if testing, industrial relations portfolio, and having seen his leadership aspirations at least temporarily derailed as a consequence, it was unsurprising that Peacock should take whatever opportunity came his way to attack Viner and, through him, Prime Minister Fraser. One such occasion arose on 8 September, when Viner appeared before a House of Representatives Estimates Committee to explain why the government was taking so long in bringing the BLF case to court. At that hearing Peacock and Hawke tag-teamed to subject the Minister to rigorous questioning. It was revealed that, in 1981 alone, the government had either spent or committed to spend \$750,000 in pursuit of the BLF.<sup>48</sup> Viner, it seems, did not respond well to the probing, or to the exacting manner in which Peacock and Hawke set about their task. He was, Hawke claimed, 'obviously upset by the grilling that he... received'.<sup>49</sup>

If Viner was shaken by his appearance before the Estimates Committee, he had the undoubted pleasure of announcing two days later that Royal Commission hearings into the BLF were at that very moment about to commence.<sup>50</sup> It was at that juncture that he also disclosed that preparations for deregistration of the union had 'reached a point where the application was ready to be issued', and that 'arrangements had been finalised with the Victorian, South Australian and West Australian governments for them to be co-applicants

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<sup>43</sup> CPD, 20 August 1981, p.572.

<sup>44</sup> *Age*, 20 August 1981, p.1.

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> *Age*, 1 February 1982, p.1. The political motivations underpinning the assault on the BLF were also acknowledged in the printed media. See for example, *Age*, 18 February 1981, p.13.

<sup>48</sup> CPD, 22 September 1981, p.1579; *Age*, 16 September 1981, p.3.

<sup>49</sup> Robert J. Hawke, CPD, House of Representatives, 22 September 1981, p.1579.

<sup>50</sup> CPD, 10 September 1981, p.1156.

with the Commonwealth in that deregistration application'.<sup>51</sup> But if Viner knew that the Victorian government was coming onboard contrary to advice from its own Office of Industrial Relations Co-ordination, he was not about to include such information in his announcement. Nor was he prepared to acknowledge, if indeed he knew it to be so, that the Office of Industrial Relations Co-ordination established by the Thompson Government had in fact labelled the decision to deregister the BLF a politically motivated option.<sup>52</sup> He did advise, however, that whilst preparation of the case had finally reached a stage where it could be brought to court, the federal government had nonetheless decided, 'because of legal implications associated with the [royal] commission itself', to defer deregistration proceedings until after the commission had concluded.<sup>53</sup> In the interim, BLF conduct would be 'very carefully watched and...added to the mass of material already gathered', particularly where that conduct would strengthen the case for deregistration.<sup>54</sup>

Viner's announcements provided a clear opportunity for Labor parliamentarians to challenge the blatant assault that conservative governments across Australia were mounting, in this instance, against the BLF, but also generally against the trade union movement and the working class.<sup>55</sup> The Fraser Government might well have moved to preclude accusations of double jeopardy in the cases that it was preparing against the BLF. It was obvious, however, that allegations thrown up by the Royal Commission would be used to shore up the case for deregistration, particularly where all-important public opinion was concerned. But as Hawke told Parliament less than two weeks later, neither he nor his parliamentary colleagues had '[any] brief for that organisation' – the BLF.<sup>56</sup>

Viner was upset about the treatment he had received at the Estimates Committee hearing. Striking back, he suggested on that occasion that Peacock had been less than diligent in his preparation of anti-BLF measures. It had been 'utterly impossible [for him] to lodge the application [for deregistration of the union] in April', Viner argued, 'because the case had not been prepared to that point to allow that to be done'.<sup>57</sup> But the forum that the Estimates Committee hearing provided had not been sufficiently inclusive enough to make Viner's

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<sup>51</sup> Ibid.

<sup>52</sup> See Victorian Parliamentary Debates, Legislative Assembly, Vol. 365, 1 July 1982, pp.2535-6. (Henceforth, VPDLA) See also Chapter Nine, this thesis.

<sup>53</sup> Ian Viner, CPD, 10 September 1981, p.1156.

<sup>54</sup> Ibid.

<sup>55</sup> The broader implications of plans to deregister the BLF were recognised by numerous other unions and union officials. A meeting for building unions at ACTU headquarters viewed the Government's action as 'a move against...the whole trade union movement'. *Sun*, 18 February 1981, p.7.

<sup>56</sup> CPD, 22 September 1981, p.1580.

<sup>57</sup> Ian Viner, CPD, 8 September 1981, p.45, cited in CPD, 15 September 1981, p.1288; See also *Age*, 16 September 1981, p.3.

response really effective. What he required was an opportunity to tell Parliament and the Australian public just what a poor Minister his predecessor had been, and how difficult his own task had been made by the inadequate state of preparedness in which Peacock had left the BLF case. A Dorothy Dix question put to Viner on 15 September provided just such a pretext.

The decision to attack the BLF had been taken seven months earlier, Viner recalled. But the former Minister had undertaken ‘no prior consultation...with employer organisations’.<sup>58</sup> Thereafter, only two such meetings had occurred, on 24 February and 4 March. By April, ‘there were no statements from private employers in a state to permit drafts of affidavits’ and the only statements that had been secured were from NSW.<sup>59</sup> A Senior Assistant Crown Solicitor had been seconded from the Attorney-General’s Department to help prepare the case against the BLF. The Solicitor allegedly advised Viner that progress had been very slow whilst Peacock had been in charge, and that ‘With the exception of one witness’s statement taken in Canberra on 2 April 1981, statements from private industry sources’ had ‘only started coming in since...10 April 1981’, that is, a few days before Peacock’s resignation.<sup>60</sup>

There were good reasons for the paucity of evidence that Peacock had managed to accrue. And there was ample cause and opportunity for Labor to ask why the government had embarked on a crusade against the BLF and the wider trade union movement, seemingly without having first consulted with employers and their organisations.<sup>61</sup> In Victoria – ‘the cockpit of the war’ between the Government and the BLF – there had been, ‘as much hostility towards Peacock in boardrooms of the construction industry’ as there was ‘on the hot, dusty, dangerous sites’ on which builders’ labourers toiled.<sup>62</sup> Indeed, employers in that state argued, in direct contravention of government claims, that not only could Gallagher be relied upon to understand when reasonable limits had been reached, but that in the final analysis, wage rises demanded by the BLF were almost a minor detail:

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<sup>58</sup> Ian Viner, CPD, 15 September 1981, p.1287.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid., pp.1287-8.

<sup>61</sup> The Government did consult with Electric Power Transmission Pty Ltd (EPT) and with the Metal Trades Industry Association (MTIA), but those organisations were not highly representative of the building and construction industry, particularly in Victoria. See Chapter Eight, this thesis.

<sup>62</sup> Richard L’Estrange, ‘Make-or-Break Men, But BLF only pushes so far, says builder’, *Australian*, 27 February 1981, p.9.

Who cares about wages compared to the losses you are looking at if you don't complete [projects] on time... Any industrial builder or developer will tell you it (the wages bill) is bugger all as long as the job is completed.<sup>63</sup>

For its part, the MBAV understood that the struggle for wages and conditions was an industry problem that was both driven and overshadowed by the cavalier approach taken by many employers towards their employees.<sup>64</sup> Since labourers – more so than tradesmen – were generally sacked upon completion of a job, rather than being automatically carried forward to the next project, there was little chance of rapport or loyalty being built between workers and their bosses. There were exceptions, of course, most notably where the Grollo brothers, Bruno and Rino, were concerned. Dismissing as sour grapes suggestions that shady deals with Gallagher explained his company's ability to complete projects in half the time and at much lower costs than competitors, Bruno Grollo pointed out the obvious:

Most of our men have been with us for between 10 and 25 years. When the other big construction companies finish a job they sack the workers, hundreds of them. No wonder they go out on strike and cause problems. Would you work hard if you knew your job was finished when you finish[ed] the project? If men know they face the sack in a few months time they'll go on strike to prolong the job... When our men finish one job they go on to another.<sup>65</sup>

The Grollos had known Gallagher since they were children helping out in their father's nascent concreting and construction business.<sup>66</sup> Hailing as they did from working class origins, they understood that workers would and were entitled to ask for reasonable rewards for the labour they produced. And they knew, too, that whenever disputes arose, it was always better to settle them quickly than to allow resentments to fester. 'When we have a dispute we go down [to the site], talk to our boys, and come to an arrangement. Most of our problems only last a day or two', Grollo explained.<sup>67</sup> It was an approach to industrial relations in which workers and their representatives were treated not as enemies, but as people with whom the Grollos were prepared to do business in order to do business. In the main, however, and as Bruce Shaw, Industrial Relations Manager with the MBAV

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<sup>63</sup> Anonymous building industry executive, *Australian*, 27 February 1981, p.27. A similar acknowledgement had been made during the protracted lockout of building workers that occurred in Melbourne in 1975. See Chapter Six, this thesis.

<sup>64</sup> *Australian*, 27 February 1981, p.27.

<sup>65</sup> Bruno Grollo, *Business Review*, 22-28 February 1981, p.3.

<sup>66</sup> For histories of the Grollo empire, see Robert Pascoe, *We Work with Grollo*, Melbourne: Grollo Australia, 1992; *Grollo in the Year 2000*, Melbourne: Grollo Australia, 2001.

<sup>67</sup> Bruno Grollo, *Business Review*, 22-28 February 1981, p.3.

recognised, the labourers, whilst they were actually employed, had to make the most of whatever opportunities came their way.<sup>68</sup>

None of this is to propose that employers favoured BLF-style militancy, or that many would not have preferred an industrial relations landscape free, at least, of Norm Gallagher. As Chapter Five suggests, collusive attempts had already been made to decapitate the union by having Gallagher isolated and removed from the industry. That strategy failed in part because local employers preferred him to the multinational corporations that were intent on taking over the Australian industry. But even amongst those bosses most desirous of Gallagher's removal there was, it seems, a marked reluctance to become involved in so blatant a political hatchet-job as that being proposed by Peacock and Fraser.

John Glasson was the senior industrial officer with the Master Builders Association of Australia (MBAA). He spelled out the bosses' dilemma. Not only had his organisation not sought deregistration of the BLF or even discussed such an eventuality with the government, but it was 'extremely apprehensive' about the move and believed, in fact, that it would be catastrophic for the building industry.<sup>69</sup> An *Age* editorial interpreted Glasson's comments as meaning that, if outlawed again,<sup>70</sup> 'the union would feel even less inhibited by the feeble restraints of the arbitration system and would use its industrial muscle with even greater vehemence'.<sup>71</sup> But a question that might well have been asked was whether employers trusted the government to eliminate the BLF, to protect them through that process, and to put in place a better industrial relations system than that which already existed. Glasson's comments suggested they did not.

All of that notwithstanding, Viner was pleased to report that preparations to destroy the labourers' union had dramatically improved under his watch. As of 15 September, he claimed, more than 250 interviews had been completed, 150 statements had been made, and 'the particulars of industrial incidents forming the statement of claim number[ed] in excess of 450 cases'.<sup>72</sup> The government's appeal to the Federal Court for removal of the BLF from the Conciliation and Arbitration system was at last ready to be lodged, though it did have to be deferred until after the Royal Commission had concluded. Gallagher provided a rather amusing, though no less insightful, explanation as to why this dramatic change in fortunes might have occurred. Alluding to the Hollywood film, 'The Godfather', he suggested that the

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<sup>68</sup> See *Australian*, 27 February 1981, p.27.

<sup>69</sup> See *Age*, 18 February 1981, p.1.

<sup>70</sup> The BLF had been deregistered between 1974 and 1976.

<sup>71</sup> *Age*, 18 February 1981, p.

<sup>72</sup> Ian Viner, CPD, 15 September 1981, p.1288.

government had approached employers, Mafioso-style, to make them an offer they could not refuse: those who cooperated with government actions against the BLF would continue to enjoy government contracts; those who refused to give evidence would not.<sup>73</sup>

In making his allegations of tardiness and incompetence against the former Minister, Viner relied upon and selectively quoted from a memorandum prepared by the Assistant Crown Solicitor referred to above. It was the type of document that might ordinarily have been declared confidential. But in his haste to inflict as much damage as possible upon his predecessor, the hapless Minister assented to Labor Party requests for the document to be tabled in Parliament, thus ensuring its incorporation into the public record.<sup>74</sup> Once there, it quickly transpired that whilst complaints had been made about the slowness of bringing the BLF case to court, the blame for that state of affairs had in fact been sheeted home to recalcitrant employers and their organisations. The bosses, it seems, were so distrustful of the government and its threats against the BLF that they insisted on all statements being processed through state Master Builders Associations.<sup>75</sup> But it was only when it emerged that Viner had used the same document as the basis of a report that he had tendered to Cabinet several months earlier, that the full extent of his slipperiness became apparent. On that earlier occasion, Viner had informed his colleagues:

Briefings I have received indicate substantial progress has been made in gathering the necessary material to prosecute this matter. But from my own experience in deregistration proceedings<sup>76</sup> I should not wish to understate to the cabinet [sic] the difficulties and complexities involved in achieving success in this kind of matter. Not the least of these difficulties is the necessity for obtaining detailed and comprehensive affidavits. Nevertheless, I am reassured by the extent of the progress made and the quality of preparation that has taken place to date.<sup>77</sup>

The discrepancy was clear. Having expressed his satisfaction with the state of preparedness of the BLF case shortly after he had taken over the industrial relations portfolio, Viner was, in September 1981, claiming that the whole thing had been a mess, and that Peacock had been to blame. But this inconsistency was now only part of the problem, since in agreeing to table the Crown Solicitor's document Viner inadvertently identified Costain Australia Ltd as the

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<sup>73</sup> 'The countdown has commenced: 35 hour week', BLF leaflet, July 1981, Boyd papers, Box 66, 15/12-15/15.

<sup>74</sup> CPD, 15 September 1981, p.1288.

<sup>75</sup> Ibid.

<sup>76</sup> Prior to entering Parliament, Viner had defended metal trades unions in a deregistration case brought on in Western Australia. See CPD, 23 September 1981, p.1669.

<sup>77</sup> Ian Viner, 'Monthly Survey of Industrial Relations Developments', 8 May 1981, in *Bulletin*, 23 September 1981, p.22.



most cooperative company in preparing the anti-BLF legislation.<sup>78</sup> The disclosure elicited a swift and painful response.

Gallagher had publicly promised, several months earlier, that employers found to be cooperating with the government's push for deregistration would be hit hard. The occasion was the opening of a new BLF convention centre in Carlton, at which Opposition Leader, Bill Hayden, was guest of honour, and during which Gallagher declared the next major building industry campaign to be that in support of a 35-hour working week.<sup>79</sup> That particular goal had been advocated by trade unionists for many years. The ACTU Congress of 1957 had placed it at the forefront of the labor movement's fighting platform; the 1969 Congress had declared that the time had come to develop the campaign on a national basis; and in October 1970, Hawke, whom the BLF long suspected of being 'all squawk',<sup>80</sup> had insisted that the following year would be 'the year of the 35 hour week'.<sup>81</sup>

Hayden, it seems, had no objection to the declaration of war in support of a shorter working week, or to the fusing of that campaign with the BLF struggle for survival. On the contrary, he suggested that whilst Labor and the BLF might not always agree, the party nevertheless strongly supported the union's efforts on behalf of builders' labourers and would, therefore, resist all efforts to have the union deregistered.<sup>82</sup> Hayden understood, perhaps, that 'in an industrial relations context where certain builders were backing...attempts to destroy the union, this threat [of retaliation] was part of the normal industrial confrontation' that occurred in the building and construction industry.<sup>83</sup>

On 16 September, as an opening salvo in this war, Gallagher ordered bans on 40 Costain projects with a combined value of more than \$100 million.<sup>84</sup> Costain was to be 'first cab off the rank' in the battle for a 35-hour working week. But it was also hit with claims for a \$40 a-week over-award payment for builders' labourers.<sup>85</sup> Company secretary, Norris Hude sought to placate Gallagher by claiming that Costain had not dealt directly with the government on the question of BLF deregistration; that company employees had not signed

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<sup>78</sup> CPD, 15 September 1981, p.1288.

<sup>79</sup> *Sun* 30 June 1981, p.41; 'The countdown has commenced: 35 hour week', BLF leaflet, July 1981, Boyd papers, Box 2, 1/13-1/24, July 1981 folder.

<sup>80</sup> NBAC, Journals (2) 1977, N140/523, 'R.J. Hawke All Squawk – The Boss's Friend', cartoon depicting Hawke and Sir John Kerr on the run, *Construction Worker*, Official Publication of the Australian Building Construction Employees and Builders Labourers' Federation (ACT Branch), October 1977, p.55.

<sup>81</sup> See NBAC, ABLF Circulars & Journals 1971, N130/311, *The New South Wales Builders' Labourer*, Vol. 4, No. 24, November 1970, p.29,

<sup>82</sup> *Age*, 19 June 1981, p.3; *Sun*, 30 June 1981, p.41.

<sup>83</sup> See Nowicki, 'Civil Procedure Assignment 1984', [7/28].

<sup>84</sup> *Age*, 17 September 1981, p.3.

<sup>85</sup> *Ibid.*

any statements; and that what little information had been provided to the government was by way of background material regarding Arbitration Commission proceedings. It was, Hude implied, information that was widely available through the public record.<sup>86</sup> But it was no use. As a consequence of Viner's indiscretion, Costain had been trapped, like a rabbit in the crosshairs of a high-powered rifle.

Less than a week after attacking Costain, Gallagher telexed more than 100 building companies, demanding shorter hours and pay rises of \$50 per week for building workers.<sup>87</sup> The move was prompted by a list that had come into his possession, and in which the names of all the employers who had provided information of any sort to the government were contained. Those details had been passed to Gallagher by a journalist who, in visiting Viner's Melbourne office during the transport strike of July 1981,<sup>88</sup> had been left unattended in the Minister's file room.<sup>89</sup>

What had caused Viner to make such a rudimentary mistake? In light of his seemingly inadvertent revelation about Costain, a plausible answer to that question might be that the Minister was hopelessly incompetent. But there was another possible explanation: that Viner wished to provide Gallagher and the BLF with the kind of information that would propel them into action on a scale likely to make deregistration easier to prosecute. Gallagher's response was that, whilst more than 100 companies had been forewarned of the consequences that would flow from cooperation with the government, they would be dealt with one at a time, and at a time that best suited the BLF.<sup>90</sup> But the speed and severity with which Gallagher responded, both to Viner's revelation in Parliament, and to the information that had been passed on to him by a friendly journalist, nevertheless sent a shiver through the construction industry.<sup>91</sup>

Labor parliamentarians and sections of the media were quick to pounce on Viner's errors. To begin with, media concerns lay with his exposure of Costain to BLF wrath. But the spotlight soon shifted to Viner's allegedly greater sin of misleading Parliament. In the context of that examination, the truly political underpinnings of the assault on the BLF came once

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<sup>86</sup> Ibid.

<sup>87</sup> *Age*, 24 September 1981, p.1.

<sup>88</sup> More than 50,000 truck drivers nationally struck in support of a \$20 a week pay claim. The strike hit deliveries of food, milk and beer, and also affected rubbish collection, payroll deliveries and interstate and Commonwealth bus services. See *Age*, 10 July 1981, p.1.

<sup>89</sup> *Age*, 24 September 1981, p.1.

<sup>90</sup> Ibid.

<sup>91</sup> See *Age*, 18 September 1981, p.1.

more into focus. It was all too apparent, the *Bulletin* suggested, that elements within the Fraser administration were

prepared to sacrifice what they had asserted was essential in the national interest – securing the deregistration of the Builders’ Labourers Federation (BLF) – in a tawdry attempt to discredit the former Industrial Relations Minister Andrew Peacock.<sup>92</sup>

Viner’s actions had demonstrated that

rather than a detached governmental consideration of what were the national interests involved in seeking BLF deregistration, the whole affair [had] degenerated into a political ploy, designed to lessen Peacock’s standing with his parliamentary colleagues whose votes would be important in any future...leadership struggle.<sup>93</sup>

The *Bulletin* had picked up on noises that Hawke and his colleagues were making in Parliament. It did not, of course, condemn the government for assailing the BLF. Rather, the concern was with the way in which Fraser and Viner were prepared to relegate that assault when their need to attack the rising Peacock assumed greater priority. And so it was with Hawke, Paul Keating and other Labor parliamentarians, for whom Viner’s insult to Parliament and his attempts to denigrate the Member for Kooyong were of apparently greater import than government threats to the BLF.

Viner had taken over the Industrial Relations portfolio in April, two months after deregistration was first mooted. Half a year later, there was still no sign of the case going to court. As a member of the Estimates Committee, Hawke had been ‘properly concerned’ about the delay.<sup>94</sup> Now, in September 1981, Hawke, Keating and other members of the Labor team were incensed, if not by the delay in having the BLF dealt with, then certainly by the abominable manner in which Fraser and Viner were treating a parliamentary colleague and fellow Liberal. Ever the colourful speaker, Keating labeled Viner ‘a sycophant... a sniveling, crawling Minister’ capable only of doing whatever the Prime Minister asked, which, in this case involved mounting a ‘premeditated vilification...a spiteful vendetta...to destroy’ the prospects of a potential leader of the Liberal Party and the nation.<sup>95</sup> The government, by which he meant Fraser, Viner and those who had consented to the attack on Peacock, had, Lionel Bowen argued, perpetrated ‘a dastardly act to try to destroy a colleague’, and all

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<sup>92</sup> *Bulletin*, 23 September 1981, p.22.

<sup>93</sup> *Ibid.*

<sup>94</sup> CPD, 23 September 1981, p.1667.

<sup>95</sup> CPD, 22 September 1981, p.1602.

because they were ‘paralysed by [their] fear of the honourable member for Kooyong’.<sup>96</sup> But it was Hawke who most forcefully led the attack.

Hawke was as disturbed as anyone else by Viner’s ‘...absolute breach of [the] basic undertakings’ that the government had given to those employers in the construction industry who feared ‘retributive action by this organisation’.<sup>97</sup> The government had assured employers, Hawke suggested, ‘that there would be no naming of people before the situation had been reached in the court when everyone would be named’.<sup>98</sup> But if Viner had betrayed the trust on which those undertakings had been given and received, that perfidy was as nothing, Hawke insisted, by comparison with the lies that the Minister had told the House about his predecessor. Demanding that the government be censured, he charged that Fraser and Viner had connived and colluded against Peacock, and that in perpetrating their grubby personal vendetta against the Member for Kooyong, they had deliberately misled and misused Parliament.<sup>99</sup> If it were Viner who deliberately omitted crucial information when citing a memorandum prepared by an officer of the Attorney-General’s Department, there was absolutely no doubt, Hawke suggested, that Fraser was equally guilty of that heinous crime. They had been so worried about how well Peacock was doing in the ‘numbers game’, by how much support he was gathering for a tilt at the Liberal Party leadership and the Prime Minister’s job that they had determined to ‘get’ him.<sup>100</sup> In those circumstances, Hawke implied, deregistration of the BLF had become a secondary concern.<sup>101</sup>

Only the naive could have expected Hawke’s censure motion to succeed.<sup>102</sup> He and his Labor colleagues had risen strongly to defend the honour of an opponent, and to rail against the manner in which Viner and Fraser allegedly misused and misled the Parliament.<sup>103</sup> But not even Peacock, in whose interests they had striven, could bring himself to vote against his own side. Having left all the running to his Labor defenders, the Kooyong Colt abstained from voting on the motion.<sup>104</sup> The Liberal Party imbroglio in which Hawke and his comrades

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<sup>96</sup> CPD, 22 September 1981, pp.1586-7.

<sup>97</sup> CPD, 22 September 1981, p.1581.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> Ibid.

<sup>101</sup> CPD, 23 September 1981, p.1665.

<sup>102</sup> The motion was defeated by 64 votes to 44. Ibid., p.1674.

<sup>103</sup> Mungo MacCallum suggested that under different circumstances, the argument about whether Viner had misled Parliament simply because he interpreted the same document in two different ways, on two separate occasions, would not have generated so much excitement. It was, he suggested, ‘the secondary accusation, that Viner had engaged...in a Malcolm Fraser-inspired attempt to discredit a fellow Liberal, and had messed it up to such an extent that he put important business interests off-side’, that had caused all the commotion. *Age*, 24 September 1981, p.16.

<sup>104</sup> Ibid.

had involved themselves was over or at least destined to recede. The Labor members had no doubt contributed to the great game of politics, managing in the process to chip away at the crumbling edifice of Malcolm Fraser's Government and so bring themselves inexorably closer to the pinnacle of power. But they had done nothing to directly defend the BLF or to forestall government attacks on militant trade unionism. Indeed, the exact opposite was true.

In their eagerness to defend Peacock, members on the Labor side had prevailed upon Viner to table a document in which Costain was identified as the most cooperative company in the preparation of anti-BLF legislation. Fraser's suggestion, that this had been done in order to assist the BLF in its struggle for survival, and that Labor had hoped to provide the union with a mechanism by which to 'silence the building and construction industry and to prejudice the royal commission or subsequent judicial proceedings', was tenuous to say the least.<sup>105</sup> It was made, after all, in the context of very feeble attempts to defend Viner against seemingly indefensible accusations of incompetence. More credible, given the circumstances in which Labor's request was made, was Fraser's implication that Hawke and others on that side were privy to the contents of the document before asking for it to be tabled in Parliament.

The demand to have the Assistant Crown Solicitor's memorandum publicly recorded had been made in the context of Labor efforts to assist Andrew Peacock in his struggle with Fraser and Viner. Peacock was a former member of Cabinet, in which he still retained some support. Incensed by Viner's accusations and smarting from the derailment of his own leadership aspirations, he arguably had both the motive and the means to provide those who came to his aid with information about the contents of the document in question. But regardless of what intelligence Labor might or might not have had, or how that information might have been sourced, the revelation of Costain's complicity in government plans to destroy the BLF unleashed what proved to be a galvanising force for building and construction companies.

As indicated earlier, government plans to deregister the BLF had initially received a cool, if not hostile reception. The ACTU described the move as provocative and likely to result in a worsening of industrial relations.<sup>106</sup> It had come, the peak union body argued, in the absence of any such demands from employers, at a time when the building and construction industry was experiencing 'relative industrial relations stability', and where the union movement had established '...an on-going basis for discussion of demarcation

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<sup>105</sup> CPD, 22 September 1981, p.1585.

<sup>106</sup> ACTU Media Release, 10 March 1981, Boyd papers, Box 54, 6/2-7/5.

problems' between the BLF and 'other relevant unions'.<sup>107</sup> An experienced industrial relations reporter with the *Sun* newspaper explained that deregistration had been proposed at a time when the MBA 'had just roped the BLF into a disputes settling procedure, which employers and unions said was working extremely well. It [the procedure] was able to settle many disputes without industrial action'.<sup>108</sup> The government was, he argued, 'out of touch with the feelings of the building industry, unions and employers'.<sup>109</sup>

Little had changed by the middle of the year. The government had managed to obtain more than 100 affidavits from building companies. However, many of those were said to be of little assistance to its case.<sup>110</sup> Indeed, Department of Industrial Relations documents confirmed that many companies approached by the government had advised that they were unable to assist with enquiries.<sup>111</sup> The response from one employer (Baulderstone) was that it was 'unable to provide details on the BLF because on the whole relations have been cordial'.<sup>112</sup> Moreover, a confidential minute leaked from Viner's department confirmed that failure to obtain cooperation from the SECV had left the government without evidence of BLF activity at Loy Yang.<sup>113</sup> And nor was the news any better where the federal government's main partner in anti-BLF legislation was concerned, since the Victorian government was, despite all its bluster, directly negotiating new pay rates and conditions with all the unions working at the power plant, including the BLF.<sup>114</sup> It was little wonder, then, that Viner's own department had warned him that employer support for deregistration was on the verge of collapse.<sup>115</sup> If not for his blunder in Parliament, it seems reasonable to argue, the trajectory outlined above would have continued until the case folded.

We have already seen how Gallagher and the BLF responded to Viner's revelation about Costain. There was a similar and immediate reaction among employers who, in the face of Viner's gaffe and Gallagher's reaction to it, had more reason than ever to ally themselves with the government. Ken Lovell, director of the national industrial executive of the building and construction industry, epitomised what was a complete *volte-face* in the language and attitudes of the employing class. There had been, he suggested, 'a great measure of co-

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<sup>107</sup> Ibid.

<sup>108</sup> Ben Ainsworth, 'De-registration dying', *Sun*, 30 June 1981, p.41.

<sup>109</sup> Ibid.

<sup>110</sup> *Australian Financial Review*, 25 September 1981, p.3; *Age*, 30 July 1981, p.4.

<sup>111</sup> *Age*, 30 July 1981, p.4.

<sup>112</sup> Michael Gordon, 'Move to deregister BLF seems likely', *Age*, 30 July 1981, p.4.

<sup>113</sup> *Australian*, 24 September 1981, p.1.

<sup>114</sup> Paul Molloy & Richard Guilliatt, 'Case to proceed tomorrow despite department advice', *Australian*, 24 September 1981, p.1,

<sup>115</sup> *Australian*, 24 September 1981, p.1.

operation from the industry in this application' to deregister the BLF.<sup>116</sup> The union had been allowed to run rampant 'like a rogue bull' for far too long, Lovell suggested, but it was time for Gallagher and his followers to be stopped. There would be a backlash, he acknowledged, but neither the employers nor the government could any longer tolerate the sort of tactics used by the BLF; tactics that the union was now proposing to use against companies involved in deregistration.<sup>117</sup>

Lovell's declaration of war clearly misrepresented the level of support that employers had been willing to provide prior to 15 September 1981. The reality was, as Fraser confirmed, that the government had received more cooperation from the industry in the week after Viner's *faux pas* than it had been able to muster over the previous ten months.<sup>118</sup> Yet it was in the context of Lovell's remarks and the fear that underpinned them that employers demanded government assurances, not only that deregistration would proceed, but that it would do so immediately.<sup>119</sup> Desperate to see off Labor Party attacks and forestall the loss of yet another Cabinet Minister,<sup>120</sup> Fraser had little choice but to agree to those demands. Throwing his prime ministerial weight behind the exercise and abandoning whatever concerns the government might have had about double jeopardy and violations of natural justice, he arranged for deregistration proceedings to commence on 25 September 1981.<sup>121</sup> By the end of the year, the forces aligned against the BLF would grow to include the Master Builders Federation of Australia (MBFA), the Master Builders Associations of NSW, Victoria, South Australia, the ACT and West Australia, the Australian Federation of Construction Contractors and the state governments of West Australia and South Australia.<sup>122</sup> Faced with this gathering storm, Gallagher and the BLF had little choice but to do what they did best: stand and fight.

The circumstances and motives that caused deregistration and Royal Commission proceedings to be brought against the BLF were patently political. The ALP played no part in those developments or decisions. Indeed, prominent Labor figures were quick to identify the actions brought on by the Fraser and Thompson Governments for what they were and, in Bill

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<sup>116</sup> Ken Lovell, *Age*, 24 September 1981, p.16.

<sup>117</sup> *Ibid.*

<sup>118</sup> *Australian Financial Review*, 25 September 1981, p.3.

<sup>119</sup> See *Age*, 25 September 1981, p.1.

<sup>120</sup> Peacock's resignation had brought to a dozen the number of Cabinet Ministers who had departed Fraser Cabinets since 1975. See *Age*, 16 April 1981, p.4.

<sup>121</sup> *Australian Financial Review*, 25 September 1981, p.1; *Age*, 25 September 1981, p.1.

<sup>122</sup> See Louise M. Bergin, 'Government versus the Builders Labourers' Federation 1981-1985', research report submitted in part fulfillment for the degree of Master of Commerce, University of Melbourne, 1986, p.A2, in Boyd papers, Box 57, 9/3.

Hayden's case, at least, to offer assistance for the BLF in its struggle for survival. There was nothing unusual or improper in those responses; as an affiliated union, the BLF was entitled to expect and receive whatever backing the ALP could provide. That the union and the Labor Party did not always see eye-to-eye was, as Hayden readily acknowledged, entirely irrelevant. Together they represented the industrial and political wings of a movement that had come into being to serve and protect the interests of the Australian working class. But the BLF did not, where parliamentary representation was concerned, get even a show of support.

In Federal Parliament, Labor politicians not only reneged on the assurances that Hayden had given, but indeed came to the assistance of the man who had initiated plans for deregistration of the BLF. Bob Hawke, the Opposition spokesman on Industrial Relations, seemed unable or unwilling even to refer to the BLF by name: in his hands, the union was 'that organisation' for which neither he nor his colleagues had any brief. Like Keating, Hawke was evidently more concerned with the slings and arrows that were being fired at a parliamentary colleague – albeit one from the 'other' side – than with the threats that Fraser and his government posed to a working-class organisation and its representatives.

Hawke, Keating and other Labor members rose to support Andrew Peacock against the allegations of slothfulness and incompetence that had been leveled against him by his own team. Channeling Whitlam, perhaps, they rose, too, to strongly protest the insult that Viner and Fraser visited upon the hallowed institution of Federal Parliament.<sup>123</sup> This does not mean that they were responsible for the escalation that occurred in Fraser's war on the BLF – only that they provided the trigger for that rise in hostilities to occur. Nor is it necessarily correct to suggest, as others have done, that Gallagher was responsible for what eventuated. Had he not responded as he did to Viner's disclosure about Costain, the theory ran, deregistration plans would in all likelihood have petered out.<sup>124</sup> It was a flawed, though convenient hypothesis, flawed because any lack of response would have been read as a sign of weakness and a retreat from the militancy on which BLF values were based; convenient because blaming Gallagher precluded the need to ask why Labor politicians were so eager to defend a member of the government, yet so evidently shy about coming to the assistance of an affiliated trade union.

The answer to that question can be discerned by reference to the National Committee of Inquiry report. In their pursuit of power, those guided by the findings and

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<sup>123</sup> For Whitlam's faith in and reverence for the institution of Parliament, see, Graham Freudenberg, *A Certain Grandeur: Gough Whitlam in Politics* (Melbourne, Sun Books, 1978, pp.78-80).

<sup>124</sup> See for example, *Australian Financial Review*, 25 September 1981, p.3.



recommendations of that report were more concerned than Labor Party politicians had previously been to not only look to the middle-class voters of Australia for support, but in the process, to cut adrift those vestiges of tradition that threatened to hamper that appeal. In choosing to defend Peacock – whilst simultaneously remaining silent about the growing assaults that his side of politics was mounting against the BLF and, by extension, the militant, blue-collar trade union movement – Hawke, Keating and other Labor parliamentarians were sending a clear message to the electorate and beyond. The message was that a new Labor Party was emerging to serve and promote the interests of a new Australia in which everyone would and should forget about notions of class and the way in which it divided them. There was to be no place in these new arrangements for Gallagher, the BLF or their ilk.

### **Right or Wrong?: The Wrongs (Public Contracts) Bill – December 1981**

Whilst the ALP had never been exclusively a party of the working class, it was with that section of Australian society that it was historically linked, both in reality and in public perception. For Labor to break free of that mantle, to rid itself of its mass party origins and become something more readily identifiable as a ‘catch all’ political organisation, it was, as Jaensch argued, necessary for the Party to ‘de-emphasise the syndicates that produced it and, to a large extent...sustained it’.<sup>125</sup> This, he suggested, entailed both a slipping of ‘the electoral focus on expression of, and appeal to, the working class’, and the mounting of a challenge to ‘the power and role of the trade union movement’.<sup>126</sup> The first part of this chapter outlined the circumstances under which those shifts emerged as organising principles for the ALP. The second part provided a concrete example of the way in which the party began to implement the new directions, at federal parliamentary level. In the final part of this chapter, and in the chapter that follows, we will examine ways in which the recommendations outlined in the National Committee of Inquiry Report published in 1979 were implemented at state level. This will be done in the first instance by outlining and analysing Victorian Labor Party responses to anti-union legislation introduced in the context of ongoing industrial relations problems at the Loy Yang power plant, but which was aimed squarely at Gallagher and the BLF. When the legislation in question – the Wrongs (Public Contracts) Bill – was introduced on 15 December 1981, then Opposition leader, John Cain, had this to say about it:

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<sup>125</sup> Jaensch, *Hawke-Keating Hijack*, p.155.

<sup>126</sup> Ibid.

This brings me to the question: What is the real purpose of this Bill at this time? It seems to me it is to endeavour to create an issue around the Bill itself, and what the Bill does, and not on the issue it purports to resolve. The Bill is provocative, it is pre-emptive, it gives special power to the Government in respect of a particular matter, and it is quite sectional in its application...The political result is the prime purpose. At present the Government is scared witless that it will lose the next election. It wants to create an issue...The Government wants to create an issue – Loy Yang, Mr Gallagher, and the Builders Labourers Federation – is seen as that issue, and that is what this proposed legislation is about.<sup>127</sup>

Further illuminating the political underpinnings of the Wrongs Bill and its connection to the broader campaign being run against Gallagher and the BLF, Cain argued:

The Opposition has said on more than one occasion that the Royal Commission into the Builders Labourers Federation, the deregistration proceedings, will not aid the cause of industrial harmony in this State. That is not to defend the Builders Labourers Federation in all that it does... [But] the Government is attempting, and is prepared [with this new legislation], to provoke and antagonise the whole of the Victorian building industry to score a political point on Norm Gallagher.

Proposing a better way and urging the government to rethink its position, Cain suggested:

The Opposition recognises that conflicts are inevitable in a free society. It is a measure of one's maturity, how one resolves those conflicts without recourse to repression...For the sake of the community, the Government should turn back from this course of confrontation. Instead, it ought to pursue what has been demonstrated to be the only way in which these matters can be resolved, that is, by sensible discussion, not confrontation...The future of this State is more important than political point scoring, but political point scoring is being pursued by a desperate Government in the run-up to the State election...The proposed legislation can achieve nothing and the Government knows that. I urge it to turn back from a course that is nothing more than political posturing.<sup>128</sup>

Under Section 3 (1) of the legislation – it was duly passed and continues to stand – the Crown or a 'relevant responsible body' could recover from organisations (trade unions) and any of their officers who induced or were deemed to have induced a breach of contract of employment, 'the amount of the loss or damage suffered by the Crown or the relevant

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<sup>127</sup> VPDLA, Vol. 363, 15 December 1981, pp.5097-101.

<sup>128</sup> Ibid.

responsible body as a result of that breach of contract...'.<sup>129</sup> As National Party Leader, Peter Ross-Edwards made clear, the onus of proof was being transferred to those suspected of encouraging industrial action; it would henceforth be up to trade unions and their officers, both jointly and severally, to prove that they had *not* encouraged workers to strike.<sup>130</sup> Section 4 of the legislation provided scope for the Supreme Court to 'grant an injunction restraining a person or organisation from engaging in conduct that' gave rise 'or would give rise to an action pursuant to section 3 (1)' of the law, as well as the power to 'grant an interim or interlocutory injunction pending determination of an application under subsection (1)' of the above.<sup>131</sup>

The Bill was to all intents and purposes, a revocation of the right to strike that Australian unionists had long regarded as axiomatic.<sup>132</sup> The justification offered for it was that third parties such as governments or their statutory bodies – in this case the SECV – needed some mechanism by which legal action could be taken against those unions and/or union officials deemed to have encouraged breaches of employment contracts between workers and contractors carrying out work on behalf of the third parties.<sup>133</sup> The legislation was necessary, Ross-Edwards argued, because contractors were afraid to take legal action or seek injunctions against unions such as the BLF. That fear, he suggested, was based on the knowledge that action against the BLF, in particular, could invite reprisals capable of forcing

<sup>129</sup> 1981 Victorian Historical Acts, available at [http://www.austlii.edu.au/au/legis/vic/hist\\_act/toc-1981.html](http://www.austlii.edu.au/au/legis/vic/hist_act/toc-1981.html) Accessed 19 August 2011.

<sup>130</sup> VPDLA, 15 December 1981, p.5103.

<sup>131</sup> 1981 Victorian Historical Acts, Ibid.

<sup>132</sup> In Australia, the right to strike did not actually exist until the Keating Labor Government made Australia compliant with International Labor Organisation (ILO) conventions to which it had long been a signatory by passing the Industrial Relations Reform Act 1993. The assumption of a right to strike that prevailed prior to that was largely based on rights implicit in ILO conventions. 'Although the right to strike is not explicitly contained in any ILO conventions, it is said to arise by necessary implication from two ILO conventions (*'ILO Conventions'*): the *Freedom of Association and Protection of the Right to Organise Convention 1948* (*'Freedom of Association Convention'*), and the *Right to Organise and Collective Bargaining Convention 1949* (*'Right to Organise Convention'*)' Richard Dalton & Richard Groom, 'The Right to Strike in Australia: International Treaty Obligations and External Affairs Power', *Melbourne Journal of International Law* 9, 2000. Available online at <http://www.austlii.edu.au/au/journals/MelbJIL/> Accessed 19 August 2011. The right to take protected strike action 'in pursuit of negotiations for a collective agreement applicable at a single enterprise or place of business, free from potential liability under the common law or State legislation and from the threat of dismissal' contained in the 1993 legislation was progressively removed by the Howard Government through the Workplace Relations and Other Legislation Amendment Act 1996 and the Workplace Relations Amendment (Work Choices) Act 2005. But whilst the Work Choices Act removed, or at least severely restricted industrial action for all employees under Federal jurisdiction, building industry workers had already lost that right under the Building and Construction Industry Improvement Act 2005, also introduced by the Howard Government. See Shae McCrystal, 'Smothering the Right to Strike: Work Choices and Industrial Action', *Australian Journal of Labour Law*, Vol. 19. No. 2, 2006, pp.198-200.

<sup>133</sup> Section Three, subsection three, of the Act states: 'An organisation shall be deemed to have induced a breach of contract... if the organisation or any officer of the organisation has by any act or omission induced or attempted to induce the breach of contract, or has made any threat or exhortation or exerted or attempted to exert any influence that might be likely to encourage an employee to breach a contract of employment.'

even the biggest contractors into bankruptcy.<sup>134</sup> It was a Bill that had been drawn up, anti-Labor MPs were only too willing to acknowledge, with one purpose in mind: the decapitation of the BLF. Ross-Edwards, for example, confirmed that the Bill was indeed aimed at Gallagher, whom he referred to as ‘that Communist’, and that Gallagher and the BLF were ‘the underlying reasons for the proposed legislation’. It was, Ross-Edwards argued, ‘a tough measure for a tough Communist’.<sup>135</sup> In the Upper House, Gracia Baylor, the Liberal member for Boronia, suggested: ‘This Bill is about one man, an outlaw, a brigand and a gangster’. With the Wrongs Act, she argued, Gallagher had ‘at last met his match’.<sup>136</sup>

In targeting Gallagher, some Conservatives were prepared to admit, the government could very well have been looking for an issue on which to hang its re-election credentials.<sup>137</sup> It was a situation about which Ian Douglas, a QC and former legal adviser to state Cabinet had already made Gallagher aware. Douglas, it seems, had been present at the very meeting at which the decision to make prosecution of the BLF a political issue had been made. Having subsequently ‘fallen out with the Government’, he was only too happy to acquaint Gallagher with the administration’s way of thinking.<sup>138</sup> Referring to Douglas, his presence at the Cabinet-level meeting, and the way in which he came to represent the BLF in its fight against deregistration, Gallagher reflected that since the government had been ‘bankrupt for an election issue’ it had ‘decided to kick the BLF can’.<sup>139</sup>

As the lone Labor speaker against the Bill in the Lower House, Cain came under strong attack. Ross-Edwards accused him of ‘going into bat for a power-hungry Communist who’ had ‘no concern for the community or the principle of the rule of law’.<sup>140</sup> Similar accusations were levelled by Rob Maclellan, the Liberal member for Berwick, who described Cain as a captive ‘of the very people’ whose problematic behaviour and attitudes the proposed legislation sought to address.<sup>141</sup> Like Premier Lindsay Thompson and Health

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<sup>134</sup> VPDLA, 15 December 1981, pp.5102-3. Gallagher and the BLF were blamed for driving the massive Mainline construction company out of business, and out of Australia, in 1974. *Herald*, 17 July 1984, p.22; *Age* online, 7 May 2002, available at <http://www.theage.com.au/articles/2002/05/06/1019441475557.html> Accessed 19 August 2011. Reference to Gallagher’s involvement in the demise of the Mainline company was also made by Liberal member for Higinbotham Province, Harold Hamilton, in the course of debate on the Wrongs Bill. Victorian Parliamentary Debates, Legislative Council, Vol. 363, 15 December 1981, p.5054. (Henceforth, VPDLC).

<sup>135</sup> VPDLA, 21 December 1981, pp.5101-04.

<sup>136</sup> VPDLC, 15 December 1981, p.5065.

<sup>137</sup> B.P Dunn, the National Party member for the Upper House seat of North Western Province, conceded: ‘Clearly it [the Government] wants an issue of this kind on which to convince the Victorian people that it has the strength and capacity to govern.’ *Ibid.*, p.5051.

<sup>138</sup> Norm Gallagher & Stewart Harris, *Norm Gallagher interviewed by Stewart Harris [sound recording]*, 1992.

<sup>139</sup> *Ibid.*

<sup>140</sup> VPDLA, 21 December 1981, p.5104.

<sup>141</sup> *Ibid.*, p.5105.

Minister, Bill Borthwick, he was keen to imply that Cain's lone performance was an indication of Labor Party disunity. There were those on the Labor side, Maclellan and his confederates sought to suggest, whose support for anti-BLF legislation was being silenced not by any love for the union, but by their fear of what would happen, were they to speak up. They were afraid of upsetting their party's organised power structure, the Liberals conjectured, lest it cost them their parliamentary positions.<sup>142</sup> With Cain providing the only target for a full-frontal assault, Maclellan argued that the Opposition Leader's failure to condemn the BLF would be 'the death of the Labor Party' in Victoria.<sup>143</sup> It would not be the last time that Cain's attitude toward the BLF would attract such dire predictions. But, as we shall see, later claims to that effect were to be made in much different circumstances.

The exercise was repeated in the Upper House, where Bill Landeryou<sup>144</sup> was the sole Labor Party speaker against the legislation. Landeryou mounted similar arguments to those presented by Cain. The government, he suggested, had 'set out with almost single-minded purposefulness, using every aspect of the law and inventing a few along the way' to put Gallagher behind bars.<sup>145</sup> In the run-up to state elections, it was Liberal Party practice, he argued, to shore up its electoral base by selecting 'individual[s] from the trade union movement' and painting them blacker than night. In the previous two elections, he alleged, John Halfpenny of the AMWU and Laurie Carmichael of the Amalgamated Engineering Union (AEU), had been singled out and demonised 'as dreadful animals who want[ed] to bring down Parliament and destroy society'.<sup>146</sup> On this occasion, Landeryou suggested, it was Gallagher who had been nominated public enemy number one. The Conservatives – both Liberal and National – had again resorted to beating the Communist drum in order to diabolise Gallagher all the more, and in order, too, to confuse the electorate about the real nature of the dispute that had halted construction of the Loy Yang power station for almost a year.<sup>147</sup>

Landeryou came in for similar treatment to that which had been meted out to Cain. Anti-Labor forces in the Upper House labelled him a BLF pawn, and charged that he was,

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<sup>142</sup> Ibid., pp.5107-10.

<sup>143</sup> Ibid., p.5105.

<sup>144</sup> Landeryou was Labor Party Leader in the Upper House. A former State and federal secretary, and federal president, of the Storemen and Packers' Union, Landeryou was a member of the ALP Right. He had supported Cain in his successful bid to topple Frank Wilkes in September 1981. A close ally of Bob Hawke's, Landeryou was ultimately dumped from the Cain Cabinet in mid-1983 because over a conflict of interest involving his on-going association with the Storemen and Packers' Union. See, Cain, *John Cain's Years*, pp.89-92.

<sup>145</sup> VPDLC, 15 December 1981, p.5044.

<sup>146</sup> Ibid., p.5046.

<sup>147</sup> For a description of the Loy Yang dispute, see Chapter Eight, this thesis.

like the rest of the ALP, ‘under the control of the Left wing unions’.<sup>148</sup> Alan Hunt, who led the government in the Upper House, expressed sorrow about the supposedly harmonious relationship that existed between Labor and Gallagher. One could only conclude, he argued, that the Socialist Left were calling in their debts and that Labor was dancing to their tune ‘in support of a Maoist union leader who’ was threatening construction of the Loy Yang project.<sup>149</sup> Bruce Chamberlain, Liberal member for Western Province, took up this theme, suggesting that whilst the BLF had only two votes at Labor state Conference, it nevertheless exerted ‘enormous power and influence over the 162 Socialist Left union delegates’ who, between them, accounted for 57 per cent of the Conference votes exercised by the trade union movement.<sup>150</sup> The conclusion to be drawn, Chamberlain implied, was that Gallagher, the Communist, had the ALP at his beck-and-call.<sup>151</sup> It was a rather fatuous argument, and one that had lost its relevance, Labor activist Lyle Allan has suggested, since the CPA had begun to fracture in 1963.<sup>152</sup> But it was a tactic the Liberals were loath to surrender, since it was they who had profited most from the old DLP line that Labor was Communist-controlled via Communist-appointed Conference delegates. And with the fall of the Berlin Wall and the collapse of Communism still unpredicted, it was a ploy the Conservatives might reasonably have considered more likely to reap them positive than negative results.

To Labor minds, within and without Parliament, the Bill was ‘a cynical political exercise’.<sup>153</sup> It was, VTHC Secretary Ken Stone, argued, ‘nothing more than a cheap political trick’, perpetrated on the Victorian people at a time when government ministers had turned their backs on a deal capable of delivering lasting industrial peace at Loy Yang.<sup>154</sup> As Cain suggested, and as Ross-Edwards confirmed,<sup>155</sup> the Bill was intended to pre-empt the Royal

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<sup>148</sup> VPDLC, 15 December 1981, p.5052.

<sup>149</sup> Ibid., p.5038.

<sup>150</sup> Chamberlain pointed out that trade unions controlled 61 per cent of Conference votes. Of that 61 per cent, he proposed, 57 per cent were controlled by Socialist Left unions largely under the control of Norm Gallagher and the BLF. Ibid., p.5063.

<sup>151</sup> Chamberlain’s inferences that Gallagher somehow represented Communist control over the ALP were obliquely, rather than directly, made. There was, it seems reasonable to suggest, little reason for him to reference the splits that had occurred in the Communist movement, other than to link Gallagher’s political beliefs to his supposed influence over the Socialist Left and, therefore, the ALP.

<sup>152</sup> This was confirmed in a personal conversation with Lyle Allan, 18 November 2010.

<sup>153</sup> VPDLC, 15 December 1981, pp.5073-4.

<sup>154</sup> Stone’s remarks were cited by Landeryou as part of his attack on the legislation. Ibid.

<sup>155</sup> Responding to Cain’s opposition to the Bill, Ross-Edwards (whose National Party then aspired to coalition with the Liberals) confirmed that it had been drawn up in the context of ‘a thousand particulars or thereabouts, containing allegations against the Builders Labourers Federation in the Federal Court by the Victorian and Federal Governments’ – allegations that were the basis of the Governments’ application to have the union deregistered. The Victorian Government had been waiting patiently on that application, Ross-Edwards suggested, but its patience was at an end. VPDLA, 21 December 1981, p.5103.

Commission and deregistration proceedings that conservative governments in Melbourne and Canberra had already launched against the BLF.<sup>156</sup>

For a less skilful Opposition, the introduction of such a Bill might well have been capable of torpedoing its chances of unseating even the tired, indecisive and seemingly disunited regime that the Conservative government had become.<sup>157</sup> But Cain and the Victorian Parliamentary Labor Party – or at least those for whom gaining power was an overwhelming ambition – were not about to see the momentum they were building towards an election victory derailed by an all-out defence of the BLF. That, I suggest, was the reason behind the lone performances of Cain and Landeryou. It was not so much that there were those on the Labor side who, in their heart-of-hearts, wanted to support the Conservatives in their vendetta against the BLF – and that is not to say that such people did not exist in the ALP, even at that time – but that they could not, and were not allowed to be seen to be offering too much support to an electorally unpopular union.

That at least some Labor members would have spoken out against the Bill, had they been allowed to do so, is not in question. Gracia Baylor, for example, remarked on the extreme edginess running through Labor ranks as Opposition members were forced to silently observe the sparring that occurred between Landeryou and Upper House members of the Liberal and National parties.<sup>158</sup> She marvelled aloud at Joan Coxsedg's obvious frustration and the irritation that forced other Labor MPs to troop constantly in and out of the Chamber in search of whatever comfort their cigarettes could provide. And she wondered, too, at the way in which Liberal and National Party members were being allowed to speak, free from constant interjection. To be listened to in such silence was, Baylor reflected, 'a rare privilege' indeed.<sup>159</sup>

The electoral momentum that Labor had built up was, Cain suggested, a consequence of his own rise to the leadership of the Victorian ALP.<sup>160</sup> In the months immediately preceding that elevation, it had been the case, he argued, that despite all its problems, the

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<sup>156</sup> The Royal Commission was initiated in August 1981. Deregistration proceedings were begun the following month.

<sup>157</sup> In the latter stages of its 27 year rule, Cain suggested, the Liberal Government 'was perceived to be drifting badly.' It lacked 'clear direction and strategy', the Cabinet appeared disunited, ministers were performing erratically and some, such as Jeff Kennett, were prioritising their own portfolios over the broader interest of the Government. As Cabinet ministers brawled among themselves, 'entrenched long-term values were cast aside in favour of populist policies pursued by the political sharks.' Cain, *John Cain's Years*, pp.13-16.

<sup>158</sup> H.G. (Gracia) Baylor was the Liberal member for Boronia Province. Sworn in shortly before Joan Coxsedg, she became the first female member of the Legislative Council of Victoria. Australian Women's History Forum, available at <http://www.womenshistory.com.au/default.asp> Accessed 23 August 2011.

<sup>159</sup> VPDLC, 15 December 1981, p.5065.

<sup>160</sup> Cain assumed the leadership in September 1981. Cain, *John Cain's Years*, p.25.

government and Premier Lindsay Thompson had continued to perform much better in opinion polls than Labor and Frank Wilkes.<sup>161</sup> Thompson's ground-breaking invocation of the Essential Services Act to break a 'milk strike' staged by the Transport Workers' Union (TWU) had pushed popular support for the Liberals up six percentage points, whilst Thompson's own popularity, running at 62 per cent, swamped that of Wilkes on 35 per cent.<sup>162</sup> And, in what was a highly unusual occurrence where Australian by-elections are concerned, the Liberals had managed not only to retain Kew when that seat was vacated by deposed Premier and Liberal Party Leader, Rupert Hamer, but had, in fact, done so with an increased majority.<sup>163</sup> By the time the Wrongs Bill came to be introduced and debated in Parliament, however, state-wide opinion polls conducted by the *Age* newspaper had Labor on 52 per cent and the Government on just 32 per cent.<sup>164</sup> ALP prospects were even brighter in Melbourne, the *Age* poll suggested, with 56 per cent of metropolitan voters likely to vote Labor, as opposed to just 31 per cent voting Liberal. Cain's popularity had, meantime, risen to such an extent that he was now just 'a point or two' adrift of the Premier.<sup>165</sup>

It was in that context of shifting political fortunes that the Liberals introduced their vehemently anti-trade unionist Wrongs Bill.<sup>166</sup> It was a measure a Labor Opposition might reasonably be expected to vehemently oppose. But with an election only months away, and with its own momentum running hot, it seems party strategists concluded that there was nothing to be gained and everything to be lost from Labor mounting anything more than token resistance to the Bill. Exposing Gallagher, the BLF and, by extension, the rest of the

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<sup>161</sup> The Liberals' ability to outperform Labor in the months leading up to September 1981 marked a reversal of the situation that had existed shortly beforehand. Then, declining support in the opinion polls had led the Liberals to dump Rupert Hamer (June 1981) in favour of Lindsay Thompson. *Age* online, 30 March 2002, available at <http://www.theage.com.au/articles/2002/03/29/1017206150055.html> Accessed 24 August 2011.

<sup>162</sup> Cain, *John Cain's Years*, pp.17-18. Thompson's resort to the Essential Services Act proclaimed in 1958 marked just the second time that that legislation had actually been used. It demonstrated, the *Australian* newspaper suggested in an obituary to the former Premier, 'that this Mr Nice Guy could be a man of steel.' *Australian* online, 17 July 2008, available at <http://www.theaustralian.com.au/news/lindsay-thompson/story-e6frg6of-1111116940260>, Accessed 18 August 2011.

<sup>163</sup> Hamer lost the Liberal Party leadership, and with it the Premiership, in June 1981. He resigned from politics the following month. The subsequent by-election for his Kew seat was held on 15 August 1981. Cain, *John Cain's Years*, p.18. The swing to the Government of 2.5 per cent was, the *Age* implied, likely to further damage the leadership of Frank Wilkes. *Age*, 20 August 1981, p.4.

<sup>164</sup> *Age*, 7 December 1981, p.4.

<sup>165</sup> Cain, *John Cain's Years*, p.27.

<sup>166</sup> Whilst the Liberals and Nationals denied the anti-unionist intent of the Bill, the veracity of such claims was undone by their own boasting. The proposed legislation, Ross-Edwards proclaimed, was 'not anti-union, not anti-unionists and certainly not anti-labour.' It was not even industrial legislation, he argued, before going on to suggest that 'it could well turn the tide of industrial relations in Australia' because, once passed into law in Victoria, it was something that other States would undoubtedly aspire to. VPDLC, 15 December 1981, pp.5102-3.



Victorian trade union movement, to such draconian measures as it seems, an acceptable compromise in the pursuit of power.<sup>167</sup>

Cain and fellow Participants had played a prominent role in initiating federal intervention into the Victorian branch of the ALP. It was a testament to the ruthlessness and skill of those involved, that the Participants were able to play such a pivotal role in ALP history. They had, after all, operated without the sort of union connections on which Labor Party power plays are normally predicated.<sup>168</sup> On that occasion, Cain and his confederates had encountered fierce left-wing resistance. More than a decade later, the Liberals and Nationals were eager to portray him as someone who owed his leadership to the benevolent machinations of left-wingers such as Gallagher and John Halfpenny.<sup>169</sup> The reality was rather different, at least where Gallagher was concerned.

Cain's ascension to the pinnacle of State Labor power in September 1981 had not been his first attempt to capture the leadership position. He had tried, and failed, the previous year when he polled 16 votes to Wilkes' 28 in a Caucus ballot.<sup>170</sup> According to Gallagher, in the run-up to the vote he had accompanied Cain to a North Melbourne restaurant where the would-be leader prevailed upon him 'to get him a couple of votes to knock off Frank Wilkes'.<sup>171</sup> Cain, Gallagher suggested, was keen for him to lean on George Crawford of the Plumbers Union and on Ken Carr of the Furnishing Trades Union, in order that they might be persuaded to drum up support for Cain's tilt at the leadership. Gallagher's response, he told journalist Bruce Stannard of *The Bulletin*, was as follows:

I'd better make my position very clear so you know precisely where I stand. I think Frank Wilkes is a far more honest person politically than you will ever be and secondly I believe we will get a better deal off the Liberals than we would off the Labor governments.<sup>172</sup>

That exchange, Gallagher suggested, marked the beginning of Cain's hatred of the BLF.

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<sup>167</sup> The legislation was introduced with the Loy Yang project and the BLF specifically in mind. But it could, via parliamentary resolution, be easily adapted to apply to other situations and target other trade unions. See VPDLC, 15 December 1981, p.5104.

<sup>168</sup> See Chapter Three, this thesis.

<sup>169</sup> Cain implied that Wally Curran of the Meatworkers' Union and Jim Roulston of the Metalworkers Union were instrumental in swinging Left-wing support in behind his successful bid for the leadership. The Government's response to his election as Leader of the Victorian ALP had been to suggest that since 'the Socialist Left had been the last section of the party to come behind' him, he owed his leadership 'to their support.' It was, Cain argued, an attempt to portray him 'as a creature of the 'faceless men' of the extreme Left', a subset of which was that he 'would be pushed around by John Halfpenny and Norm Gallagher.'

Cain, *John Cain's Years*, pp.25-6.

<sup>170</sup> Ibid., p.24.

<sup>171</sup> *Bulletin*, 29 April 1986, p.45.

<sup>172</sup> Ibid.

The introduction of the Wrongs (Public Contracts) Bill came at a time when affiliation with militant unionism had been identified as a major impediment to Labor Party success. Whilst this was perhaps not a new discovery, and whilst it had been uncovered in the context of a review into the electoral failures and prospects of the Federal Labor Party, it is arguable that whatever might have been considered prudent and beneficial for the national body could, in this instance, apply equally to state Labor parties. Liberal and National Party assertions that Labor was in thrall to a militant, Communist-led union at a time when the Victorian ALP was building momentum towards an election victory were potentially very damaging. Since they were also to be expected, it was, in light of what the Committee of Inquiry report recommended, in Labor's interests not to give them any more oxygen than necessary. Whilst some level of resistance to such clearly anti-union legislation was necessary, the level of opposition provided had to be tempered and controlled in the interests of the party's electoral prospects.

This chapter has used federal and Victorian parliamentary debates from the period February-December 1981 as prisms through which Labor Party responses to Conservative government attacks on Norm Gallagher and the BLF may be discerned. At both levels, efforts were made to either remain silent on or minimise the efforts that could be made in support of Gallagher and his union. In Federal Parliament, senior members of the ALP worked to defend a putative political opponent from enemies on his own side of the House, whilst doing nothing to protect Gallagher and the BLF from attacks being made on them by that same Liberal Party politician and his colleagues. In Victoria, party leaders curtailed what could be said or done on behalf of an affiliated union lest those efforts undermine the middle-class votes on which Labor's return from the political wilderness relied. In each case, the party was acting on National Committee of Inquiry findings and recommendations around minimising links with militant trade unionism and reliance on working class votes. This, in turn, supports the overarching hypothesis that Gallagher and the BLF provide effective lenses through which ALP attempts to become a 'catch-all' political party may be gauged.

## Chapter Ten

### Formula for Success: Don't Mention the War

From the early 1970s, various state Labor parties took their lead from Gough Whitlam and *Towards a New Australia* (1971), a collection of essays in which party leaders signalled Labor's readiness to trade its socialist objective and ideology for an opportunity 'to modify and manage capitalism'.<sup>1</sup> But if *Towards a New Australia* signalled Federal Labor's readiness to govern, Whitlam's victory in 1972 provided individuals such as John Cain junior with a salient lesson that it was, after all, possible for Labor to 'win the middle' of the electorate.<sup>2</sup> Rather than undermining this new-found confidence, Cain suggested, the dismissal that came three years later actually resulted in an influx into Victorian Labor of the very talents, skills and resources needed to build both the momentum and the policies necessary for electoral success.<sup>3</sup> The process culminated in glorious triumph on 3 April 1982, when the Party swept into office in Victoria for the first time in 27 years.

The spectre of history loomed large over the new government and Premier.<sup>4</sup> Cain's father, John Cain senior, had been the last Labor Premier of Victoria, ruling the state from December 1952 to June 1955, at which point his government fell to the infamous party Split.<sup>5</sup> Having ousted the Liberals, Cain junior had not only to ensure that his administration lasted more than one term, but had also to guard against the kind of internal party forces and conflicts that had brought his father's government undone. In three sections, this chapter will outline and assess critical steps taken by Cain to ensure his government's longevity and to block those forces that threatened it. In those actions,

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<sup>1</sup> Under this new direction, promulgated by *Towards a New Australia*, more growth and greater efficiency would produce 'a "bigger cake" and hence greater equality of "cake" for all.' Capitalism was to be managed via a system of monetary and fiscal controls, there was to be an emphasis on developing 'a rational, humane, efficient, 'mixed-capitalist economy', and an 'emphasis on meritocracy' or 'equality of opportunity', rather than 'equality per se.' Jaensch, *The Hawke-Keating Hijack*, pp.91-2.

<sup>2</sup> Cain, *John Cain's Years*, p.19.

<sup>3</sup> *Ibid.*, pp.19-21.

<sup>4</sup> See Paul Strangio, 'John Cain snr: The star-crossed premier', Paul Strangio and Brian Costar (eds.), *The Victorian Premiers 1856-2006*, Sydney: Federation Press, 2006, pp.250-74; Paul Strangio, 'John Cain jnr: The burden of history', Paul Strangio and Brian Costar (eds.), *The Victorian Premiers 1856-2006*, Sydney: Federation Press, 2006, pp.325-50.

<sup>5</sup> See Kate White, *John Cain & Victorian Labor, 1917-1957*, Sydney: Hale & Ironmonger, 1982.

this chapter will suggest, could be discerned evidence of both the directional, political and operational shifts considered synonymous with the Whitlam era and the style of Labor Party leadership that he embodied. Extending arguments made in the previous chapter, this section of the thesis will also suggest that in style and substance, the Cain Government of the early to mid-1980s reflected and implemented electoral strategies laid down in the National Committee of Inquiry Report of 1979. This was most clearly evident, the chapter will posit, where calls for a reorientation away from the working-class, blue-collar, trade union associations considered barriers to Labor's electoral appeal were concerned.

Section one of this chapter is a vignette. It focuses on the blow meted out to the Socialist Left faction when, within days of winning the 1982 election, Cain bypassed the man widely tipped to fill the Labour and Industry portfolio, preferring instead to give that role to Rob Jolly, in whose trust the state's finances were also being invested. Though brief, this section is nonetheless redolent of Jupp's argument that the Cain Government fully reflected, both in its policies and personnel, the trends that had arisen in the 'new' ALP.<sup>6</sup> It is consistent, too, with arguments presented by Considine, Costar, Murray and White regarding the increasingly technocratic and middle-class nature of Labor in Victoria; the emphasis that Cain's administration placed on leadership that was both elitist and professional; and the coincidence of those developments with a shift away from the kinds of ideology traditionally associated with Labor.<sup>7</sup>

Section two of this chapter assesses the tabling of the Winneke Royal Commission Report in July 1982 and the way in which that intersected with an important by-election in the middle-class electorate of Nunawading. The third and final section of this chapter revolves around the BLF (De-recognition) Bill of July 1985. Read together and considered alongside the last part of the previous chapter, in which the Wrongs (Public Contracts) Bill was discussed, these final two sections point to a trend in which

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<sup>6</sup> Jupp, 'The Australian Labor Party: Past, Present, Future', pp.124-7.

<sup>7</sup> Considine, 'Labor's Approach to Policy Making', pp.187-98; Considine & Costar, 'Conclusion: Federalism, Social Democracy and the Trials of State Reform', p.284; Murray & White, *The Fall of the House of Cain*, pp.13-16. Murray and White characterised the Cain government as one which came to power with a strange mix of 'left' ideas forged in the 1970s – 'participatory democracy, pacifism, radical feminism and various strands of "liberation"' – and ideas more commonly attuned to the economic 'right' – 'such as an attack on entrenched bureaucracy and a belief in the wonders of modern management.'

deliberate attempts were made to limit and control who could speak and what could be said in Parliament about BLF-related matters.

## **Labour and Industry**

In the run up to the April 1982 poll, the straight-talking Cain had warned the unions that their goals and actions would be evaluated against Labor's need to govern for all Victorians. When 'the responsible answer' to trade union demands was 'No', he suggested, that was the answer the unions would get.<sup>8</sup> Having gained the middle-class support necessary to electoral victory,<sup>9</sup> the new Premier was determined not to offend those who had placed their trust in him, or to allow others on his side of politics the opportunity to make such a mistake. It was in that context that Jim Simmonds, a leading member of the Socialist Left faction was refused the Labour and Industry portfolio that most expected him to get, and for which it seems he was eminently qualified.<sup>10</sup>

Simmonds was a thirteen-year veteran of state Parliament, before which he had been a tool maker, a Trades Hall delegate, and both a shop steward and branch secretary of the AMWSU.<sup>11</sup> Having been Opposition spokesman on labour and industry since entering politics in 1969, he was, Tramways Union secretary, Jim Harper, suggested, a man who was 'fully conversant with the issues'; someone with whom union leaders had developed a strong rapport; and with whom they looked forward to negotiating in his capacity as a Minister.<sup>12</sup> But employers did not share the view that Simmonds was 'the obvious choice'. In the months leading up to the election they had pointed to Simmonds' Socialist Left connections as evidence of his unsuitability for such an important and

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<sup>8</sup> *Age*, 18 March 1982, p.1.

<sup>9</sup> Having improved its position by more than five percentage points between the State elections of 1976 and 1979, the Victorian Labor Party went on to capture 17 additional Lower House seats in the 1982 election. Most of these newly acquired seats lay in the middle-class suburbs to Melbourne's east and south-east. See <http://www.abc.net.au/elections/vic/2010/>; Strangio, 'John Cain jnr: the burden of history', p.329. Jupp noted that 'For the first time [ever] the majority of Labor politicians represented electorates 'east of the Yarra' in the suburban belt which had been almost exclusively held by the Liberals until 1979.' Jupp, 'The Australian Labor Party: Past, Present, Future', p.126.

<sup>10</sup> *Age*, 8 April 1982, p.1.

<sup>11</sup> Parliament of Victoria, 'People in Parliament', available at <http://www.parliament.vic.gov.au/about> Accessed 14 July 2012; *Age*, 13 April 1981, p.1.

<sup>12</sup> *Age*, 13 April 1982, p.1.

sensitive portfolio.<sup>13</sup> The employers' problem, it seems, was the widely-held union expectation that, in government, Simmonds would push for the repeal of the Vital State Projects Act,<sup>14</sup> the Essential Services Act<sup>15</sup> and the Wrongs Act.<sup>16</sup>

The Wrongs Act had been introduced in the dying days of the Thompson Liberal Government, with the express purpose of targeting Gallagher and the BLF. It was brought on in the context of ongoing problems at Loy Yang, where the BLF and several other unions had been particularly active.<sup>17</sup> But its introduction also coincided with a national peace deal involving shorter hours and improved wages not only for BLF members, but also for more than 100,000 building industry tradesmen and 400,000 metal workers.<sup>18</sup> Not only had introduction of the legislation been ill-timed, the *Age* suggested, but it had been provocative to boot. It was ill-timed because it came in the face of a deal that the government had done nothing to foster, but which nonetheless promised to bring industrial peace and stability to the state and the country. And it was provocative because whilst it was drafted ostensibly to address problems at Loy Yang, the Liberals had made absolutely no secret of its true intent.<sup>19</sup>

Simmonds was not overlooked for the Labour and Industry position because Cain wished to persecute the BLF. But it is arguable that he was bypassed because in Rob

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<sup>13</sup> Ibid.

<sup>14</sup> The Vital State Projects Act 1976 was introduced in connection with union bans on the construction of the Newport Power Plant. The legislation provided for fines of \$10,000 for individuals and \$50,000 for organizations found guilty of illegally banning work on projects deemed vital to the interests of the State of Victoria. See Victorian Consolidated Legislation, Vital State Projects Act 1976, No. 8896 of 1976, available at [http://www.austlii.edu.au/au/legis/vic/consol\\_act/](http://www.austlii.edu.au/au/legis/vic/consol_act/) Accessed 14 July 2012.

<sup>15</sup> Proclaimed in 1958, the Essential Services Act provided for penalties of up to \$1000 or six months imprisonment for persons found guilty of interrupting services deemed essential in Victoria. See Victorian Consolidated Legislation, Essential Services Act 1958, No. 6244 of 1958, available at: [http://www.austlii.edu.au/au/legis/vic/consol\\_act/](http://www.austlii.edu.au/au/legis/vic/consol_act/) Accessed 14 July 2012. This Act proclaimed in 1958 was the second iteration of the Essential Services Act of 1948, the original Act having been passed by Parliament in January 1948 in the context of a strike by Melbourne tram workers, but proclaimed in November of that year in the context of a strike involving employees at the Melbourne Metropolitan Gas Company. See *Age*, 15 November 1948, p.1; *Sydney Morning Herald*, 15 November 1948, p.1.

<sup>16</sup> Victorian Consolidated Legislation, Essential Services Act 1958.

<sup>17</sup> The Plumbers' Union (PGEU) was especially militant at Loy Yang, but did not attract the kind of attention or retaliation visited upon the BLF. John Arnett, aka Johnny Rotten, recalled that in the considerable time that he worked at Loy Yang, the Plumbers Union, of which he was a member, never worked more than 36 hours in one week. Their goal was to use Loy Yang as the basis for ensuring shorter working hours throughout the industry. Suggesting that PGEU all but ran the show at Loy Yang, Arnett noted that his union was 'absolutely hated' by the SECV. Cited in Ross, *Dare to Struggle, Dare to Win!*, p.44.

<sup>18</sup> *Age*, 15 December 1981, p.1.

<sup>19</sup> *Age*, 16 December 1981, p.13.

Jolly, the man to whom the portfolio ultimately went, the Premier had someone whose background and visage better suited the mould that Labor of the 1980s both represented and wished to present. Where Simmonds was blue-collar, working-class, tech-educated Reservoir,<sup>20</sup> Jolly was white-collar, middle-class, tertiary-educated Box Hill.<sup>21</sup> Where Simmonds had been a manual worker whose entry into Parliament occurred directly from the shopfloor,<sup>22</sup> Jolly had arrived via academia, the Commonwealth Public Service, and the ACTU, where he had been a research officer and industrial advocate.<sup>23</sup>

Jolly's appointment as Minister for Labour and Industry came on top of his posting as state treasurer.<sup>24</sup> But if his tertiary qualifications in economics and education equipped him with the skills and attributes to control Victoria's finances, union leaders had mixed feelings about his suitability for the Labour and Industry role. Left-wing officials saw what they sneeringly referred to as Jolly's 'academic experience' – i.e. his time at the ACTU – as a poor substitute for the kind of 'grass roots experience in the nitty gritty of industrial relations' with which Simmonds was arguably imbued.<sup>25</sup> Nor were they impressed by what appeared to be Cain's downgrading of the industrial relations role – it was to be carried out in conjunction with Jolly's primary function as Treasurer of Victoria. But those on the Right were clearly pleased by the appointment: Jim Maher, secretary of the Shop Distributive and Allied Employees Association opined that it was 'well thought out' and hoped that it would 'lead to excellent co-operation between the Trades Hall executive and the new Government'.<sup>26</sup>

As the leader of a right-wing union seeking readmission to the ALP, Maher had every reason to be supportive of Cain's decision. Conservative by nature, the Shop

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<sup>20</sup> A working-class suburb in Melbourne's north.

<sup>21</sup> Parliament of Victoria, 'People in Parliament'; An Australian Institute of Family Studies (AIFS) report published in 1993 allegedly described Box Hill as a 'quintessentially middle class suburb'. See *Green Left Weekly*, No. 122, 10 November 1993, available online at <http://www.greenleft.org.au/node/5222> Accessed 14 July 2012.

<sup>22</sup> See John Brumby, condolence speech delivered on the passing of James Lionel Simmonds, VPDLA, 13 March 2007, p.658.

<sup>23</sup> Jolly was a research officer and industrial advocate with the ACTU between 1972 and 1979. Parliament of Victoria, People in Parliament; *Age* 13 April 1982, p.1.

<sup>24</sup> Several of Cain's team, including the Premier himself, took on multiple ministries. See for example, *Age*, 8 April 1982, p.1.

<sup>25</sup> *Age*, 13 April 1982, p.1.

<sup>26</sup> *Age*, 13 April 1982, p.1.

Assistants<sup>27</sup> were unlikely ever to run the gauntlet of legislation that Simmonds, as Minister for Labour and Industry, might have worked to repeal. Conversely, they had, through their alignment with the DLP and the anti-Communism for which it was famous, more than enough reason to favour retention of those very laws. Indeed, as someone who (later) claimed credit for moderating modern Labor and helping to broaden its electoral appeal,<sup>28</sup> Maher had more reason than most to wish a continuation of the status quo. Jolly, as it turned out, served only eight months as Minister for Industry and Labour.<sup>29</sup> But if his tenure was short, the message that had been conveyed through his appointment and the bypassing of Jim Simmonds was nonetheless telling.

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Addressing the Australia and New Zealand Association for the advancement of Science (ANZAS) Congress in Sydney on 10 May 1982, Meredith Burgmann suggested that whilst the Cain Government might already have pulled out of deregistration proceedings against the BLF – the Victorian government had been given leave to withdraw from the case three days earlier<sup>30</sup> – it would be a different situation where Royal Commission recommendations about prosecuting Gallagher were concerned.<sup>31</sup> Burgmann argued, moreover, that with Cain likely to push for prosecution of the BLF general secretary, ‘Victorian Left unions mainly allied to the Socialist Left’ would have to make an important decision: they could either ‘accept fairly solid evidence from an albeit “tainted” source as to Gallagher’s personal dishonesty’, or they could ‘continue to support comrade Gallagher in the face of unjustified and unbelievable attacks from the ruling class’.<sup>32</sup>

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<sup>27</sup> The Shop Distributive and Allied Employees Association had, up until 1972, been known as the Shop Assistants & Warehouse Employees Federation of Australia. See Australian Trade Union Archives online at <http://www.atua.org.au/> Accessed 18 July 2012.

<sup>28</sup> See ‘Tomato wars recalled as union marks century’, *Age*, 30 November 2009, available online at <http://www.theage.com.au/national/tomato-wars-recalled-as-union-marks-century-20091129-jywq.html> Accessed 18 July 2012.

<sup>29</sup> Jolly was succeeded by Bill Landeryou who also served only eight months in the post. Taking over the Industrial Affairs portfolio in September 1983, Steve Crabb went on to be the Minister responsible for BLF deregistration in Victoria. For ministerial appointments and relevant dates, see Parliament of Victoria, *People in Parliament*.

<sup>30</sup> Bergin, ‘Government versus the Builders Labourers’ Federation 1981-1985’, p.A2, in Boyd papers, Box 57, 9/3.

<sup>31</sup> *Age*, 11 May 1982, p.5.

<sup>32</sup> *Ibid.*



Burgmann was correct on both counts, though she might have added that several Left unions were salivating at the prospect of cannibalising the BLF.

### **Tabling the Winneke Royal Commission Report – July 1982**

In establishing the BLF Royal Commission, which began sitting in October 1981,<sup>33</sup> the Thompson and Fraser Governments instructed Commissioner John Winneke to pay particular attention to:

- (a) whether any executive, administrative or other body forming part of, or established by, or associated with the Federation, has been used for the purposes of activities contrary to a law of the Commonwealth (in the case of the Commonwealth Commission), or has been used for the purposes of illegal, improper or corrupt activities (in the case of the State Commission).
- (b) whether the Federation, or any of its officials or members, have been engaged in demanding or receiving any payment, reward or other benefit, or in causing any payment, reward or other benefit, to be received by any other person (other than ordinary commercial dealings), from employers or other persons and, if so:
  - (i) the persons by whom, and to whom, such payment, reward or benefit has been made or given;
  - (ii) the reason for, or the purpose of, any such payment, reward or benefit;
  - (iii) the subsequent or proposed use or disposal of any such payment, reward or benefit.
- (c) Whether the Federation or any officials or members thereof, have engaged in activities contrary to a law of the Commonwealth (in the case of the Commonwealth Commission), or in illegal, improper or corrupt activities (in the case of the State Commission), in relation to the election or appointment

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<sup>33</sup> The appointment of a Royal Commission to investigate the activities of the BLF was announced on 20 August 1981. *Herald*, 20 August 1981, p.1. For details on commencement dates, sitting days and numbers of witnesses called before the Commission, see *Herald*, 1 July 1982, p.3.

of officers of the Federation or the conduct, purported conduct, of the Federation's affairs.<sup>34</sup>

Nine months, 81 sitting days and 450 witnesses later, Winneke's job was finished.<sup>35</sup> That it had not been an easy task was borne out by the Commissioner's successful application for two time extensions – 28 February 1982 was the nominated completion date, but this was pushed out, first to 30 April and then to the end of May – and by the voluminous report handed to the Commonwealth and Victorian Governors on 27 May 1982.<sup>36</sup>

As with all inquiries of its type, the Royal Commission into the activities of the BLF gave 'all the appearances of a solid case for the prosecution'.<sup>37</sup> Since it had been established on the heels of a fruitless investigation of the union conducted over a seven month period by federal and Victorian police, it was, one might reasonably conclude, necessary for this Commission to present itself in a particularly strong prosecutorial manner.<sup>38</sup> However, as the *Canberra Times* made clear:

People under investigation by a Royal commission have no right to be legally represented and no right to cross-examine other witnesses – in other words no right to really assert their innocence... Because a Royal commission or judicial inquiry is not a court of law there is not necessarily a presumption of innocence as far as the person or people being investigated are concerned. That significant difference between the proceedings can make the conduct and conclusions of a

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<sup>34</sup> J.S. Winneke, QC, *Report of the Commissioner appointed to inquire into activities of the Australian Building and Construction Employees and Builders Labourers Federation*, Canberra: Australian Government Publishing Service, 1982, pp.1-2.

<sup>35</sup> Hearings were held in Melbourne, Perth and Canberra. *Age*, 2 July 1982, p.6; *Herald*, 1 July 1982, p.3.

<sup>36</sup> J.S. Winneke, QC, *Report of the Commissioner*, p.1; *Herald*, 1 July 1982, p.3. The voluminous nature of the report was also testament to the diligence with which Winneke took up the brief given him by Governor General, Sir Zelman Cowen, on behalf of the Commonwealth Government, and by his father, Sir Henry Winneke, Governor of Victoria.

<sup>37</sup> *Canberra Times*, 4 July 1982, p.2. In the interim, there had been a change of government in Victoria, with Labor finally breaking the electoral drought that had seen it deprived of office for almost three decades. In that State, at least, the circumstances under which Winneke handed over his report appeared to be very different to those which had prevailed at the outset of his mission.

<sup>38</sup> Newspaper reports indicated that whilst Commonwealth and State police had worked jointly and full-time for seven months in their investigation of Gallagher and the BLF, they had interviewed neither Gallagher nor other BLF officials. However, officials from other unions were interviewed. *Herald*, 19 August 1981, p.1; *Age*, 20 August 1981, p.1. But whilst the investigation had been far-reaching, the police balked at recommending charges against Gallagher or any other BLF member or official. *Australian*, 2 July 1982, p.2.

commission hearing very different from those employed and arrived at in a true court hearing.<sup>39</sup>

Former Attorney-General, Lionel Murphy, agreed. He argued: 'Despite the fact that Royal Commissions are often headed by judges', they do not exercise 'judicial power. They... [exercise] ...executive power'.<sup>40</sup> The Royal Commission, Murphy suggested,

is a non-judicial body authorised to conduct some sort of investigation and to find persons guilty of serious offences without the protection afforded them in the regular exercise of judicial power. The persons are deprived of trial by jury, their reputations may be destroyed, their chances of acquittal in any subsequent judicial proceedings hopelessly prejudiced by an adverse finding... Many in governments throughout the world would be satisfied if they could establish commissions with prestigious names and the trappings of courts, staffed by persons selected by themselves but having no independence (in particular not having the security of tenure deemed necessary to preserve the independence of judges), assisted by government-selected counsel who largely control the evidence presented by compulsory process, overriding the traditional protections of the accused witnesses, and authorised to investigate persons selected by the government and to find them guilty of criminal offences.<sup>41</sup>

Murphy made absolutely no bones about the political underpinnings of the Royal Commission that had been convened to investigate Gallagher and the BLF:

The trial and finding of guilt of political opponents and dissenters in such a way is a valuable instrument in the hands of governments who have little regard for human rights. Experience in many countries shows that persons may be effectively destroyed by this process... If he is prosecuted, the investigation and findings may have created ineradicable prejudice. This latter possibility is not abstract or remote from the case. We were informed that the public conduct of

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<sup>39</sup> *Canberra Times*, 4 July 1982, p.2.

<sup>40</sup> Lionel Murphy, 'National Press Club speech', 17 August 1983, in Jenny Hocking, *Lionel Murphy: A Political Biography*, Melbourne: Cambridge University Press, 2000, p.275.

<sup>41</sup> Justice Lionel Murphy, *Victoria v. Australian Building Construction Employees' and Builders Labourers' Federation* (1981/82) 152 CLR 25 at 64, in Hocking, *Lionel Murphy*, p.276.

these proceedings [i.e. the BLF Royal Commission] was intended to have a cleansing effect.<sup>42</sup>

It was in that context – what Murphy effectively labelled a show trial, and what the newly-minted Victorian Labor Government once described as ‘a useless political exercise and a barristers’ banquet’<sup>43</sup> – that federal and Victorian politicians concerned themselves with the appropriateness or otherwise of publicising Winneke’s report. Between 27 May and 1 July 1982, the debate took place largely behind closed doors, as Peter Durack, the Federal Attorney-General, lobbied Cain not to table the document in Parliament, and Cain, in turn, consulted his state’s Solicitor-General to ascertain whether he might, after all, have a right or an obligation to give the document a public airing.<sup>44</sup> In the end, the Victorian Solicitor-General’s advice, ‘that in all the circumstances the report ought to be tabled as soon as possible’, gained the ascendancy.<sup>45</sup>

Given the circumstances in which the Royal Commission had been initiated, and in light of the fact that deregistration proceedings were begun ‘shortly after the... commission had been announced, and long before any findings’ had been made<sup>46</sup> – it is arguable that, of the two reasons cited against releasing Winneke’s findings and recommendations – first, that doing so might prejudice the fair trial of persons named therein, and second, that such action might prejudice the government’s chances of outlawing the BLF – the latter was eminently more pressing.<sup>47</sup> Indeed, if the reaction of Acting Federal Attorney-General, Neil Brown, to the tabling of the document is any indication – he accused Cain of ‘repaying favours owed to the BLF’ – there can be little

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<sup>42</sup> Ibid.

<sup>43</sup> *Australian*, 2 July 1982, p.2.

<sup>44</sup> *Sun*, 29 June 1982, p.25; John Cain, Ministerial Statement: Australian Building Construction Employees and Builders Labourers Federation, Parliament of Victoria: Parliamentary Debates, Legislative Assembly, Vol. 365, 1 July 1982, p.2453.

<sup>45</sup> Cain, Ministerial Statement, 1 July 1982, p.2453.

<sup>46</sup> Cain, *John Cain’s Years*, p.119. Federal Cabinet had committed to deregistering the BLF in February 1981. *Australian*, 17 February 1981, p.1. Speaking in Canberra on the day the Royal Commission was announced (20 August 1981), Federal Minister for Industrial Relations, Ian Viner, told reporters that the Federal Government would also be proceeding with an application to have the BLF deregistered. It was the Government’s responsibility, Viner argued, to see that illegal activity was exposed and rooted out. *Herald*, 21 August 1981, p.1. Frank Wilkes, who was at that time Leader of the Opposition in Victoria, suggested the BLF was being placed in a double jeopardy situation and that the Liberals were infringing every tenet of British justice. *Age*, 21 August 1981, p.15. The Federal Government’s decision to push ahead with deregistration ran contrary to advice provided by Viner’s own department in July 1981. *Australian*, 24 September 1981, p.1.

<sup>47</sup> *Age*, 2 July 1982, p.1; *Sun*, 2 July 1982, p.2.

doubt about where Conservative interests and concerns lay.<sup>48</sup> Liberal and National Party members of the Victorian Parliament adopted a slightly different approach from their federal counterparts. Opposition Leader, Lindsay Thompson, expressed confidence in the Solicitor-General and the advice he had given to the Premier; he had, therefore, no objection to the document being tabled in Parliament.<sup>49</sup> The National Party went further, with Peter Ross-Edwards expressing his party's delight at the introduction of the report.<sup>50</sup> But they were much less enthusiastic about the manner and circumstances in which Winneke's findings and recommendations were presented.

In the days leading up to Thursday 1 July, there had been conflicting media pronouncements about when the report would be made available for scrutiny. The Melbourne *Sun* had suggested two days earlier that the report would be brought before Parliament by week's end.<sup>51</sup> But this appeared to have been denied by the following afternoon, when the sister newspaper, the *Herald* reported continuing government silence as to when, or even whether, it would defy federal demands to delay tabling the document.<sup>52</sup> And in discussions with members of the Cain administration, Opposition MPs had, according to parliamentarian Eddie Hann,<sup>53</sup> been led to believe that they would be given ample time to debate the report when it actually came before Parliament. The inference in that dialogue was, it would seem, that the government would dispense with normal procedures, under which just one member of each party was given an opportunity to comment on Royal Commission reports. This was an outcome the Liberals might reasonably have hoped and negotiated for, given it was they who had initiated the inquiry.<sup>54</sup>

With 1 July scheduled to be the last sitting day before Parliament rose for the winter break; with the latest available media reports suggesting that Labor was still

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<sup>48</sup> *Age*, 2 July 1982, p.1.

<sup>49</sup> VPDLA, Vol. 365, 1 July 1982, p.2456.

<sup>50</sup> *Ibid.*, p.2460.

<sup>51</sup> *Sun*, 29 June 1982, p.25.

<sup>52</sup> The Federal Government indicated that it wanted time to complete its own examination of the report and that it had asked Cain not to table the document in the (then) current Victorian parliamentary session. It seems federal authorities felt the report would have greater impact if it was first publicised in the National Parliament when it resumed in August. *Herald*, 30 June 1982, p.11.

<sup>53</sup> Hann was the National Party member for the electorate of Rodney.

<sup>54</sup> Thompson argued for a waiver of general undertakings about the number of permissible speakers on the grounds that the nature of Cain's ministerial statement had altered the circumstances under which the Opposition had expected to receive the Royal Commission report. VPDLA, 1 July 1982, p.2462.

considering federal government demands re the tabling of the document; with government sources seemingly promising ample time for debate; and with Labor running a busy legislative agenda, the Conservatives might well have concluded that they would not, in fact, get to sight the Winneke report until Parliament resumed in the spring.<sup>55</sup> However, not only was the document tabled on the last day of the autumn session, but the government appeared to Conservative eyes to be intent on stifling the kind of debate that they desired. The question of time, and how much of it the government was prepared to devote to debating Winneke's report and the ministerial statement that accompanied it, therefore became almost as important as the contents of the documents themselves.

Thompson and Ross-Edwards were stunned by Cain's intransigence. Whilst parliamentary protocol dictated that Opposition leaders speak to ministerial statements prior to receiving copies of the Royal Commission reports with which those statements were concerned, it had been customary, Ross-Edwards insisted, for governments to provide their opponents with copies of the documents two to three hours prior to tabling them. Otherwise, he argued, it was impossible to have a proper debate.<sup>56</sup> But courtesy was the last thing on Cain's mind. Not only did he refuse his opponents copies of Winneke's findings and recommendations in advance of tabling them, he also failed to give Thompson and Ross-Edwards copies of his ministerial statement until just five minutes prior to it being read into the record.<sup>57</sup>

In his ministerial statement, Cain confirmed that he had been in possession of Winneke's report since the end of May. He affirmed, too, that he had been prevailed upon not to table the document without the consent of the federal government.<sup>58</sup> But having consulted Victorian Solicitor-General, Daryl Dawson, he was, Cain argued, satisfied that

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<sup>55</sup> According to the *Age* newspaper, the night of 1 July 1982 had been the busiest and latest the Legislative Council had experienced for 15 years. Twelve Bills had been passed without amendment, three had been passed with amendments that were later approved by the Lower House, and another six Bills were held over until the spring session. *Age*, 3 July 1982, p.4. As of 4.45 am on 2 July 1982, there were seven remaining items of business for the Upper House to deal with. It was a measure of just how much pressure the Parliament was then operating under. VPDLC, Vol. 365, 1 July 1982, p.2420; In essence, Cain argued, his was a Government 'that wanted to do many things and introduce many new programmes.' It came to power with 'a vast array of reforms' with which it 'got under way early on.' Cain, *John Cain's Years*, pp.57-63.

<sup>56</sup> VPDLC, 1 July 1982, p.2460.

<sup>57</sup> *Ibid.*, p.2458.

<sup>58</sup> Cain and Federal Attorney-General, Senator Peter Durack, had held numerous discussions on the matter, the latest of which had been the week prior to the report being tabled in the Victorian Parliament. *Sun*, 29 June 1982, p.25.

there were overwhelming arguments in favour of publicising the report as early as possible.<sup>59</sup> Issues raised in the report were of considerable public interest, the Premier argued. They were matters that were ‘more relevant to, and of greater significance for, Victoria than the Commonwealth as a whole’.<sup>60</sup> Continuing, he suggested that ‘most of the incidents investigated [had] occurred in Victoria’, the state in which the BLF played ‘a greater role...than elsewhere’.<sup>61</sup> Moreover, Cain argued, the matters raised by the Royal Commission had ‘already attracted greater public interest and media attention here [in Victoria] than in other States’.<sup>62</sup> If it was not tabled then, but was held back ‘until the completion of any possible committal hearings, and then perhaps trials’, Cain insisted, the House ‘would be unable to consider the report for a period of up to two years’.<sup>63</sup> Delays of that nature would ‘produce rumour, innuendo and calumny’, the Premier warned.<sup>64</sup> Tabling the report, he suggested, would ‘remove some of these doubts and, more importantly...allow this House to examine the Royal Commissioner’s findings and the Government to take appropriate action upon them’.<sup>65</sup> It all added up, ostensibly at least, to an argument for what should have been a transparent process in which everyone with a vested interest got an opportunity to voice their opinions, and their concerns.

Cain’s justifications for tabling the report were one thing. His apparent defence of the labourers’ union – in which he qualified Winneke’s findings by arguing that the building industry was a tough, complex environment ‘dogged by special problems...not to be found in other industries’; that it was rife with unscrupulous employers, workplace injuries and even deaths; and that throughout the whole Royal Commission process, only one side of the story had been heard – was something else.<sup>66</sup> And it drew a predictably harsh response. Having co-sponsored the Royal Commission, the Conservatives were not about to let the Premier get away with what they claimed was a ‘soft-soaping’,

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<sup>59</sup> John Cain, Ministerial Statement VPDLA, 1 July 1982, p.2453. Cain was cited in the following morning’s edition of the *Sun* newspaper as saying that it was Solicitor-General Dawson’s view that in all the circumstances the report ought to be tabled as soon as possible, and that this would not unduly prejudice the trial of people named or the deregistration proceedings. *Sun*, 2 July 1982, p.2.

<sup>60</sup> Cain, Ministerial Statement, VPDLA, 1 July 1982, p.2454.

<sup>61</sup> *Sun*, 2 July 1982, p.2.

<sup>62</sup> Cain, Ministerial Statement, VPDLA, 1 July 1982, p.2454.

<sup>63</sup> Ibid; *Sun*, 2 July 1982, p.2; *Australian*, 2 July 1982, p.1.

<sup>64</sup> Cain, Ministerial Statement, VPDLA, 1 July 1982, p.2454; *Sun*, 2 July 1982, p.2.

<sup>65</sup> Cain, Ministerial Statement, VPDLA, 1 July 1982, p.2454; *Herald*, 1 July 1982, p.3.

<sup>66</sup> Cain, Ministerial Statement, VPDLA, 1 July 1982, p.2455.

‘whitewash[ing]’, ‘hands-off the BLF’ policy.<sup>67</sup> But as their repeated claims of ‘this is not about industrial relations’ suggested, the Conservatives were hunting not for the union, *per se*, but for those who ran it, and for Norm Gallagher in particular. To be sure, they wanted the union deregistered, but more importantly, they also wanted it decapitated, preferably by having Gallagher sent to prison.

With Thompson and Ross-Edwards having completed their comments on the Premier’s ministerial statement, Deputy Premier Robert Fordham moved that the debate be adjourned until ‘tomorrow’, by which he meant the parliamentary session scheduled to commence sometime in September.<sup>68</sup> The row that followed, and which was repeated in the Upper House in the early hours of the following morning, received scant attention in the media. Only the *Herald* reported Liberal Don Hayward’s allegation that the government had manipulated proceedings so that members of the Upper House would be too exhausted to debate Winneke’s findings and recommendations:

We were all ready to debate it on Tuesday [of the following week], and suddenly the whole thing has disappeared into the frosty dawn... I’ve never seen a government treat the Legislative Council in that way before... It seemed to us to be a prepared scenario to keep the House going to exhaust everybody and finally let the BLF thing come on right at the end almost as a throwaway. They just shut Parliament down without giving us a chance to debate it.<sup>69</sup>

The debate had been stymied, Hayward argued, so that members of the government could attend the ALP National Conference scheduled to be held in Canberra the following week. Declaring that his side of politics had been absolutely furious at the way in which the whole matter had been handled, Hayward predictably drew a connection between what had occurred and ‘the organisational links [that existed] between the Labor Party and the BLF’.<sup>70</sup> Cain, the *Herald* reported, had described Hayward’s claims as being ‘totally ill-founded’. The Premier had explained that the

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<sup>67</sup> VPDLA, 1 July 1982, pp.2456-9; *Sun*, 2 July 1982, p.28; *Australian*, 2 July 1982, p.1; *Canberra Times*, 2 July 1982, p.8.

<sup>68</sup> VPDLA, 1 July 1982, pp.2461-3.

<sup>69</sup> *Herald*, 2 July 1982, p.3.

<sup>70</sup> *Ibid.*



report would have been tabled earlier in the autumn parliamentary session, had it not been for contrary federal government requests.<sup>71</sup>

Other newspapers were apparently disinterested in allegations that the government had stifled debate on an issue that Cain had implied was of great public interest and importance. Neither, it seems, were they interested in challenging Cain's explanation as to why the report had been brought to Parliament in the final hours of the last day of the autumn session, even though that explanation had been discredited on the floor of Parliament.<sup>72</sup> The print media, with the exception of that *Canberra Times* article, were much too busy parroting what Winneke had found and recommended, and repeating, too, what Cain had said in his ministerial statement, to be bothered with such minor details. Like the Liberal and National politicians they had been quoting for nigh on three decades, the media were so focused on this new opportunity to kick the BLF that they did not stop to ask whether Cain had timed the introduction of the Winneke report to prevent not only the Conservatives from debating it, but also to deny members of his own party an opportunity to express their views and concerns about the document.<sup>73</sup>

We have seen that Cain's ministerial statement blamed the federal government for delaying his introduction of the Winneke report into Parliament. But having consulted the state Solicitor-General, he had been satisfied that federal government concerns notwithstanding, it was imperative that the report be tabled as quickly as possible. He repeated those claims when Liberal and National Party members balked at attempts to adjourn debate on the matter until 'tomorrow'. He was more expansive this time, however, arguing that had it not been for federal government requests to the contrary, he

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<sup>71</sup> Ibid.

<sup>72</sup> VPDLA, 1 July 1982, p.2465.

<sup>73</sup> An *Age* editorial rejected as moral theorising, Cain's assertion that givers of secret commissions were no less tolerable than those who received such bribes. The editorial cited Winneke's remarks about standover tactics, intimidation, mob violence and arrogance, and quoted the Commissioner's assertion that 'The evidence paints a fairly convincing picture of a man who has used his position of influence within the industry for personal advantage. The evidence also makes it clear that those who have granted the favours have done so because of an understandable desire not to offend Mr Gallagher.' *Age*, 2 July 1982, p.11. The *Australian* also quoted Winneke extensively before citing comments made by Peter O'Callaghan, QC, counsel assisting the Royal Commission, in which he likened the builders and developers who contributed gifts to the union and its officials to small shopkeepers in crime movies who paid protection money to gangsters. They met union demands, O'Callaghan was cited as saying, because they had no choice and in the hope that life would get better; they knew that unless they paid life might get worse. *Australian*, 2 July 1982, p.2.

would have brought the report to Parliament ‘two to three weeks’ earlier.<sup>74</sup> It was at this point that a startling revelation was uncovered.

To know for certain whether Cain had deliberately delayed tabling the report until the last day of the sessional period, Liberal frontbencher Rob Maclellan argued, it would be necessary to ascertain exactly when the Premier had received the Solicitor-General’s all important recommendation. That advice, it quickly transpired, had been tendered on 2 June. The implication in Cain’s ministerial statement had been that he acted on his Solicitor-General’s recommendation at the earliest possible opportunity. But it was now one full month later. That suggestion was now clearly discredited and Maclellan lost no time in declaring the manner in which the report had been brought to Parliament a sham. It was evident, he argued, that objections raised by the Commonwealth Government had played no part in Cain’s thinking. But what was also clear was that the Victorian Solicitor-General’s counsel had not precipitated the introduction of the Royal Commission report in the manner that Cain had implied. The intention all along had been, Maclellan insisted, to have ‘limited debate’ on the report.<sup>75</sup>

Conservative suspicions were inflamed. Cain, they imagined, was about to let Gallagher and the BLF off the hook. The Premier had brought the Royal Commission document to light on the last sitting day of the autumn session in order to ‘prevent a proper Parliamentary debate’, the Liberals argued.<sup>76</sup> By the time Parliament resumed in the spring, legal proceedings would have been issued ‘against some unknown, insignificant person in the union’, rendering the whole matter *sub judice*. ‘This devious Government... could not lie straight in bed’, Jeannette Patrick, the Liberal member for Brighton, thundered.<sup>77</sup> With the Conservatives building up a head of steam, the government finally agreed to adjourn the matter until later in the day.

Upon resumption of the debate, and having had a short while to digest Winneke’s findings and recommendations – they had finally been given copies of the report – the Liberals and their National Party cheer squad<sup>78</sup> focused their attack almost exclusively on

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<sup>74</sup> VPDLA, 1 July 1982, p.2463.

<sup>75</sup> Ibid., p.2464.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid., p.2465.

<sup>78</sup> The Liberals and Nationals were not then formally in coalition, but, Cain argued, the Nationals were making every effort to ensure that that situation would soon change. Cain, *John Cain’s Years*, p.31.

the BLF. It was the Liberals' opportunity to bask in the findings and recommendations of *their* inquiry. In their responses, and those of the Nationals, we find confirmation of Lionel Murphy's fears about the unreliability of Royal Commissions. Thompson insisted that the BLF had virtually admitted guilt by refusing to give evidence before the Royal Commission.<sup>79</sup> Ross-Edwards argued that the union was 'corrupt at every level' and therefore could not be allowed to continue in operation. BLF officials 'should be dismissed' post-haste, he insisted. They had proven their guilt, he suggested, by their refusal to appear before Commissioner Winneke and by their refusal to let rank and file members testify.<sup>80</sup> Gallagher and his co-accused must go to trial immediately, argued Prue Sibree, the Liberal Member for Kew.<sup>81</sup> There was no need for committal proceedings, since it was clear from reading Winneke's report that he had 'undertaken inquiries...similar and parallel to those of committal proceedings' and had established 'sufficient prima facie proof...to oblige those gentlemen to face their masters and face the music which they should have faced long ago'.<sup>82</sup>

The best was yet to come. When one considered 'the long saga' of the Victorian building industry, Alan Brown, Liberal Member for Westernport and an aspirant for the Premier's job, opined, 'one realised that primarily the problem is Norman Gallagher'. Failing to mention that Gallagher had, in imposing green bans, always acted with community support and usually as a consequence of community pleas for help, Brown portrayed the BLF leader as someone who had 'taken it upon himself over a period of years to decide what projects' would be built in Victoria. Forgetting, too, that his side of

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<sup>79</sup> VPDLA, 1 July 1982, p.2457. This assertion that Gallagher and the BLF had, in choosing not to present 'another side of the picture', demonstrated that the evidence given against them had been incontrovertible was a repetition of charges that Winneke himself had made. *Age*, 2 July 1982, p.5; *Herald*, 1 July 1982, p.3.

<sup>80</sup> VPDLA, 1 July 1982, p.2461.

<sup>81</sup> As reported in the *Australian*, this assertion that Gallagher and other BLF officials should go immediately to trial was one that had been made during the Royal Commission by counsel assisting the inquiry, Mr Peter O'Callaghan, QC. *Australian*, 2 July 1982, p.2.

<sup>82</sup> In citing comments that Winneke had made in Volume 2 of his report, Mrs Sibree confirmed that the Commissioner indeed saw his role as that of a committal magistrate. He had, she suggested, 'treated those words of the reference to him in the inquiry as imposing upon him a requirement similar in nature to that imposed upon a committal magistrate.' VPDLA, 1 July 1982, p.2533. As reported in the *Age* newspaper, Winneke had called on governments to give Royal Commissioners greater powers, under which they would be able to order the seizure of documents and hand down stiff penalties to those who refused to answer their questions. *Age*, 2 July 1982, p.4.

politics had been in office for virtually all of those years, Brown went on to suggest that it was 'a situation that no Government should tolerate'.<sup>83</sup>

Bringing all of this together in what can only be described as a fantastic and slanderous tirade, Morris Williams, the Liberal Member for Doncaster, drew a line from Gallagher, through the Grollo family, George Herscu and other local developers, to the International Brotherhood of Teamsters, the International Longshore and Warehouse Union and the Gambino crime family in the United States of America.<sup>84</sup> It was a scurrilous attempt to build on the 'Mr Big' status attributed to Gallagher in Winneke's report.<sup>85</sup>

Labor's Left was no less outraged. According to Coxsedg and others, it was not unusual for Victorian ALP Caucus members to learn about 'important [government] decisions by reading the newspapers'.<sup>86</sup> The implication, as Coxsedg explained, was that at least some Caucus members could not be trusted in what they might say or do particularly where controversial matters were concerned. Cain, she argued, 'had a number of acolytes who ran around hosing down dissent, blocking anything even vaguely controversial from being discussed. Contentious issues that snuck through the cabinet barrier were swiftly brushed aside as if they were of no consequence'.<sup>87</sup> As debate on the Wrongs Bill suggested, this tendency to marginalise backbenchers for fear that they might do or say something inconsistent with or damaging to party interests had been

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<sup>83</sup> VPDLA, 1 July 1982, pp.2539-41.

<sup>84</sup> With the protection of parliamentary privilege, Williams suggested that the Grollo's transition from being 'small-time pavers' to 'developing the Rialto project' had been achieved not through hard work and superior business acumen, but through graft, cosy relationships with Gallagher and even prostitution. Implying that they, Herscu, Paul Fayman and Morris Alter had been named in a list of 100 crime figures compiled by the Criminal Intelligence Bureau of the Victoria Police, Williams concluded his remarks by saying they were people 'who get their names in the financial and social pages of the newspaper', people whose wives would have a fit if they only knew the truth about their husbands. Ibid., pp.2536-8.

<sup>85</sup> See for example, *Herald*, 1 July 1982, p.3. In repeating Winneke's characterisation of Gallagher as some kind of 'Mr Big', the *Herald* sought to create the impression that negotiations for jobsite pay and conditions were inextricably linked to requests for offers of materials for construction work on properties at McLaughlin's Beach, Hawthorn and Carlton. The implication was that site allowances, pay and conditions and the solicitation of secret commissions were worked out as part of 'pre-project negotiations.'

<sup>86</sup> Joan Coxsedg, 'All is not forgotten', *Hard Facts for Hard Times*, Newsletter No. 25, December 1992; Joan Coxsedg, *Cold Tea for Brandy: A Tale of Protest, Painting and Politics*, Melbourne: Vulcan Press, 2007, p.158; Ros Eason, Ralph Edwards, Kevin Hardiman, Gareth Stphenenson & Frans Timmerman, 'Divide and Rule?', [4] in Boyd papers, Box 66, Folder 15/15, University of Melbourne Archives.

<sup>87</sup> Coxsedg, *Cold Tea for Brandy*, p.158.

established as a feature of Cain's leadership, even when Labor was in Opposition. That it should continue when the party was in government is therefore unsurprising.<sup>88</sup>

What is amazing, however, is that Conservative politicians did not seek to exploit the potential for division inherent in such a situation, particularly when it came to such a controversial matter as the Winneke Royal Commission report. An obvious way in which such an advantage could have been attained was for the Conservatives to ask why, with the exception of Treasurer, Rob Jolly, were Cain and Landeryou the only Labor Party representatives permitted to speak on a report concerning matters so very close to the heart of the Australian labor movement? But not even Jolly's congratulatory remarks about the decisive manner in which Cain had acted to table the report – compliments that were rather ambiguously made, given the revelations about when the Solicitor-General's advice had been given – could stir the Conservatives to such inquisitions.<sup>89</sup>

Perhaps at this moment, the Conservatives were too piqued by their (then) recent loss of power to be able to focus on anything other than what they perceived as Cain's intention to further humiliate them by depriving them of an opportunity to revel in Winneke's findings and recommendations. Having secured an adjournment of the debate and the opportunity to digest at least some of the report the Conservatives' attention turned to Gallagher and the BLF. They sought to land as many blows as possible before (they feared) Cain had the whole matter rendered *sub judice*. Such motivations were, of course, keenly inflamed by Jolly's suggestion that the BLF had 'in most circumstances... adhered to the principles... determined by the Conciliation and Arbitration Commission', and by his argument that deregistration of the BLF would 'not in any way mean that the union' would disappear from the industrial scene.<sup>90</sup> And the Liberals were unquestionably incensed by Jolly's revelation of a letter signed by W. Stelmach, head of the Industrial Relations Co-ordination Committee instituted by the previous government, in which Stelmach suggested that deregistration proceedings against the BLF had been

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<sup>88</sup> Cain referred to this situation in which Caucus was expected 'to give a considerable degree of authority to the Cabinet', as 'a corporate approach where the decision-making process is designed to enhance the reputation of the government', rather than promoting ministers, ministries, departments or government agencies. In other words, the process gave priority to having Labor re-elected to government. Cain, *John Cain's Years*, p.40.

<sup>89</sup> VPDLA, 1 July 1982, p.2534.

<sup>90</sup> Ibid., p.2535.

initiated for ‘overt[ly] political reasons’.<sup>91</sup> But the Liberals’ sense of entitlement, developed over decades in office, combined with an innate hatred of the BLF, prevented them and their erstwhile coalition partners from asking what in the light of later events would have been a very important question: had Cain brought the Winneke report to Parliament on the last sitting day because he was equally concerned with denying his *own* side of politics the chance to debate both the merits of tabling the document and the report’s findings and recommendations? As we shall see, it was a tactical error they would not repeat when, in July 1985, Cain and Steve Crabb announced their intention to destroy the BLF once and for all.

### **The BLF (De-recognition) Bill – July 1985**

This is the day the Government has raised to the top of the flagpole the white flag of surrender – the white flag of defeat... the Government has turned its back on its traditional supporters. The Government no longer supports the trade union movement in this State; it no longer supports the majority of the community. It now has no friends left except the extremists in society. The measure marks the end of the Labor Party in this state as a political force. Nothing will repair the damage that the Bill will cause within the internal ranks of the Australian Labor Party; nothing will do more damage to the relationship the Government has with those who worked so hard to put it in office. .. The Premier has forgotten about any commitment to the Labor Party; he has forgotten about any commitment to philosophy; he has forgotten about any commitment to this so-called special relationship that for three years the Government has told Victorians it has with the trade union movement. Where is this special relationship today? It is in tatters!<sup>92</sup>

These were prescient observations, worthy of Cain’s left-wing critics. But the predictions were in fact made by then Liberal Party leader, Jeff Kennett, on the occasion of the second reading of the BLF (De-recognition) Bill on 19 July 1985. They were addressed

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<sup>91</sup> Ibid., pp.2535-6. In the letter referred to by Jolly, Stelmach argued that the Thompson Liberal Government had ignored advice given to it by its own Industrial Relations Co-ordination Committee in order to join what he believed was an organised witch-hunt being pursued by the Fraser Government in Canberra.

<sup>92</sup> VPDLA, 19 July 1985, pp.1659-61.

to members of the Legislative Assembly in the Parliament of Victoria. Kennett's prediction – that the ALP in Victoria was about to sign its own political death warrant – has, in electoral terms, at least, been repudiated by subsequent events: Labor governed in Victoria for 17 of the 27 years that have since elapsed. But his observations about the shifts that were occurring in the ALP – changes that have since been the subject of significant debate concerning the ways in which Labor transitioned from a mass to a 'big tent' or 'people's' party<sup>93</sup> – were nonetheless important and insightful. As Kennett recognised, the decision to destroy a party-affiliated union, even one as inconveniently militant as the BLF had proven to be, was about much more than simply ridding the industrial landscape of an organisation that would not toe-the-line. It was about signalling to the wider community that the ALP was an organisation in the final stages of a transformative process that had begun two decades earlier; that it was a political party for which future electoral successes were infinitely more important than past alliances.

Kennett and his fellow Conservatives suggested two possible motivations for what they described as Cain's betrayal of Labor Party principles and the very people who had breathed life into the ALP: the proposed deregistration of the BLF was either characteristic of leadership power-plays between Cain and Steve Crabb, the Minister for Employment and Industrial Affairs,<sup>94</sup> or it was a ruse put in place by a government desperate to win the (then) forthcoming by-election in Nunawading Province.<sup>95</sup> Whilst the first proposition was laughable – Crabb had neither the personality nor the numbers to

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<sup>93</sup> The notion of a 'big tent' party is not unique to either side of politics in, for example, the United States, but as Savage indicated, it is a concept that was clearly associated with Lyndon Baines Johnson, and his perception of the Democratic Party as 'a strong, national party organisation' of responsibility, moderation and restraint. It was Johnson's goal, Savage explained, to transform the Democratic Party into the kind of political organisation that would be capable of appealing equally to 'blacks and whites, northerners and southerners, business and labor, rich and poor.' It was, as Savage suggested, a vision built around the notion of 'centrist consensus.' Sean J. Savage, *JFK, LBJ and the Democratic Party*, Albany: State University of New York Press, 2004, p.160. Otto Kirchheimer used the term 'people's parties' and 'catch-all' parties interchangeably to describe those political organisations whose transformation from mass party status had been completed. Otto Kirchheimer, 'The Transformation of the Western European Party Systems', in Joseph LaPalombara & Myron Weiner (eds.), *Political Parties and Political Development*, Princeton, N.J.: Princeton University Press, 1966, p.190.

<sup>94</sup> Crabb's title changed frequently. Between September 1983 and March 1985, he was Minister for Industrial Affairs; between March 1985 and April 1986, he was Minister for Employment and Industrial Affairs, after which he became Minister for Labour. For the first week of September 1983 he was also known as the Minister for Labour and Industry. Parliament of Victoria/About Parliament, available online at <http://www.parliament.vic.gov.au/about/people-in-parliament> Accessed 2 September 2011.

<sup>95</sup> Either way, the Liberals and Nationals were convinced, the legislation would never be enacted. VPDLA, 19 July 1985, pp.1652-90; *Sun*, 20 July 1985, p.5.

support any leadership ambitions he might have harboured<sup>96</sup> – there is ample evidence to suggest that Nunawading and associated challenges had a significant impact on the way in which the ALP handled the BLF deregistration issue. The campaign to re-win that electorate was backgrounded by a major intra-party dispute focused on Labor's plans to destroy the BLF, and on the circumstances surrounding Gallagher's trial and imprisonment.<sup>97</sup>

To understand the significance of the Nunawading by-election, it is necessary to account for the circumstances in which it came about. In the state poll held four months previously,<sup>98</sup> the voters of Nunawading Province – an electorate the *Age* newspaper described as 'a 174 square kilometre microcosm of middle Australia' and an area of 'low-density suburban middle-class serenity' with a voter population equivalent to two federal electorates<sup>99</sup> – had given 54,821 votes apiece to Labor candidate, Bob Ives, and Liberal hopeful, Rosemary Varty.<sup>100</sup> Having been potentially hampered in the ballot by what is colloquially known as the 'donkey vote',<sup>101</sup> Ives had proceeded to win the contest in sensational, though perfectly legal circumstances: the returning officer, rather than cast a deciding vote, placed both names in a box and drew out that of the Labor man.<sup>102</sup> Whilst the Liberals could not quibble with the way in which the result had been decided, they could and did argue that proceedings should never have reached that point. A successful appeal was lodged with the Court of Disputed Returns on the grounds that at least 36

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<sup>96</sup> Personal conversation with political activist, Lyle Allan, 18 July 2011; personal conversation with faction leader, Frans Timmerman, 28 July 2011.

<sup>97</sup> See Chapter Eleven, this thesis.

<sup>98</sup> Victorians went to the polls on 2 March 1985. Federal, State and Territory election dates from 1946 onwards can be accessed via the Australian Electoral Commission website at <http://www.aec.gov.au/index.htm> Accessed 6 September 2011.

<sup>99</sup> *Age*, 19 July 1985, p.11.

<sup>100</sup> *Age*, 14 March 1985, p.1; *Age*, 19 July 1985, p.11.

<sup>101</sup> Donkey voting refers to the practice of voting for candidates according to where their names appear on the ballot paper, rather than according to actual preference. Ives had drawn third spot on the ballot paper, placing him lower down than his Liberal Party opponent. *Age*, 14 March 1985, p.1; *Lot's Wife*, Vol. 25, No. 3, 4 May 1985, p.7.

<sup>102</sup> *Age*, 14 March 1985, p.1; *Australian Financial Review*, 9 July 1985, p.1. An *Age* editorial on 15 March 1985 described as preposterous 'the notion that success or failure in an election should be determined by drawing a name from a hat. The provision in Victoria's Constitution for intervention by the returning officer in the event of a tied vote clearly' belonged in the 19<sup>th</sup> century, the newspaper suggested. *Age*, 15 March 1985, p.13.



votes had been excluded from the count,<sup>103</sup> and the resultant by-election was set down for 17 August 1985.<sup>104</sup>

The *Age* newspaper likened the struggle for Nunawading to the Bass by-election of a decade earlier, in which the fortunes of the Whitlam Government had reached a fatal turning point.<sup>105</sup> The *Australian Financial Review* employed an even longer historical perspective, arguing that the poll raised the spectre of Cain family history: the loss of Nunawading would leave the Premier vulnerable to an Upper House block on supply; the same action that had brought his father's government to its knees in the late-1940s.<sup>106</sup> This type of media analysis, which suggested that the poll re-run had the potential not only to presage the fall of the Cain Labor Government, but also to 'crush the spirit of the Hawke Government'<sup>107</sup> might in hindsight appear to have been rather alarmist. Cain's single parenthetical reference to the by-election in his book *John Cain's Years: power, parties and politics*, certainly appears to suggest as much.<sup>108</sup> Yet there is no disputing the vigour with which the contest was fought, and nor can the anguish that it generated within the ALP be denied.<sup>109</sup> Ives, for example, ruthlessly refused to be photographed alongside his Liberal Party opponent, claiming that to do so would only help raise her

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<sup>103</sup> *Australian Financial Review*, 9 July 1985, p.1.

<sup>104</sup> The Court of Disputed Returns began hearing the appeal on 17 June and handed down its decision on 8 July 1985. Ibid.

<sup>105</sup> *Age*, 19 July 1985, p.11. The Bass by-election, in which the Whitlam Government suffered a swing of 17 per cent against it, was held on 28 June 1975. It was triggered by the resignation from Parliament of Labor Defence Minister and former Deputy Leader, Lance Barnard. Freudenberg, *A Certain Grandeur*, pp.355-6. In a eulogy he gave at Lance Barnard's funeral in August 1997, Whitlam remarked, '... at the Bass by-election in 1975 I fell off the wave that I had ridden since the by-elections for Dawson in 1966 and Corio in 1967.' Gough Whitlam, 'Eulogy for Lance Barnard', St John's Church, Launceston, Tasmania, 15 August 1997, available at <http://whitlamdismissal.com/> Accessed 7 September 2011.

<sup>106</sup> *Australian Financial Review*, 9 July 1985, p.8. The second Cain Government fell on 2 October 1947, when the Opposition blocked supply to protest Prime Minister Chifley's proposed nationalisation of the banks. Robert Murray & Kate White, 'John Cain (1882-1957)', Australian Dictionary of Biography, available online at <http://adb.anu.edu.au/biography/cain-john-9661> Accessed 29 September 2011.

<sup>107</sup> The *Age* viewed the by-election as one the Victorian Labor Party could not afford to lose. But it was, according to that newspaper, a contest that also had national ramifications for a Federal Government and Labor Prime Minister whose fortunes were in serious decline. The implication was that the stench derived from a Labor loss in Nunawading could easily attach itself to Federal Labor. *Age*, 19 July 1985, p.11. This notion that Hawke's fate, and that of the Federal Labor government, hinged in no small part on the fortunes of the Victorian Labor Government, was echoed by the *Australian Financial Review* after the by-election had been decided. *Australian Financial Review*, 30 August 1985, p.3.

<sup>108</sup> Cain, *John Cain's Years*, p.96.

<sup>109</sup> It was a very anguished looking Premier Cain whose picture appeared on the front page of the *Age* newspaper on 19 July 1985. *Age*, 19 July 1985, p.1.

profile.<sup>110</sup> Meanwhile, Labor devoted what was, for that time, a massive amount of money to getting its man over the line for a second time.<sup>111</sup> In addition to the \$330,000 spent directly on campaigning, the Government launched a \$1.5 million advertisement campaign spruiking changes in public transport, occupational health and safety laws and other Government ‘improvements’. There was little doubt, the *Sun* newspaper claimed, that the extensive television, radio and print media promotions of these ‘improvements’ – the introduction of a new three-hour train ticket, changes to the controversial tram fairway system and the government’s workcare package – were surreptitious attempts to woo the voters of Nunawading Province.<sup>112</sup>

With tradition suggesting a swing of at least four per cent against the government, and with the only thing likely to prevent that eventuality being the allegedly chauvinistic attitude of Australian voters of all genders towards female politicians, it was essential that Labor pull out all the stops.<sup>113</sup> It was in that context that party concerns about the usefulness or otherwise of involving Hawke in the campaign arose. Initially, it would seem, Cain and Victorian Labor strategists were hesitant about offering an invitation to a Prime Minister whose public standing was on a downward spiral.<sup>114</sup> With opinion polls suggesting that Hawke’s personal approval rating had dropped 17 percentage points between the 1984 Federal election and the timing of the second Nunawading ballot, and with his counterpart, Andrew Peacock, achieving a 14 per cent rise in his status during the same period, there was every reason to suspect that when it came to cajoling the voters of Nunawading, the Prime Minister might prove to be more of a hindrance than a help.<sup>115</sup> And nor was the problem confined to Hawke, since a Morgan Gallup poll conducted during and after the government’s (then) recent tax summit indicated that Labor would have been beaten in a landslide, had a federal election been held at that time.<sup>116</sup> Moreover, whilst the push of the Treasurer, Paul Keating, to

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<sup>110</sup> *Age*, 19 July 1985, p.11.

<sup>111</sup> *Sun*, 17 July 1985, p.8.

<sup>112</sup> *Sun*, 30 July 1985, p.1.

<sup>113</sup> *Herald*, 16 July 1985, p.11.

<sup>114</sup> *Age*, 20 July 1985, p.3.

<sup>115</sup> *Sun*, 22 July 1985, p.23.

<sup>116</sup> According to the Morgan Gallup poll, 49 per cent of voters supported the Liberal-National Party Coalition, as opposed to 41 per cent who supported Labor. The same poll indicated that Peacock’s popularity had overtaken Hawke’s for the first time. *Age*, 3 July 1985, p.1; *Herald*, 17 July 1985, p.1.

introduce a consumption tax had been shelved at the tax summit held in early July, the misgivings that it raised would not easily be forgotten.<sup>117</sup> With Federal Labor recording its lowest opinion poll ratings in seven years,<sup>118</sup> the *Age* argued that only the party's most optimistic supporters could think the tale would have a happy ending when the next election rolled around.<sup>119</sup> It was obvious, other media outlets suggested, that Hawke's sliding popularity made him an unwelcome guest in Nunawading, particularly in the early part of the by-election campaign.<sup>120</sup> What was also clear was that Hawke's invitation to participate, when it finally came on 18 July, was grudgingly issued for his benefit and not for that of the Victorian ALP.<sup>121</sup>

Whilst the outcome of the Nunawading by-election, in which the Liberal candidate, Rosemary Varty, won a resounding victory,<sup>122</sup> is of course both interesting and important, of greater significance to this thesis is firstly, the way in which that contest intersected with government efforts to decapitate the BLF and drive the union out of existence, and secondly, the manner in which the by-election undermined support for the BLF within the ALP and the broader labor movement. These are themes that will be dealt with in greater detail in the next chapter. For now, however, it is important to note that by the time of the second Nunawading poll, it was clear that the euphoria that had greeted Victorian Labor's achievement of consecutive terms in office had given way to what might be described as a siege mentality. The party was in danger of losing its unprecedented majority in the Victorian Legislative Council and, thanks to the readmission of four right-wing unions – at the behest of Hawke and his Centre Unity

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<sup>117</sup> The tax summit occurred over the first week of July. Keating told reporters after his proposal had been dashed that the most important thing to remember was that the principle of a consumption tax had been put in play. The inference, of course, was that his proposal had suffered a setback, rather than a defeat. *Age*, 3 July 1985, p.1.

<sup>118</sup> Labor polling had not been as low since 1978. *Herald*, 17 July 1985, p.1.

<sup>119</sup> The next federal election was scheduled to take place within two-and-a-half years of the Nunawading by-election. *Age*, 3 July 1985, p.1.

<sup>120</sup> *Herald*, 19 July 1985, p.4.

<sup>121</sup> *Ibid.*

<sup>122</sup> With just 2000 ballots to be counted, Varty had amassed 49,397 votes (49.1%). Ives, with whom she had tied in the initial ballot, could only attract 39,525 votes (39.3%) second time around. In other words, the *Age* suggested, there had been a swing of 4.5 per cent away from the Government since the election held just five months earlier. *Age*, 20 August 1985, p.10.

colleagues – the Victorian Left and the broader party were in danger of tearing apart both themselves and each other.<sup>123</sup>

The right-wing unions at the centre of the row – the Federated Clerks, the Shop Assistants, the FIA and the ASC&J – were close allies of B.A. Santamaria and the National Civic Council (NCC), an organisation that was utterly despised by the industrial Left and which had long been proscribed by the Victorian branch of the ALP. The unions' readmission, regardless of how it was couched by Hawke and his supporters, was clearly intended to destroy political and industrial left-wing power in Victoria and, by extension, nationally.<sup>124</sup> Indeed, for people such as Gallagher and the BLF, it could only be taken as evidence that Hawke and his allies were putting into practice what the Prime Minister had exhorted Cain to do less than two years earlier: crush the Left 'in the councils of the party'.<sup>125</sup>

Cain, it seems, had warned the Prime Minister off regarding the Left 'as a monolithic group'. But he also expressed the view 'that the extremists in the Left would only continue to do the party harm'. Hawke, he suggested, 'should recognise that the sensible Left and the rest of the party needed to work together to ensure that Victoria retained its forward-looking, radical-thinking party'. It was in both their long-term interests, Cain argued, that productive forces be harnessed within the Victorian Left – by which he arguably meant the Socialist Forum.<sup>126</sup> In any event, it was clear that with Hawke and Federal Labor on the electoral ropes, with Cain facing the prospect of losing Nunawading Province and the Upper House majority that went with it, and with the party and the broader labor movement warring over the four unions issue there was need of some form of distraction or galvanising measure. Sections of the media, Victorian and Federal Labor parliamentarians, trade union officials and members of the Victorian branch of the ALP were in no doubt that Gallagher and the BLF had been identified as

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<sup>123</sup> Readmission of the Right-wing unions took place over the weekend of 20-21 April 1985. See for example, Cain, *John Cain's Years*, pp.93-5; Coxsedg, *Cold Tea for Brandy*, pp.95-8.

<sup>124</sup> The ostensible reason given for the readmission of the Right wing unions, with their more than 100,000 members, was that it would facilitate 'factional flexibility.' As Coxsedg and Cain implied, 'factional flexibility' was a euphemism for facilitating Right-wing control of the ALP. Coxsedg, *Cold Tea for Brandy*, p.95; Cain, *John Cain's Years*, p.94.

<sup>125</sup> Hawke's plea for Cain to help him destroy the Left as a mechanism to attract electoral support had been made at a meeting between the two men in December 1983. Cain recalled 'the vigour with which' Hawke said "'To be seen to stand up to the Left in the party is a big vote-winner.'" Cain, *John Cain's Years*, p.92.

<sup>126</sup> *Ibid.*, pp.92-3.

suitable mechanisms by which order in the party and electoral success could be restored.<sup>127</sup> But ironically it fell to Kennett and his side of politics to suggest that the *bête noir* that Gallagher and the BLF provided was being used to mask the kind of shifts that would see Labor complete its transition from a mass to a people's party.

We saw in relation to the Royal Commission report that parliamentary discussion around that issue initially centred on Cain's sense of timing, with Liberal and National Party politicians contending that the government had deliberately stifled debate by introducing the document at the latest possible time. With the government introducing its BLF (De-recognition) Bill on the last sitting day of a specially-convened session of Parliament, debate around that development inevitably followed a comparable course.<sup>128</sup> Nor did the similarities end there, since the restrictions that had been imposed on which and how many Labor representatives could speak to the introduction of Winneke's report, and the earlier Wrongs Bill, were replicated in the case of the deregistration Bill. Patterns were clearly emerging where the Victorian Parliamentary Labor Party's handling of BLF-related issues was concerned.

Kennett had written to Cain in the weeks prior to 19 July, to request copies of the Bill and the associated second reading speech. His purpose, he argued, had been to assure Cain of the Opposition's 'maximum assistance in achieving prompt and effective results'.<sup>129</sup> Whilst the Opposition were understandably disappointed with Cain's response, in which he indicated that the proposed legislation 'would not be made available until the last minute', they apparently did not suspect that he meant to delay introduction of the legislation until late in the final morning of a specially convened sitting. The rush to have the Bill passed through the Lower House on 19 July was, the Conservatives argued, both unwarranted and inappropriate. The Legislative Council was not scheduled to meet until the following Tuesday, which meant that it would be in a position to consider the legislation and pass it back to the Assembly on the Wednesday or

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<sup>127</sup> See for example, *Direct Action*, No. 531, 17 July 1985, p.7; *Age*, 19 July 1985, p.13; *Age*, 30 July 1985, p.13.

<sup>128</sup> A 'special' sitting of Parliament had been convened so that the Government could use the majority that it then enjoyed in both Houses to secure passage of new Workcare and Occupational Health & Safety legislation. The need to quickly pass that legislation passed was precipitate by the knowledge that the Government faced a re-election for the Upper House seat of Nunawading Province. John Cain, "The Builders Labourers' Federation – Unions and Government", Unpublished Diary Notes, p.35.

<sup>129</sup> VPDLA, 19 July 1985, p.1659.

Thursday, thereby ensuring that the Bill had gone through Parliament ‘in an ordinary way with proper Parliamentary examination’.<sup>130</sup> But, Rob McLellan argued:

When one hears that twelve Government members do not support the proposed legislation one understands why time is significant and why the Government wants to rush it through this place in case any Government members might be persuaded to change their minds after consulting with their masters... The internal divisions within the Government suggest the reason for the necessity of the Bill being [introduced] in the morning of a Friday sitting and rammed through before the Friday sitting is finished.<sup>131</sup>

Deputy Premier Fordham immediately rose to successfully declare the Bill urgent. The remaining stages through which it had to pass were to be completed by 6.30 p.m. of that day.<sup>132</sup> The government, it seems, had heard enough. It was at that stage that Kennett began to articulate what was really going on in Parliament and in the ALP. Rising to make ‘one salient point’, he declared Fordham’s urgency motion a measure ‘not so much... to prevent the Opposition from speaking on the Bill’, but one intended ‘to prevent the Government’s own members from speaking’.<sup>133</sup> Cain could not ‘trust his own backbenchers with the opportunity of making a contribution during the debate’; he could not ‘run the risk’ of having those who were ‘concerned about the proposed legislation being given the opportunity of speaking’, the Leader of the Opposition suggested.<sup>134</sup>

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<sup>130</sup> Ibid., p.58.

<sup>131</sup> Ibid.

<sup>132</sup> Ibid.pp.58-60. Chapter 15, Standing Order number 133 of the Victorian Legislative Assembly suggests that (1) ‘A minister may move that a bill be treated as urgent: (a) on the reading of a message from the Governor recommending an appropriation in connection with the bill; (b) at any stage of the bill. (2) If 20 members rise in their places to indicate their support, the question ‘That the bill be considered an urgent bill’ is put at once without amendment or debate. If the motion is passed, a minister may at any time (but without interrupting a member who is speaking) move another motion specifying the time which is to be allotted for one or more of the following: (a) the stages of the bill (including anything preliminary to its introduction) before the second reading; (b) the second reading; (c) the consideration in detail stage, or any parts of it; (d) the remaining stages. (3) The time allotted for the consideration in detail stage may be further subdivided so that particular clauses or parts of the bill have a specific time set aside for them.’ Parliament of Victoria, Legislative Assembly, Chapter 15, ‘Limitation on Debate’, available at <http://www.parliament.vic.gov.au/assembly/standing-aamps-sessional-ordersrules/standing-orders> Accessed 16 September 2011. The process is colloquially known as guillotining.

<sup>133</sup> VPDLA, 19 July 1985, p.1659.

<sup>134</sup> Ibid.

With Cain departing the Chamber in an apparently distressed state – he was said to be ‘shaking visibly’<sup>135</sup> – Kennett claimed to have it on good authority that when the Bill had been discussed by the Labor Caucus just a few days earlier, 17 members of that body had ‘spoken bitterly’ against its introduction into Parliament. He had been told by Labor members that very day, Kennett insisted, that the numbers opposed to the Bill would grow because it was considered by Labor Party MPs to be every bit as extreme and unenforceable as Menzies’ Communist Party Dissolution Bill.<sup>136</sup> As things stood, Kennett suggested, there was only one thing stopping Labor members from ‘cross[ing] the floor in droves’ against Cain and the legislation, and that was the Nunawading by-election.<sup>137</sup>

One can only guess at the real reasons for Cain’s allegedly agitated departure from the Chamber. Kennett suggested it was because the Premier lacked the courage to face up to questions that might be put to him about the Bill by members of the Opposition and/or his own Party.<sup>138</sup> But it seems Cain was not the only government member to leave the Chamber; at one stage only 10 Labor MPs could be counted in the Lower House. Of those, Kennett argued, some had been among the 17 who had objected to the Bill when it was put before the Labor Caucus – their purpose in sticking around for the debate was, he argued, ‘to learn about the Bill because they ... [had] never seen it before’.<sup>139</sup> It was, to be sure, an allegation calculated to exploit any division the anti-BLF legislation might have caused in government ranks. But it was given not insignificant weight by the contents of a letter that Norm Wallace, assistant secretary of the Victorian branch of the BLF, wrote to ALP state secretary, Peter Batchelor. In his letter, extracts of which were reproduced in the *Australian Financial Review*, Wallace outlined reports the BLF had received from members of Cain’s Cabinet and Caucus. Those communications suggested, Wallace argued:

that specific features of the legislation, especially clause (7) relating to seizure of trade union property and assets and clause (8) statutory declarations repudiating this union and consequent supervision of building sites by police, were not

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<sup>135</sup> Kennett accused Cain of scurrying off to hide in his ‘bunker’. The Premier, he suggested, did not have the courage to remain in the Chamber to debate the Bill. *Ibid.*, p.1662.

<sup>136</sup> *Ibid.*

<sup>137</sup> *Ibid.*

<sup>138</sup> *Ibid.*, pp.1659-62.

<sup>139</sup> *Ibid.*, p.1664.

considered by Caucus and were generally equivalent to similar proposals contained in the Cabinet papers circulated on Friday, July 12, which were ordered by Cabinet to be deleted.<sup>140</sup>

The *Financial Review*, which on 18 July had insisted not only on the removal of the BLF from the Australian industrial relations landscape, but also on the obliteration of the union, expressed grave concern about the idea of Cabinet ministers leaking confidential information, particularly to organisations such as the BLF.<sup>141</sup> Of much less concern, it seems, was the possibility, inferred from Wallace's letter, that the Labor Party Caucus had been duped into supporting anti-BLF legislation. If Wallace's information was correct, pressure applied by Cabinet had seen certain clauses removed from the legislation, only to be re-inserted *after* Caucus had given its approval.<sup>142</sup>

There is anecdotal and circumstantial evidence to suggest that the kind of trickery and undemocratic activity implied in Wallace's letter was in fact accurate. Despite 'consultation', 'consensus' and the 'right process' – maxims that were supposed to epitomise Labor Party life under John Cain junior – the reality was, Cocksedge argued, that Caucus 'was treated as an intrusive nuisance which needed to be controlled'.<sup>143</sup> If backbenchers had their uses in Opposition, she suggested, they 'simply got in the way' when Labor came to power. Their duty, it seems, was to be seen, but not heard.<sup>144</sup> Elsewhere, Labor Party members complained that 'the whole series of events surrounding the BLF Derecognition Bill... [were] symptomatic of... [the] erosion of rank-and-file control, of democratic procedure... in the party as a whole'.<sup>145</sup> According to one source – a Socialist Left document entitled 'Divide and Rule?' – members of Cabinet and Caucus had been blackmailed into accepting the BLF Bill – sight unseen, where Caucus was concerned – on the grounds that to do otherwise 'would be a vote of no confidence in the premier [sic]'.<sup>146</sup> Meanwhile, the *Herald* suggested that the Bill passed by state Cabinet

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<sup>140</sup> *Australian Financial Review*, 23 July 1985, p.5.

<sup>141</sup> *Australian Financial Review*, 18 July 1985, p.12; *Australian Financial Review*, 23 July 1985, p.5.

<sup>142</sup> State Cabinet approved the Bill on Monday, 15 July 1985. Caucus consented to the Bill the following day, albeit with some opposition. *Herald*, 17 July 1985, p.1.

<sup>143</sup> Cocksedge, 'All is not forgotten'; Cocksedge, *Cold Tea for Brandy*, p.158.

<sup>144</sup> Cocksedge, *Cold Tea for Brandy*, p.158.

<sup>145</sup> Eason et al, 'Divide and Rule?' [1/4,] in Boyd papers, Box 66, Folder 15/15, University of Melbourne Archives.

<sup>146</sup> *Ibid.*



and Caucus was ‘in substantially the same form as when it was first drafted’ the previous year.<sup>147</sup>

This chapter has highlighted three instances in which the Cain Labor Government reflected the type of directional, political and operational shifts often considered synonymous with the Whitlam era and the style of party leadership that he embodied. In Cain’s choice of Labour and Industry Minister, made in the immediate aftermath of electoral victory in April 1982; in the apparent suppression of Labor Party debate around the introduction of the Winneke Report in July 1982; and similarly in the containment of debate on the introduction of the BLF (De-recognition) Bill in July 1985, we can discern a definite pattern in which those who had come to dominate the ALP in Victoria reflected Whitlam’s preoccupation with electoral success and his determination to rule the party.

Extending the arguments developed in Chapter Nine, this chapter also suggests that, in pursuing electoral success, the Victorian ALP of the early to mid-1980s both reflected and implemented the strategies laid down by the ALP National Committee of Inquiry Report of 1979. This was particularly evident where calls for a reorientation away from the working-class, blue-collar, trade union associations considered barriers to Labor’s electoral appeal were concerned. The Victorian Parliamentary Labor Party, having withdrawn from deregistration proceedings brought against the BLF by Conservative governments in Canberra and Melbourne had, within months of that action, found reason to limit and control what could be said or done in Parliament to defend the union from what party leaders had at one time unambiguously labelled an orchestrated witch hunt. By mid-1985, the Victorian Parliamentary Labor Party had not only re-ignited anti-BLF legislation, but had, it seems, reached a point where obliteration of the BLF could be used as a mechanism for electoral success.

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<sup>147</sup> *Herald*, 18 July 1985, p.3.

## **Chapter Eleven**

### **Deregistration: The Game Anyone Can Play**

Jeff Kennett's allegation – that in outlawing the BLF, John Cain and the Victorian Labor Party were turning their backs on the trade union movement and betraying their class – goes to the heart of this thesis and the question of whether long-term shifts in the ALP influenced decisions to deregister the BLF. The goal of the thesis is not to prove Kennett right, or even to suggest that class treachery occurred. Rather, it is to evaluate the trajectory that Gallagher and the BLF pursued over a significant period of time and to examine that trajectory in light of observations others have made about concomitant shifts in, and the emergence of, a new type of Labor Party. The thesis therefore argues that deregistration of the BLF can be understood not merely as the result of certain actions or events but as a corollary of long-term developments that shaped and informed both the union and the ALP. But whilst the thesis employs a long-range approach to the question of deregistration and the breakdown of party-union relations from whence that action sprang, it is necessary also to foreground a number of proximate developments and events, against which Labor's decision to eliminate the BLF eventually occurred, and against which anti-BLF legislation was introduced. Before turning to those questions, however, it is necessary to sketch the manner in which Conservative efforts to destroy the BLF petered out, and to highlight, too, the dearth of support that existed for Gallagher, as he came under one final round of personal attack from an allegedly common enemy: the Fraser Government.

#### **Last Roll of the Dice: The Liberals Get Their Man**

The election of the Cain Government in April 1982 sounded the death knell for Conservative efforts to destroy the BLF, for it was in Victoria that BLF power was centred and in which, consequently, any case for deregistration would have to be demonstrated. It was also because of the precedent that Victoria's withdrawal from deregistration established. That example was followed immediately upon Labor coming to office in South Australia in November 1982, and in West Australia in February 1983.<sup>1</sup> But whilst Gallagher was correct – albeit crudely so – in suggesting in August 1982 that Andrew Peacock had 'wiped his arse before he had a

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<sup>1</sup> South Australia's withdrawal from deregistration was announced on 15 November 1982, with deputy premier Jack Wright describing the process as 'a political exercise'. *Age*, 17 November 1982, p.16;  
West Australia's withdrawal on 8 March 1983 coincided with the election of the Hawke Labor Government. See *Age*, 10 March 1983, p.5.

shit', a weakened Fraser Government was still able to wound him and his union in not insignificant fashion.<sup>2</sup> The attack was both coincidental with and a direct response to Victoria's withdrawal from deregistration proceedings.

In Victoria, politics, economics and industrial relations were the grounds on which that state's withdrawal from deregistration was justified. Industrial Relations Task Force leader, Bill Landeryou set the tone.<sup>3</sup> In announcing Victoria's renunciation of the anti-BLF measures, he lambasted the use of \$20,000 of taxpayers' money that had been 'wasted' each week on what he suggested had been 'a kneejerk...useless political exercise'.<sup>4</sup> According to Landeryou, history showed 'that punitive action such as deregistration proves nothing and only harms good industrial relations'.<sup>5</sup> Treasurer and Labour and Industry Minister, Rob Jolly repeated the argument, telling Parliament that 'on industrial relations grounds there was no case for proceeding with deregistration.' Indeed, Jolly argued, there had been a good case against such action, 'yet the previous [state] Government [had] committed hundreds of thousands of dollars to that particular activity'.<sup>6</sup>

The Liberals were unimpressed. Nor were they appeased by the promise that, withdrawal from deregistration notwithstanding, the Victorian Government would pursue with the utmost vigour those whom the BLF Royal Commission accused of corruption.<sup>7</sup> Fraser's response was both angry and trite. He accused Cain of being in thrall to the ALP Socialist Left, for whom, he argued, springing Gallagher was the first priority.<sup>8</sup> But if the Prime Minister was helpless to strike back at Victoria in other than hyperbolic form, his government nevertheless seized upon a new opportunity to attack Gallagher and his union, to bolster public perceptions of the labourers' union as thugs and miscreants, and to renew the goal of decapitating the BLF by having its general secretary imprisoned. This time, it was a contempt of court charge arising out of retaliatory bans that the union had imposed on deregistration supporter, H.M. Keast and Sons Pty Ltd – bans that had begun just two weeks

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<sup>2</sup> *Melbourne Times*, Vol. 16., No. 30, 4 August 1982, p.1.

<sup>3</sup> The Industrial Relations Task Force was established, Cain argued, to give 'the industrial wing of the party access and information in a way that the union movement had never enjoyed before'. But the establishment of such a body caused friction 'when unions dealt directly with the Task Force and not through the Victorian THC'. Cain, *John Cain's Years*, pp.114-5.

<sup>4</sup> 'Vic Govt Withdraws from Deregistration', BLF leaflet, April 1982, in Boyd Papers, Box 66, 15/12-15/15; *Age*, 21 April 1982, p.1.

<sup>5</sup> *Age*, 21 April 1982, p.1.

<sup>6</sup> VPDLA, 1 July 1982, p.2535.

<sup>7</sup> Cain 'said then and many times later that any prosecutions recommended by law officers arising from the Winneke Royal Commission would go ahead'. John Cain, 'The Builders Labourers' Federation', p.8; See also, 'Vic Govt Withdraws from Deregistration'.

<sup>8</sup> Cain, 'The Builders Labourers' Federation', p.8; *Age*, 22 April 1982, p.4.

prior to Victoria's retreat from deregistration proceedings but which had, in fact, been lifted analogous to that withdrawal.<sup>9</sup>

In bringing on the contempt action in May 1982, the federal government and the Master Builders Federation (MBF) succeeded in having Gallagher sentenced to two months in prison, while the union and one of its organisers – Brian Boyd – were fined \$15,000 and \$500, respectively.<sup>10</sup> An appeal before a full bench hearing of the Federal Court in July 1982 saw all but the \$15,000 fine overturned. Gallagher was jubilant. He told reporters that not only would the outstanding fine be paid out of a 'public appeal fund' to which builders and developers had more than generously donated, but that BLF actions had helped in having his prison sentence reversed.<sup>11</sup> His comments, which were broadcast on *ABC* television and reproduced in the *Age* newspaper, were enough to have him brought back to court. The new charge, as outlined by Attorney-General Peter Durack, was that Gallagher had attributed improper motives to the court and its judges, had questioned their impartiality, and had lowered public confidence and respect for the court.<sup>12</sup>

The timing could hardly have been worse for Gallagher and the BLF. With the Royal Commission report having been aired in the Victorian Parliament just a few weeks earlier, and with that same report due to be tabled in federal parliament the following month, the last thing they needed was the adverse public attention that yet another high-profile court case was certain to bring. According to Cain, the Liberals had deliberately run deregistration and Royal Commission proceedings side-by-side in order to maximise the conflict and confusion that such an overlap would create.<sup>13</sup> There is every reason to suspect, therefore, that the pursuit of Gallagher on contempt of court charges had similar designs: the more he and his union could be kept in the spotlight, the easier it would be for the government to win over public opinion and destroy the BLF.

When the new contempt charge came before the Federal Court on 18 October 1982, Mr Justice Northrop agreed that Gallagher had committed a criminal contempt when he made this statement:

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<sup>9</sup> The bans on H.M. Keast jobs ran from 5 to 21 April 1982. They were lifted as an act of good faith when the Victorian Government applied for leave to withdraw from deregistration. *Age*, 21 April 1982, p.1. See also, *Age*, 19 May 1982, p.14; *Age*, 23 April 1982, p.6.

<sup>10</sup> *Age*, 19 May 1982, p.14. Charges were initially brought against Gallagher, Boyd, Paddy Donnelly, Philip Tate, Martin Bingham and the BLF, but only Gallagher, Boyd and the union were ultimately prosecuted. *Age*, 23 April 1982, p.6.

<sup>11</sup> *Age*, 22 July 1982, p.1; *Age*, 19 October 1982, p.3.

<sup>12</sup> *Age*, 19 October 1982, p.3.

<sup>13</sup> Cain stated that his predecessor, Lindsay Thompson 'had seen the potential for conflict and confusion in the two processes'. Cain, 'The Builders Labourers' Federation', p.8.

I am very happy to [sic] the rank and file of the union who [have] shown such fine support for the officials of the union and I believe that by their actions in demonstrating, in walking off jobs... I believe that that has been the main reason for the court changing its mind.<sup>14</sup>

For thanking his members for their support and for suggesting that they had somehow contributed to his acquittal, Gallagher was sentenced to three months in prison. He appealed, all the way to the High Court. But this time there was to be no escape, as all but Lionel Murphy upheld Northrop's ruling.

Whilst common sense could usually be relied upon to safeguard against scandalous disparagement of a court or judge – the High Court declared on 15 February 1983 – it was nevertheless 'important to the stability of society' that public confidence 'not be shaken by baseless attacks on the integrity or impartiality of [the] courts or [their] judges'.<sup>15</sup> Not everyone was convinced, either of the charge that had been levelled against Gallagher or indeed the impartiality of the courts and those who presided over them.

Dissenting from the judgement of his High Court colleagues, Murphy portrayed a worrying situation in which the Federal Court appeared to have become 'a vehicle for selective prosecution'.<sup>16</sup> Why, he wished to know, had media organisations responsible for repeating Gallagher's allegedly insurrectionary remarks not also been charged? The answer to that question had already been provided by Justice Northrop when imposing the three-month sentence on Gallagher: the Attorney-General had *not* sought prosecution of the media organisations; his focus had been *entirely* upon the BLF general secretary.<sup>17</sup>

The contempt cases had a number of important ramifications over and above the unhelpful media attention that they provoked. Describing the three-month sentence as nothing short of 'savage', Murphy railed:

No free society should accept such censorship... at stake is not merely the freedom of one person: it is the freedom of everyone to comment rightly or wrongly on the decision of the courts in a way that does not constitute a clear and present danger to the administration of justice.<sup>18</sup>

It would be unfortunate, Murphy continued, 'if this departure from the normal created the impression that imprisonment for scandalising the court is *reserved for militant trade union*

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<sup>14</sup> Ibid.

<sup>15</sup> *Age*, 16 February 1983, p.4.

<sup>16</sup> *Canberra Times*, 16 February 1983, p.1. (Emphasis added)

<sup>17</sup> *Age*, 19 October 1982, p.3.

<sup>18</sup> *Age*, 16 February 1983, p.4. Murphy's sentiments were echoed by Alan Hughes from the Political Science Department of Melbourne University. See *Age*, 22 March 1983, p.12.

*leaders*'.<sup>19</sup> Not only had his fellow judges upheld what Murphy considered to be an inappropriate sentence, but they had, he suggested, conveniently interpreted a section of the Constitution as a procedural motion instead of a guarantee. In that way, Murphy argued, the court had been able to deal with Gallagher by summary process and deny him the right to trial by jury.<sup>20</sup>

Murphy's intimation – that the courts had willingly joined in politically-motivated attacks on Gallagher – is beyond the scope of this chapter. Neither is it possible to adequately explore Murphy's second concern: that Gallagher's imprisonment was an offence against freedom of speech. Those issues are of critical importance. But of perhaps greater relevance, given the context in which they occurred – further assaults on trade unionism and union leaders by a virulently anti-union federal government – was the paucity of labor movement support that Gallagher's prison sentences provoked.

John Halfpenny of the AMWSU responded to the initial two-month sentence by suggesting that it *should* arouse anger right across the union movement. But his displeasure at the jailing of a trade union colleague and ACTU executive member failed to extend beyond *asking* metalworkers 'to stop work alongside their fellow workers in the building trade'.<sup>21</sup> BWIU national secretary, Pat Clancy, was unambiguous in his response:

The BLF elected to take this action [bans on Keast projects] themselves. We don't feel ourselves obliged to support the union on this particular action. What they do now is really a matter for the BLF.<sup>22</sup>

Not even Murphy's insinuation – that Gallagher had been singled out for special treatment – could arouse the unions in support of a colleague, albeit one for whom they had little love. With Gallagher being led away in handcuffs, the best that BWIU assistant secretary, Ray Collins, could manage to say was what a shame it was to see a union official jailed for making statements on behalf of his members.<sup>23</sup>

FIA officials were similarly unmoved. They suggested that any response to Gallagher's imprisonment would have to come via the ACTU.<sup>24</sup> But the peak union body had already made its position clear. When the initial contempt charge was heard in May 1982, ACTU President, Cliff Dolan, had declared that the response to Gallagher's imprisonment would be unlikely to match that which had greeted the 1969 jailing of Tramways Union

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<sup>19</sup> Ibid. (Emphasis added)

<sup>20</sup> Ibid.

<sup>21</sup> *Age*, 19 May 1982, p.14.

<sup>22</sup> Ibid.

<sup>23</sup> *Age*, 16 February 1983, p.1.

<sup>24</sup> Ibid.

leader, Clarrie O'Shea.<sup>25</sup> Nor was Bob Hawke willing to support Gallagher. He merely hoped – as he had in the early 1970s, when Gallagher went to jail for protecting public parkland in (then) working-class Carlton – that Australian industry would not be disrupted.<sup>26</sup> With the Prime Minister's residence fixed firmly in his gaze, Hawke had less reason than ever to protest the incarceration of trade union officials, let alone one of Gallagher's stamp.

That the response to Gallagher's imprisonment was so casual, Cain suggested, was because 'some [in the labor movement] thought it...all a bit boring'.<sup>27</sup> The flippancy of Cain's remarks belied the fact that Gallagher had initially been convicted because of comments that he had made in the supposed sanctity of an Arbitration Commission hearing.<sup>28</sup> But there were other factors at play, not least of which was the enmity that Gallagher had generated over many years, and which he continued to stoke in a bitter dispute over the operation of scissor-lift platforms.<sup>29</sup> With the BLF expelled from Trades Hall for refusing to abide by a disputes committee hearing on that issue, rival unions had a golden opportunity to steal the scaffolding work that had traditionally been the preserve of builders' labourers, but which was now being threatened by the introduction of mobile platforms.<sup>30</sup> It was in that context that BWIU assistant secretary, Ray Collins said: 'we don't feel like going in to bat for him'.<sup>31</sup>

A further factor in the lack of support available to Gallagher at this time was the significant propaganda effect of the Royal Commission hearings and Cain's public airing of the Royal Commission report. *BWIU Review* – official organ of the carpenters' union in NSW – opined, for example, that there was little sympathy for Gallagher because 'for some months building unions, other unionists and the public generally... [had] witnessed allegations of graft and corruption directed against' him.<sup>32</sup> The BWIU had initially opposed the Royal Commission. Clancy had even refused to cooperate when called upon to give evidence, insisting that whilst there were differences between his union and the BLF, a Royal

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<sup>25</sup> *Age*, 19 May 1982, p.1.

<sup>26</sup> *Age*, 16 February 1983, p.1.

<sup>27</sup> Cain, 'The Builders Labourers' Federation', p.15.

<sup>28</sup> Gallagher allegedly told Keast Chairman, Reginald Keast, that his company was being targeted because of the support that Keast had provided for deregistration and Royal Commission proceedings. Since the BLF had been kicked around by companies such as Keast, it was time, Gallagher allegedly said, for the union to do some kicking of its own. Keast relayed the comments to the Government and to the Master Builders Federation. *Age*, 19 May 1982, p.14.

<sup>29</sup> *Age*, 18 February 1983, p.7. For a detailed account of the scissor-lift dispute, see Ross, *Dare to Struggle*, pp.65-7.

<sup>30</sup> The BLF was expelled from the VTHC on 17 February 1983. *Age*, 18 February 1983, p.7. The union was readmitted to the VTHC in December 1983. See *MBAV Newsletter*, Week ending 2 December 1983, Vo.4, No.23, p.6, in Boyd papers, Box 58, 10/1-13/2/

<sup>31</sup> *Age*, 16 February 1983, p.4.

<sup>32</sup> *BWIU Review*, No.20, June 1982, p.143. NBAC N130/862, Journals, January to June 1982.

Commission was not ‘an appropriate place at [sic] which one union should comment on the policy and internal affairs of another union’.<sup>33</sup> But if the Commission had originally been written off as a fishing exercise or a kangaroo court, to mix the metaphors current at the time, the tainted evidence that it produced had suddenly and conveniently become acceptable.

If revenge and self-interest were sufficiently strong motives for rival unions to abandon Gallagher to the employers and their supporters in the Fraser administration, perhaps an even stronger impetus was their need to bring about a national Labor government.<sup>34</sup> On that, at least, the BLF and its enemies were agreed. Though John Cummins in Victoria, and Steve Black in NSW threatened to make the bosses pay for Gallagher’s imprisonment, the general consensus was, as Queensland secretary, Vince Dobinson suggested, that the BLF should do nothing to damage Labor’s prospects.<sup>35</sup>

Gallagher served seven weeks of his three month sentence. His release from Pentridge Prison on 7 April 1983 came a month after Hawke and the ALP had swept to power.<sup>36</sup> But if the BLF had managed, as planned, to frustrate deregistration proceedings until such time as a national Labor government could be achieved, Gallagher’s long-held belief – that there was little material difference between Liberal and Labor governments – was about to be personally realised. Promises that Bill Hayden had made almost two years earlier about withdrawing from deregistration were eventually honoured, but not unconditionally, not until December 1983, and certainly not at the expense of the ALP-ACTU Accord(s) upon which Labor had ridden to power, and upon which it intended to stay there.

## **The Mark of Cain**

The significance of Gallagher’s prison term rests not with the sentence itself, but with the manner in which it was accepted by the Australian labor movement. A signal had been obliquely transmitted that the trade union movement had tired of Gallagher and that BLF rivals were willing to sacrifice one of their own in return for the election of Labor governments. But a message had also been sent that if elected, Labor would be free to deal harshly with Gallagher and the BLF: if trade union neutrality could be secured in the face of Conservative attacks on the BLF, such neutrality could be fully assured were those same

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<sup>33</sup> Cited in Boyd, *Inside the BLF*, p.59.

<sup>34</sup> Having outlined the various sins of which the BLF was allegedly guilty, the BWIU national publication, *Building Worker*, suggested that the union’s most grievous offence was that it threatened the election and longevity of Labor Governments. *Building Worker*, July 1985, p.2.

<sup>35</sup> *Age*, 16 February 1983, p.4.

<sup>36</sup> *Age*, 8 April 1983, p.3.



attacks to come from Labor governments. It was in that context that Cain, Hawke, NSW Premier Neville Wran and ACTU secretary Bill Kelty began to discuss what might be done about Gallagher and the BLF. By mid-1983, they had resolved that:

...to succeed [against Gallagher and the BLF] there had to be accord between the three Governments and the ACTU. We all knew that we had to be prepared to go all the way.<sup>37</sup>

If Labor leaders had determined on elimination of the BLF – even whilst Federal Labor was promising to end Conservative-initiated deregistration proceedings – there was still need for one or more pretexts on which those plans could be realised. In Victoria, a high-profile dispute at the Melbourne Cricket Ground (MCG) provided the key, but only after demarcation had replaced the environmental and planning concerns on which the struggle there was originally based.

The MCG dispute initially turned on Cain's determination to bring day-night cricket to the masses and on his need, consequently, to have the stadium illuminated by six 75-metre tall light towers. This populist push to enhance Melbourne's reputation as 'the principal sporting city in Australia' infuriated nearby residents, including those from leafy East Melbourne.<sup>38</sup> The problem was that in declaring the project a matter of 'State importance', the Premier and his planning minister, Evan Walker brushed aside conventional planning regulations and appeared to disregard the interests of Melbourne's upper crust.<sup>39</sup>

An independent panel was established to address residents' concerns, but it was clearly a sop, a forum whose parameters were trimmed even before it could meet: the panel was at the last possible minute restricted to taking submissions on matters of an environmental nature.<sup>40</sup> Nor would Walker convene with the panel or opponents of the lights *en masse*: all planning-related objections had to be raised with him personally and individually.<sup>41</sup> When challenged as to whether bypassing normal planning processes would

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<sup>37</sup> Cain, 'The Builders Labourers' Federation', p.25.

<sup>38</sup> The MCG lights issue was first raised as a matter of concern for East Melbourne residents on 14 April 1983. East Melbourne Group (EMG) Minutes of Meeting of Committee, 14 April 1983, p.4, East Melbourne Group Archives, Powlett Street, East Melbourne. (Hereafter, EMG Minutes)

<sup>39</sup> Cain vowed not to 'conduct any charade around the planning process', but to change the law controlling the use of Crown land adjacent to the MCG. East Melbourne Councilor, Peter Black accused the Premier of trampling on the democratic rights that Australians in two world wars had fought and died to protect. *Age*, 31 December 1983, p.3.

<sup>40</sup> Panel members were informed of these new guidelines on the day of their first meeting. *Age*, 20 October 1983, p.6; EMG Minutes, Annex 'C', 29 March 1984, p.1.

<sup>41</sup> EMG Minutes, 3 November 1983, p.5. It is unlikely that taking matters up with Walker on an individual basis would have made any difference: the Government's response to an Environmental Effects Enquiry that it commissioned was to press ahead regardless, even though the inquiry found that the environmental impact of the lights would be 'significant' and 'detrimental'. EMG Minutes, 29 March 1984, Annex 'C', p.1.

place the government above the law, Cain icily replied: 'No. Parliament will change the law'.<sup>42</sup> It was in that context that Gallagher and the BLF agreed to a residents' request for a 'holding ban' on construction of the light towers. The ban was imposed on 26 September 1983.<sup>43</sup>

Corporate pressure to have the MCG illuminated in time for the 1985 day-night cricket season had compelled Cain to relieve the Melbourne City Council of its planning powers.<sup>44</sup> The pressure was exacerbated by Melbourne Cricket Club (MCC) threats to scrap the project unless planning approval was granted by November 1983, and unless work commenced by the end of that year.<sup>45</sup> News of the BLF ban therefore drew a sharp response: the Premier called upon the FIA and the AWU to carry out work that had, according to Gallagher, already been promised to the BLF.<sup>46</sup> What began as a Green Ban had rapidly morphed into a demarcation issue, and all before work on the site had even commenced.

Matters came to a head on 1 June 1984, when Arbitration Commissioner Bob Merriman ruled in favour of the FIA and the AWU, whilst specifically excluding the BLF from the light tower site.<sup>47</sup> According to Merriman, the nature of the work to be carried out at the MCG did not constitute 'building operations' and was therefore not covered under BLF eligibility rules.<sup>48</sup> The concreting work – of which there was a significant amount – was allocated to the AWU, whilst erection of the towers was given to the FIA. Questions of bias on Merriman's part – he was an executive member of the Victorian Cricket Association that was partially responsible for financing the light towers project – were swept aside. Also dismissed were concerns – again expressed both by the BLF and the MBA – that, in having built every other light tower in Australia, the labourers had unimpeachable 'custom and practice' claims to the work.<sup>49</sup>

Merriman's decision was made with an unusual degree of surety. Acting on Cain's instructions, Kelty had quietly informed the Commissioner that the government was prepared to uphold his decree with all necessary force.<sup>50</sup> Nor did the Commission have to worry about

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<sup>42</sup> *Age*, 31 December 1983, p.3.

<sup>43</sup> *Age*, 29 September 1983, p.4.

<sup>44</sup> Control over MCG planning issues was taken away from the City Council in August 1983. Ibid. Cain argued that if it were left up to the City Council, approval for the MCG light towers might not be secured for four-to-five years. *Age*, 31 December 1983, p.3.

<sup>45</sup> *Age*, 29 September 1983, p.4.

<sup>46</sup> Gallagher told reporters: 'When we indicted that a 'holding ban' was on, the Government got the Federated Ironworkers Association and the Australian Workers Union to scab for them'. *Age*, 30 May

<sup>47</sup> *Business Review Weekly*, 30 June-6 July 1984, p.30.

<sup>48</sup> Ibid.

<sup>49</sup> See *Age*, 4 June 1984, p.3; *Business Review Weekly*, 30 June 1984-6 July 1984, p.30.

<sup>50</sup> Cain, 'The Builders Labourers' Federation', p.20.

where the ACTU stood on the matter. Initially cautious about ruling in favour of either the BLF or the AWU – neither union could be relied upon to abide by ACTU decisions – the peak union body was, thanks to Cain’s assurances, finally able to declare a BLF picket illegal.<sup>51</sup> Moreover, with Cain refusing Gallagher’s offer to lift bans elsewhere in the state in return for assurances that the light tower work would be covered by the BLF there was a rarely experienced opportunity for the Commission, the ACTU and the government to hold the labourers’ union to account and possibly even punish it for past transgressions.<sup>52</sup> Nor was the principal contractor at the MCG likely to buckle under BLF pressure. Prentice Bros & Minson had landed the contract despite its tender being \$200,000 higher than that of its nearest competitor, Leighton Contractors. But the successful bidder was renowned for its toughness and for its refusal to employ BLF labour.<sup>53</sup>

The consequences of Merriman’s decision were inevitable, if not desired. Of those effects, the most immediate were the violent clashes and arrests that occurred as BLF members and officials sought to stop police from escorting AWU members across their picket line.<sup>54</sup> But whilst arrests were easily overcome – BLF members and officials returned to the MCG within hours of being apprehended – the intensification of the wider union conflict that stemmed from those clashes was a more serious affair.<sup>55</sup> Though the BLF managed to recruit the Transport Workers Union (TWU) to its cause and thereby block deliveries of material to the MCG, it was the AWU that held the upper hand because it was able to choke off concrete supplies to commercial building sites.<sup>56</sup> When concrete shortages caused other unionists to be stood down, there was a rapid evaporation of whatever sympathy they had for the BLF cause.<sup>57</sup>

The state government was, not surprisingly, the focus of renewed attention, with Gallagher escalating and expanding bans on a range of projects across the state. But whilst Cain threatened tough action against the BLF, he would not yet bow to Opposition demands for the union to be outlawed by a special sitting of Parliament.<sup>58</sup> The Premier preferred Kelty’s advice: to ‘take things along quietly and carefully’ until such time as everyone could

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<sup>51</sup> Ibid., p.21.

<sup>52</sup> Ibid.

<sup>53</sup> *Business Review Weekly*, 30 June-6 July 1984, p.30.

<sup>54</sup> *Age*, 5 June 1984, p.1.

<sup>55</sup> Ibid., p.3.

<sup>56</sup> *Age*, 19 June 1984, p.5.

<sup>57</sup> Hundreds of workers from various unions walked off the job at the Rialto complex in Collins Street to march through the streets demanding an end to the inter-union warfare. Ibid.

<sup>58</sup> *Age*, 5 June 1984, p.1; *Age*, 14 June 1984, p.5.

be sure that rival unions were ready to fall into line and take over BLF work.<sup>59</sup> The employers adopted a similar approach, shunning Merriman's calls for the union to be prosecuted under S45d of the Trades Practices Act and ignoring similar calls for the insertion of a bans clause into the BLF award. The employers had also come to recognise that if rival unions were to tighten the noose on the BLF, they must not be distracted by the use of a hated piece of legislation from the Fraser era.<sup>60</sup> By Cain's reckoning, it took until October 1984 for the isolation process to be fully realised. By then, he argued, 'the whole trade union movement, without exception, was lined up behind the Government and anxious to remove the BLF from the industrial scene'.<sup>61</sup>

There were two lessons to be learned from the MCG dispute, Cain suggested. First, the government could 'get a building job done despite the roughhouse tactics of the BLF', and second, the BLF issue 'could never... [be] resolve[d]... by reason and conciliation'.<sup>62</sup> It was on that basis that governments in Victoria, NSW and nationally began to speak openly about their intentions to remove the union from the industrial landscape. The new Victorian Labour and Industry minister, Steve Crabb, was first off the mark, telling reporters that anti-BLF measures were ready to go, but that the government had resolved to destroy the union by legislative means. Deregistration via the courts would, he explained, simply take too long and be too expensive.<sup>63</sup> Federal Industrial Relations minister, Ralph Willis, echoed Crabb's remarks, informing Parliament that the Hawke Government was ready to proceed with legislation that would see coverage of BLF work transferred to other unions.<sup>64</sup> Contemporaneously, Premier Wran wrote to the NSW Trades and Labour Council to advise that his administration would soon outlaw the BLF in NSW.<sup>65</sup>

### *The Piggery*<sup>66</sup>

Wran's announcement on the BLF was made in the context of a bitter dispute then underway at the Sydney Police Centre site in Goulburn Street, Surry Hills. The dispute began in August 1984 when a foreman allegedly threatened a BLF delegate with physical violence.<sup>67</sup> Having

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<sup>59</sup> Cain, 'The Builders Labourers' Federation', p.23; *Age*, 5 June 1984, p.1.

<sup>60</sup> *Age*, 13 June 1984, p.4.

<sup>61</sup> Cain, 'The Builders Labourers' Federation', p.24.

<sup>62</sup> *Ibid.*, p.24.

<sup>63</sup> *Sydney Morning Herald*, 3 October 1984, p.5.

<sup>64</sup> *Sydney Morning Herald*, 4 October 1984, p.1.

<sup>65</sup> *Age*, 19 October 1984, p.4.

<sup>66</sup> A pejorative term used by BLF members when referring to the Sydney Police Centre.

<sup>67</sup> *Unity*, March/April 1985, p.4, Karslake papers, Box 7.

accepted an apology from the foreman (efforts to have him removed from the site had been unsuccessful) the labourers returned to work. But their resumption of duties was conditional upon receipt of lost-time payments for the time it had taken to extract the apology and settle the dispute. When the employer – Graham Evans Builders – had not made payment by 5 September 1984, 70 BLF members walked off the job and established a picket line.<sup>68</sup> The ACTU response was akin to that which had occurred at the MCG: the picket line was declared unauthorised and other unions working at the site were directed to cross it, as they pleased. This time, however, Kelty did not need to consult with the Arbitration Commission – he had the full support of the NSW government and the NSW TLC and its right-wing leader, John MacBean.<sup>69</sup>

Gallagher and NSW secretary, Steve Black vowed to ignore Kelty's calls for an end to BLF bans on deliveries to the Police Centre site: the picket would continue with or without ACTU support.<sup>70</sup> But with MacBean leading rival unionists onto the job on a daily basis, and with tradesmen threatening to do labourers' work, it was only a matter of time until the line broke.<sup>71</sup> Amid threats of expulsion from the ACTU and the threats of deregistration that were now coming from all sides, the union agreed early in October 1984 to lift its picket line and return to work.<sup>72</sup> But having returned to work, BLF members immediately pressed for the reinstatement of 14 labourers who had been dismissed just prior to the lost-time payment dispute.

The men – scaffolders and dogmen – had been sacked ostensibly because there was no further work for them. In reality they had been fired because they were BLF delegates and activists.<sup>73</sup> The union was prepared to have the matter arbitrated if the employer agreed to reinstate the men prior to that process taking place. The employer agreed to arbitration, but refused to reinstate the workers until after that process had been concluded. But it was rival unions who ultimately proved to be the fly in the ointment by alleging that seven of the sacked labourers had acted violently towards them and by insisting therefore that none of the seven be allowed back onsite.<sup>74</sup>

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<sup>68</sup> *Sydney Morning Herald*, 28 September 1984, p.2.

<sup>69</sup> *Sydney Morning Herald*, 25 September 1984, p.3; *Sydney Morning Herald*, 28 September 1984, p.2.

<sup>70</sup> *Ibid.*

<sup>71</sup> *Sydney Morning Herald*, 4 October 1984, p.1.

<sup>72</sup> *Sydney Morning Herald*, 28 September 1984, p.2; *Sydney Morning Herald*, 3 October 1984, p.5; *Sydney Morning Herald*, 4 October 1984, p.1.

<sup>73</sup> *Unity*, March/April 1984, p.4; *Sydney Morning Herald*, 10 October 1984, p.2; *Sydney Morning Herald*, 11 October 1984, p.15.

<sup>74</sup> *Sydney Morning Herald*, 11 October 1984, p.15.

The allegations of violence and intimidation were eventually dismissed, both by courts of law and by an ACTU investigation.<sup>75</sup> But those clearances, made in February and April of the following year, came months too late to prevent the war of attrition that engulfed not only the Police Centre site, but indeed the whole NSW building industry. By Christmas 1984, bans and counter bans – imposed variously to return the labourers to work or to keep them off the site – had conspired to bring the industry to a halt and leave more than 10,000 workers wondering whether they would have jobs to return to the following year.<sup>76</sup> It was in that context that Wran moved to enact the anti-BLF legislation that he had successfully steered through Parliament in October 1984.<sup>77</sup> And it was in that context, too, that employers began to blame Hawke and Kelty for the predicament in which they now found themselves.<sup>78</sup>

The employers' anger and sense of betrayal were easily explained: in persuading the bosses to drop their push for deregistration of the BLF in June 1984, Hawke and Kelty had guaranteed better BLF behaviour and had promised that the labor movement would take tough action against the union, if it did not behave.<sup>79</sup> With the NSW building industry sinking ever further into chaos by the end of 1984, and with the coming year likely to bring even more pain, it seemed from the employers' perspective, that not only was the labor movement incapable of dealing with the BLF, but that Hawke and Kelty had lied about their intentions. A corollary of those accusations was, of course, that Hawke and Kelty had also been betrayed, by a recalcitrant union and its perfidious leader. Used in tandem, those theories proved most useful as a justification for elimination of the BLF. But they omitted some pertinent details about the circumstances under which the federal government and the employers had abandoned plans to deregister the union.

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<sup>75</sup> Anna Pha, 'Report on the Deregistration of the Australian Building and Construction Employees' and Builders Labourers' Federation and Related Developments', Victorian Trades Hall Council, June 1986, p.8, in Boyd papers, Box 58, 10/1-13/2.

<sup>76</sup> *Sydney Morning Herald*, 20 December 1984, p.8; *Sydney Morning Herald*, 21 December 1984, p.2. Opponents of the BLF continued to use the allegations against the union even after they had been dismissed by courts of law and the ACTU inquiry. This continued use of the allegations was particularly prevalent in the circumstances that parliamentary privilege provided. See for example, *CPD*, Senate, 23 August 1985, p.269. BLF bans at the Sydney Police Centre site were eventually lifted on 5 February 1985. See *CPD*, Senate, 23 August 1985, p.238.

<sup>77</sup> The Industrial Action (Special Provisions) Bill used to outlaw the BLF in NSW was promulgated on 2 January 1985. See Bergin, 'Government versus the Builders Labourers' Federation', p.A18; *CPD*, Senate, 23 August 1985, p.268.

<sup>78</sup> *Sydney Morning Herald*, 22 December 1984, p.6.

<sup>79</sup> *Ibid.*

## The Withdrawal Method

When the Hawke Government finally applied for leave to withdraw from deregistration proceedings in December 1983, it did so on the basis of an understanding it had reached with employers and the BLF.<sup>80</sup> The agreement was ratified by the ACTU and ultimately sanctioned by a full bench hearing of the Federal Court. But according to that same hearing, the reality was that ‘the terms of the agreement, which [supposedly] guarantee[d] the Federation’s behaviour by reference to that of other unions, render[ed] it *meaningless, unenforceable and unacceptable*’.<sup>81</sup> It was curious, to say the least, that the Federal Court was prepared to approve an agreement that it deemed destined to fail. That the exercise was a charade should have been evident, not only from what the Court had to say about the agreement, but by the fact that the participating employers continued to push for deregistration of the union.<sup>82</sup> It was only in July of the following year (1984) – by which time they had reached a separate understanding with the BLF – that the employers finally abandoned the deregistration process.<sup>83</sup>

Having used court adjournments to renege on Hayden’s promises for almost a year after coming to power, the Hawke Government had ultimately found a way of exiting a case it knew to be ill-conceived, poorly executed and incurably ill. But as the government later explained, that exit was much more a pulling back from, than an outright rejection of plans to outlaw the BLF.<sup>84</sup> Indeed, there was a very short hiatus between that retreat and signs that the Hawke administration was preparing to show just how elimination of the union really ought to be done. It took just two months from the announcement that Federal Labor was withdrawing from deregistration proceedings for news to emerge that Cabinet was discussing plans to resume that process. The pretext was a campaign for a \$9 a-week pay rise that the Arbitration Commission had denied the labourers the previous year. The increase had been

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<sup>80</sup> The basis of the agreement was that the BLF ‘recognised that... registration creates duties and responsibilities in registered organisations... to utilise the means provided by the [Conciliation and Arbitration] Act for the prevention and settlement of industrial disputes’. *CPD*, Senate, 23 August 1985, p.268.

<sup>81</sup> See Bergin, ‘Government versus the Builders Labourers’, pp.A5-6. (Emphasis added)

<sup>82</sup> For employers re-committing to deregistration proceedings, even after they had reached an agreement that allowed the Federal Government to leave those proceedings, see Bergin, ‘Government versus the Builders Labourers’, p.6.

<sup>83</sup> See Bergin, ‘Government versus the Builders Labourers’, p.A6; Nowicki, ‘Civil Procedure Assignment’, p.27.

<sup>84</sup> This was confirmed in August 1985 during the Second Reading Speech of the Building Industry Bill 1985, when Parliament was advised that whilst the Hawke Government had decided to pull back from deregistration in the hope that the BLF would change its ways, it had not abandoned the idea of taking ‘strong and effective action’ against the union at some later date. *CPD*, Senate, 23 August 1985, p.237. Senator John Siddons of the Australian Democrats implied in his response to the Second Reading speech that Labor had pulled back from deregistration in order to better organise capital for the attack on the BLF. *Ibid.*, pp.265-6.

granted to all other building workers. But if it was given to builders' labourers it would, the government suggested, be a violation of national wage-fixing guidelines.<sup>85</sup> Cashed-up labourers seemingly posed a much greater threat to the Australian economy than similarly enriched carpenters, plumbers, steel-fixers or any other building workers. Alternatively, Hawke and the ALP were seeking ways in which to provoke the BLF.

The suggestion here is that Hawke and the ALP never intended to let the BLF survive, and that they rejected Fraser's scheme to destroy the union only because that plan was inherently flawed. Just how defective the plan actually was, and just how adroit Gallagher and the BLF were at exploiting those faults has been illuminated by former BLF research officer, Harry Nowicki.

According to Nowicki, 'the extremely long, complex and prolix' nature of the case brought against the BLF, and the skill with which Gallagher and his legal advisers took advantage of that situation, were as important to BLF survival as anything Labor or the broader labor movement did to assist.<sup>86</sup> The union had repeatedly demanded further and better explanations of the more than 1000 particulars (incidences of alleged BLF misconduct) that initially made up the case. In seeking those documents, Gallagher and his solicitors managed to keep formal initiation of the case in abeyance for more than a year after the application for deregistration had been lodged (September 1981) and managed also to seriously erode the number of charges the union would have to face, once the case actually got underway. Consequently, by the time Federal Labor came to withdraw its support for deregistration in December 1983, the number of particulars on which the union could be prosecuted had shrunk to fewer than 100.<sup>87</sup>

The BLF was not prepared to concede on any of the remaining charges: when the union finally began its defence in July 1984, it gave every indication of its preparedness to run that defence for at least another year.<sup>88</sup> As the only remaining applicants in the case, the employers were faced with a situation in which they would be potentially trapped in endless arguments not only about whether offences had actually occurred, but about how those actions ought to be interpreted and the contexts in which they had taken place.<sup>89</sup> Nor could they expect any let-up in BLF actions on the ground: guerrilla tactics were certain to continue in support of courtroom manoeuvres. But the employers, who had in any case been dragged

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<sup>85</sup> *Age*, 24 February 1984, p.1.

<sup>86</sup> Nowicki, 'Civil Procedure Assignment', p.27.

<sup>87</sup> *Ibid.*, p.7.

<sup>88</sup> *Ibid.*, p.27.

<sup>89</sup> Bergin, 'Government versus the Builders Labourers', p.A4.



into Fraser and Thompson's politically motivated assault on the BLF, had another equally important problem: their opposition to the union was, according to the man who ran that assault – Stephen Charles QC – 'generally self interested, divided, disorganised, often stupid and...[generally] weak-willed'.<sup>90</sup> Demoralised and bereft of any real appetite for a protracted struggle with the BLF, the employers sued for peace and gratefully withdrew.

The case brought against the BLF had been 'half-baked', Cain suggested, and as such, his government was 'of the view that no good purpose would be served' by pursuing it.<sup>91</sup> But the greater lesson was that seeking deregistration in the ordinary sense – via S.143 of the Conciliation and Arbitration Act – was a most unattractive proposition, particularly when the union in question was as militant and strong as the BLF could be.<sup>92</sup> Seeking deregistration in the ordinary way was simply too costly and too lengthy an exercise. If the BLF was to go, Labor understood, it would have to be legislated out of existence.<sup>93</sup> Given the union's reputation and militant tradition, it was only a question of time until appropriate opportunities – the MCG and Sydney Police Centre disputes – arose for Labor governments to do what only Labor governments could have done: properly prepare the ground for the ultimate elimination of the BLF.<sup>94</sup>

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Malcolm Fraser's last-ditch effort to decapitate the BLF was accepted, if not welcomed, by sections of the labor movement. That acceptance signalled that trade unions within and without the building and construction industry were ready for a new industrial relations paradigm in which the election and preservation of federal and state Labor governments was key. It was in that context that John Cain, Bob Hawke, Neville Wran and ACTU secretary, Bill Kelty began planning for a post-Gallagher/BLF industrial relations landscape.

The retreat that Labor governments made from Conservative-initiated deregistration proceedings was, particularly where the Hawke administration was concerned, extraordinarily brief. That planning for new and improved anti-BLF measures began even before Federal Labor had made its retreat suggests a convergence of agendas and values between federal and state Labor governments and those whom they had replaced. That

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<sup>90</sup> *Age*, 24 November 1984.

<sup>91</sup> Cain, 'The Builders Labourers' Federation', p.17.

<sup>92</sup> The Liberals sought deregistration of the BLF under S.143 (i) (a) (h) (c) (k) (j) (ii) of the Australian Conciliation and Arbitration Act. Bergin, 'Government versus the Builders Labourers', p.A4.

<sup>93</sup> See Nowicki, 'Civil Procedure Assignment', pp.27-8; *Sydney Morning Herald*, 3 October 1984, p.5.

<sup>94</sup> Cain told the media on 27 November 1985: 'I have always said only a Labor government can do what we are doing – the Liberals never could'. *Direct Action*, No. 550, 4 December 1985, p.6.

convergence of values and agendas does not necessarily mean that Labor governments and their leaders were suddenly anti-union or anti-working-class, and certainly not to the extent that characterised the Fraser administration. But it does point to the emergence of a new type of Labor Party and Labor leader for whom the achievement and preservation of electoral success was increasingly important.

Where fractious unions and their leaders threatened the viability of Labor governments there was, in the 1980s, an unprecedented readiness – both in the Labor Party, and in the broader labor movement – to deal more harshly with those unions than ever before. But threats to (federal and state) Labor’s goal of becoming the natural party of government could also arise from within the political wing of the Australian labor movement. In Victoria, in the 1980s, those threats coalesced around Labor’s anti-BLF measures and the implications that they had for ownership and control of the ALP. This intersection of industrial and political issues, the way in which they impacted on BLF chances of survival, and the manner in which Gallagher and the BLF became integral to struggles for ownership and control of the Victorian Labor Party will be the focus of the remainder of this chapter.

### **Smashing the Left in the Councils of the Party**

The MCG and Sydney Police Centre disputes provided the immediate industrial contexts in which decisions to outlaw the BLF in Victoria, NSW and the ACT were made, and in which removal of the union from the NSW industrial landscape was ultimately carried through. But those decisions also had a political backdrop focused on a struggle for ownership and control of the ALP. Incorporating a push for re-affiliation of four right-wing unions and the rise of a new political actor known as Socialist Forum, that struggle had two important considerations that influenced BLF chances of survival: Hawke’s ‘almost demonic... determination to destroy the left’; and Cain’s need to rid the Victorian party of left-wing elements perilous to the longevity of his government.<sup>95</sup>

Hawke’s hatred of the Left was rooted in the Iraqi loans scandal of 1975-76. According to Paul Kelly, it was a loathing that was deeply personal, emotionally-loaded and vehemently focused on Socialist Left stalwart Bill Hartley and his followers.<sup>96</sup> To the Prime Minister, Hartley and his supporters were ‘a canker’, ‘an eating, spreading sore, an ulcer, a gangrene’ that had at all costs to be severed from the ALP.<sup>97</sup> But the odium was mutual,

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<sup>95</sup> Kelly, *The Hawke Ascendancy*, p.24.

<sup>96</sup> *Ibid.*, pp.20-1.

<sup>97</sup> *Ibid.*, p.117.

Kelly suggested, not least because of Hawke's passionate support for Israel, because of his pragmatic support for uranium mining, and because of his 'refusal to use union power... in the cathartic aftermath of Whitlam's dismissal'.<sup>98</sup>

By the mid-1980s, Hawke's belief that the ALP had to be 'cleanse[d]... of its impurities' had assumed even greater importance, as had his certainty that 'elimination of the extreme left was necessary to make Labor the party which reflected the aspirations of the Australian people'.<sup>99</sup> As he told Cain in December 1983, being seen to stand up to the Left was certain to be 'a big vote-winner', if not with Labor's rusted-on blue-collar supporters, then certainly with the middle-class voters upon whose support the party's electoral success increasingly relied.<sup>100</sup> For Cain, meanwhile, taking on and beating the BLF and its supporters on the Left provided an opportunity to rewrite the rules on government-party relations, an opportunity to establish 'the strength and capacity of the Labor government [sic] to defy its own base'.<sup>101</sup>

Overcoming the Victorian Left was a two-stage process. It involved, in the first instance, the re-affiliation of four right-wing unions that had been proscribed from the ALP since the Split of the mid-1950s, and in the second, the creation of a new organisation centred round a group of disaffected Communists. These developments had both industrial and political implications because leaders of the right wing unions were determined to make their presence felt in the ALP, and because those who had defected from the CPA to sit astride the Labor Party had both political ambitions and trade union influence. As supporters of the Hawke Government and the ALP-ACTU accord, the re-affiliated unions and the new political organisation – Socialist Forum – had the potential to bring about new industrial-political realities, and to severely undermine whatever labor movement support the BLF could hope to muster.

### **Anybody Left?**

'At the rate the Prime Minister is moving the Australian Labor Party to the Right, will there be anybody left?'<sup>102</sup> That question, posed in the 'Letters' section of the *Age* newspaper in June 1983, was prompted by comments that Hawke had made on issues as diverse as uranium

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<sup>98</sup> Ibid. pp.110-11.

<sup>99</sup> Ibid., p.117.

<sup>100</sup> Cain, *John Cain's Years*, p.92.

<sup>101</sup> Ibid., p.118.

<sup>102</sup> *Age*, 22 June 1983, p.12.

mining, East Timor and Australian aid to Vietnam.<sup>103</sup> Voiced in the context of a prime ministerial tour of Britain and America, Hawke's commentary provoked what some viewed as a significant leftward shift in the Victorian ALP. As part of that shift, the SL increased its presence on the party's Administrative Committee from 14 to 16 places, George Crawford of the Plumbers Union became party president, and Socialist Left candidate Solange Shapiro captured the junior vice-presidency.<sup>104</sup> But it was Hartley's election to the Administrative Committee that arguably demonstrated just how much the Victorians opposed the direction in which Hawke was pushing the party. Given the enmity that existed between the two men, Hartley's elevation represented a rebuke of Hawke's policy directions, his presidential style, and his personality.<sup>105</sup>

Hawke responded to this leftward trajectory with a renewed push for re-affiliation of four long-proscribed, right-wing unions – the FIA, the ASC&J, the Shop Distributive and Allied Employees' Association (SDA) and the Federated Clerks Union of Australia (FCU). His goal was to split the Left generally and to rout the hard Left in particular.<sup>106</sup> But if Hawke was eager to use re-affiliation of the four unions as a means to destroy Socialist Left influence in Victoria and beyond, he was, according to the *Age* newspaper, equally concerned to boost Labor/Centre Unity power and consequently enhance his own influence over the Cain Government.<sup>107</sup>

This drive for readmission of the hated right-wingers met with strong, broad-based resistance. A Committee of Inquiry established in April 1984 remained deadlocked on the matter, but when they came before state Conference in June of that year, the applications for re-affiliation of the right-wing unions and 12 associated individuals were overwhelmingly rejected.<sup>108</sup> Those rejections represented a Pyrrhic victory however, because as the SDA quickly demonstrated, the unwanted unions were free to use their affiliation with other

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<sup>103</sup> *Age*, 20 June 1983, p.1; *Age* 20 June 1983, p.6. In light of Hawke's comments, journalist Geoffrey Barker wondered whether Hawke and the ALP would be able to coexist over the longer term, or whether differences on 'issues of high principle' would see Hawke go the same route as Joseph Cook, Billy Hughes and Joseph Lyons. *Age*, 23 June 1983, p.13.

<sup>104</sup> The SL capture of two of the three top officer positions on the Administrative Committee had important implications for those seeking preselection in forthcoming elections. Those implications were made all the more serious by the fact that, having captured two of the leading positions on the Committee, SL could potentially go on to realise a majority on that body. *Ibid.*

<sup>105</sup> Hawke was thought to be channelling Whitlam's 'crash through or crash' persona. *Age*, 20 June 1983, p.11.

<sup>106</sup> *Age*, 22 April 1985, p.13.

<sup>107</sup> *Age*, 3 June 1983, p.3.

<sup>108</sup> The Committee of Inquiry was comprised of 5 Socialist Left members, 4 members of Labor Unity and one independent – Jim Beggs. *Age*, 22 June 1984, p.1. Applications for readmission of the Right Wing unions were rejected at state Conference by an average of two-to-one. The biggest rejection was reserved for the SDA – 285 delegates (65 per cent) voted against readmission; 154 voted in favour. See *Sydney Morning Herald*, 15 June 1984, p.2; *Age*, 27 June 1984, p.3.

branches of the ALP as grounds on which to appeal against their rejection. Moreover, under Hawke's influence, the national executive – to which those appeals were made – was certain to either directly order re-affiliation of the unions or to threaten federal intervention as a mechanism by which that outcome could be enforced.<sup>109</sup>

Hawke's will prevailed and, by April 1985 the threat of federal intervention was enough to force a state Conference vote of 183 to 150 in favour of bringing the four unions in from the cold.<sup>110</sup> But the result had only been made possible by the abstention of 117 delegates from moderate Socialist Left unions such as the AMWU, the Meat Industry Employees, the Federated Liquor and Allied Industries and the Miscellaneous Workers Union, for whom the threat of federal intervention was too much to bear.<sup>111</sup> Without that menace, it is arguable that the outcome would have been similar to or greater than that which greeted a motion expressing 'deep regret' and 'disgust' at the right-wingers' return: 232 votes in favour of the motion; 157 against.<sup>112</sup>

By forcing the Socialist Left into accepting re-affiliation of the right-wing unions, Hawke ensured an exacerbation of divisions in that faction between those for whom ideology and tradition were central considerations, and those for whom pragmatic politics and the electoral success of the ALP were increasingly important.<sup>113</sup> That intensification of intra-factional bitterness and recrimination was also assisted by the rise of Socialist Forum, a union-based organisation that was clustered around former Communists and which sat on the edges of the ALP generally, and the Socialist Left in particular.

## **Divide and Rule?**

The Socialist Forum had its origins in an Easter 1984 split in the Victorian branch of the CPA, and in the sudden departure from that organisation of 23 leading cadres, including Bernie Taft and his son, Mark.<sup>114</sup> The split was necessary and inevitable, Taft senior explained, because the CPA had become 'too tarnished to advance genuine socialist ideas',

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<sup>109</sup> The SDA appealed to the ALP national executive two days after its application for re-affiliation had been rejected by the Victorian state Conference. The appeal had been prepared prior to Conference and in anticipation that the application for readmission would be rejected. The other three rejected unions foreshadowed similar appeals. *Age*, 27 June 1984, p.3.

<sup>110</sup> *Age*, 22 April 1985, p.1.

<sup>111</sup> *Ibid*; *Age*, 22 April 1985, p.7.

<sup>112</sup> *Age*, 22 April 1985, p.1.

<sup>113</sup> Journalist Brendan Donohoe suggested that readmission of the right-wing unions had split the SL 'personally, ideologically and tactically'. *Age*, 22 April 1986, p.7.

<sup>114</sup> *Australian*, 23 June 1986, p.13; *Sydney Morning Herald*, 20 April 1987, p.2; Taft, *Crossing the Party Line: Memories of Bernie Taft*, Newham, Vic: Scribe, 1994, pp.304-6.

and because it had become a brake on the talents and skills of younger socialists and their ability to influence Australian political debate.<sup>115</sup> Since Labor was entrenched as the legitimate party of the working class and the organised labor movement, it was natural, Mark Taft suggested, that disaffected Communists should gravitate towards that organisation.<sup>116</sup>

The Forum disclaimed any interest in competing with or displacing existing political parties or groupings therein.<sup>117</sup> Nor, according to Bernie Taft, did it seek to recreate the CPA within the ALP.<sup>118</sup> Rather, the Forum wished to address ‘the problem of inadequate analysis of strategic issues within political parties and movements by generating serious political discussion and new strategic thinking’.<sup>119</sup> But whilst it was keen to shift the socialist movement in Australia from the periphery to the centre of political culture and debate, the Forum was nevertheless unambiguous in its support for the election of federal and state Labor governments and in its support for the preservation of the ALP-ACTU Accord.<sup>120</sup>

The Forum had strong connections with most of the unions whose abstention from voting at the April 1985 state Conference facilitated the return of the right-wing unions to the ALP fold.<sup>121</sup> Of those connections, that which prevailed between the Forum and the AMWU – the union that was most instrumental in the development and sale of the Accord process to blue-collar unionists – was deepest.<sup>122</sup> But given the contents of a report prepared for the Forum’s first annual Conference, held in September 1985, it is arguable that Forum-union connections existed not at shopfloor level, but at union management/official level: 75 per cent of Forum members were tertiary educated, most enjoyed ‘above average incomes’ and a

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<sup>115</sup> *News Weekly*, 1 May 1985, p.3.

<sup>116</sup> *Australian*, 23 June 1986, p.13.

<sup>117</sup> Socialist Forum Statement of Identity, Socialist Forum 1984-1998, Box 1, ‘Formation’, University of Melbourne Archives.

<sup>118</sup> *News Weekly*, 1 May 1985, p.3.

<sup>119</sup> Socialist Forum ‘Statement of Identity’, Socialist Forum 1984-1998, Box 1, ‘Formation’, University of Melbourne Archives.

<sup>120</sup> Ibid; *Australian*, 23 June 1986, p.13.

<sup>121</sup> *Workers News*, 23 April 1985, p.2; *Weekly News*, 1 May 1985, p.3; *Weekend Australian*, 4-5 May 1985, p.4.

<sup>122</sup> For the central role played by the AMWU in development of the ALP-ACTU accord, see Frank Stilwell, *The Accord- and beyond: The political economy of the Labor Government*, Sydney: Pluto Press, 1986, p.8; pp.96-102. See also, Scalmer & Irving, ‘The Rise of the Modern Labour Technocrat’, 73-7; Tom Bramble, ‘Thirteen wasted years?: Labor in power (1983-1996) and its Accord with the unions’, Marxist Interventions: Articles from Australia in the Social Sciences, available at <http://www.anu.edu.au/polsci/mi/> accessed 25 October 2012. Bramble’s article also published as ‘Social Democracy and the ‘Failure’ of the Accord’, in Kenneth Wilson, Joanne Bradford & Maree Fitzpatrick (eds.), *Australia in Accord: An evaluation of the Prices and Incomes Accord in the Hawke-Keating years*, Melbourne: South Pacific Publishing, 2000, pp.243-64; Tom Bramble, *Labor’s Conflict: Big business, workers and the politics of class*, Melbourne: Cambridge University Press, 2011, p.102.

significant number held 'responsible jobs in government, trade unions and the public sector'.<sup>123</sup>

Not only was representation of 'the traditional blue collar base' limited, but it was clear from the report – prepared by David Davis, Julia Gillard, Bruce Hartnett and Mark Taft – that Forum members tended to adopt a somewhat condescending attitude towards blue collar unionism, within which they perceived a 'generally low level of political and strategic debate'.<sup>124</sup> In many respects, Forum members had much in common with the middle-class members who had come to dominate ALP branches from the mid-1960s onwards, and were also highly representative of those to whom Scalmer and Irving on one side, and Bramble on the other, referred in their debate about the rise of the modern labor technocrat.<sup>125</sup>

By mid-1985, the Forum had 220 members, 80 of whom were also members of the ALP and 45 of whom were former members of the CPA.<sup>126</sup> But whilst Forum members hailed from all factions of the Victorian Labor Party, it was from the Socialist Left that it derived most support, and in which its presence was most clearly felt.<sup>127</sup> This had become all the more apparent with the re-election of the Cain Government in March 1985: the six Socialist Left members who were granted ministerial positions in the new administration also owed to membership of the Socialist Forum.<sup>128</sup> It was a similar situation where ministerial advisers and officers in the Cain Government were concerned: if they were drawn from the Socialist Left, they were also by default drawn from Socialist Forum.<sup>129</sup>

The advent of Socialist Forum gave rise to high levels of suspicion within and without the ALP. To some, it was 'an essential prop of the reactionary Hawke government and the right-wing machine' that controlled it.<sup>130</sup> This belief was bolstered by claims that Senator John Button and Hawke-adviser, Bob Hogg, had lured the Tafts into the ALP with assurances that their views and those of their followers would be warmly received.<sup>131</sup> To others, the

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<sup>123</sup> 'Management Committee Report to the [First Annual] Socialist Forum Conference', [1/7], Socialist Forum 1984-1998, Box 2, Socialist Forum Constitution – Drafts 1985.

<sup>124</sup> The 'language and concepts' used in Socialist Forum meetings was acknowledged to be sometimes beyond even some of the existing membership. Ibid., [3/7]

<sup>125</sup> Scalmer & Irving, 'The Rise of the Modern Labour Technocrat'; Bramble, Historical Debate: 'The Rise of the Modern Labour Technocrat: Response.'

<sup>126</sup> 'Socialist Forum and Mr Bill Hartley', Socialist Forum 1984-1998, Box 1, 'Proscription Debate'.

<sup>127</sup> 'Management Committee Report to the [First Annual] Socialist Forum Conference', 22 September 1985, [1/7], Socialist Forum 1984-1998, 'Proscription Debate'; *Sydney Morning Herald*, 20 April 1987, p.2. The report suggested that whilst only 'a large minority' of Forum members were ALP members, most of those were members of the Socialist Left.

<sup>128</sup> *News Weekly*, 1 May 1985, p.3.

<sup>129</sup> *Sydney Morning Herald*, 20 April 1987, p.2.

<sup>130</sup> 'Directions for the Left: Strategy or Dilemma', Socialist Forum 1984-1998, Box 5, Correspondence: 1986, [2/2].

<sup>131</sup> Eason et al, 'Divide and Rule?' [3/4], Boyd papers, Box 66, Folder 15/15, University of Melbourne Archives.

Forum appeared as a Trojan horse, masquerading as a glorified talking shop, whilst awaiting an opportunity to unleash the Communist menace that lived deep in its heart.<sup>132</sup> The Forum was an incorporated entity, had dedicated office space, held Conferences and seminars, produced newsletters, briefed media organisations and employed two paid organisers – Gillard and Mark Taft.<sup>133</sup> But it refused to articulate policies, pass motions or resolutions, or engage in the kind of numbers games characteristic of traditional political organisations.<sup>134</sup>

Many of the problems that Socialist Forum presented for Old Guard members of the Socialist Left – Hartley, Crawford and their followers – had been exposed during the state Conference at which the right-wing unions were readmitted to the ALP.<sup>135</sup> Hartley branded it a ‘secret organisation’ equally ‘as bad as the National Civic Council’, suggested that the Tafts had orchestrated a fear campaign to paralyse moderate union delegates into supporting the return of the right-wing unions, and foreshadowed a campaign to have the organisation and its members proscribed from association with the ALP.<sup>136</sup> Railing against the Forum and the return of the right-wing unions, he put on notice for the Conference scheduled for two months later, a resolution stating:

That the organisation styled SOCIALIST FORUM, being defacto a continuum of a section of the Communist Party of Australia, be interpreted as a political party competing with the Australian Labor Party, for the purpose of the rules. Accordingly, it is not possible for any member of the Australian Labor Party to simultaneously be a member of the organisation styled SOCIALIST FORUM.<sup>137</sup>

But by late 1985, the Forum’s destabilising effects had become even more apparent and calls were being made for a formal split in the Socialist Left faction. Addressing a Fabian Society gathering in November of that year, Forum member, Caroline Hogg, insisted that the faction was home to two opposing forces – ‘one small, influential and extreme, yet capable of

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<sup>132</sup> *News Weekly*, 1 May 1985, p.3.

<sup>133</sup> Incorporation of the Forum was arranged on Gillard’s recommendation. See, ‘Reasons for Socialist Forum becoming an Incorporated Association’, Socialist Forum 1984-1998, Box 1, ‘Management Committee Minutes [July 10<sup>th</sup> 1984 – 1989]’; ‘Certificate of Incorporation’, Box 1, ‘Documents of Incorporation’. The appointment of Gillard and Taft as paid organisers was approved by the Forum’s first Management Committee meeting held on 7 August 1984. See ‘Socialist Forum: an organisation of socialist activists’, Management Committee meeting 7 August 1984, Socialist Forum 1984-1998, Box 1, ‘Management Committee Minutes [July 10<sup>th</sup> 1984 – 1989]’. For Socialist Forum’s avoidance of practices traditionally associated with political organisation, see for example, *Age*, 27 April 1985, p.2. See also, ‘Management Committee Report to the [First Annual] Socialist Forum Conference’.

<sup>134</sup> *Age*, 27 April 1985, p.2; *Australian*, 23 June 1986, p.13.

<sup>135</sup> *Weekend Australian*, 4-5 May 1985, p.4.

<sup>136</sup> ‘Socialist Forum and Mr Bill Hartley’, Statement issued by the Management Committee of the Socialist Forum, May 1984, Socialist Forum 1984-1998, Box 1, Proscription Debate.

<sup>137</sup> Julia Gillard, Letter to members of Socialist Forum, 6 May 1984, Socialist Forum 1984-1998, Box 1, Proscription Debate.



eliciting support', 'the other ready to work within the limits of our political system and willing to work through strategies and accept responsibilities'.<sup>138</sup> She suggested that the groups were separated by an 'unbridgeable' divide and urged them to 'split up with some dignity'.<sup>139</sup> Meanwhile, Bernie Taft labelled Old Guard members such as Hartley and Crawford maniacs and extremists, and urged them to take early retirement for the good of the ALP and the Australian Left.<sup>140</sup> It was time, Mark Taft suggested, for the Left to choose between the Old Guard – the vanguardists, the naysayers, the 'resolutionaries' – and what he referred to as the 'sensible' Left – those who accepted that working for reforms within the existing capitalist system and ensuring the longevity of Labor governments were the correct way to proceed.<sup>141</sup>

This internecine warfare in the Socialist Left coincided with Cain's introduction of the BLF De-Recognition Bill in July 1985, with the Nunawading re-election of August 1985, and with the introduction of federal legislation (the Building Industry Bill) to outlaw the BLF, also in August 1985. But it also coincided with and was to some extent informed by questions of fairness and how the Cain Government was applying that particular concept to Gallagher and the BLF. For a number of concerned Socialist Left members, the controversial nature of Cain's anti-BLF legislation raised 'fundamental questions about the relationship between the party and its parliamentary wing'. Those questions focused on the degree of independence the parliamentary party should have whilst Labor was in government; on how the parliamentary party could be kept accountable to the rank and file; and whether 'basic principles and democratically determined policies' should be compromised 'in the interest of electoral success'.<sup>142</sup>

These were not new questions. They had occupied the party across its history, and had been given added emphasis by the transformative processes that Whitlam put in train from the mid-1960s onwards. But with Cain, Hawke and likeminded individuals rapidly accelerating these processes, they were questions that were, for some at least, becoming critical. Thus, the authors of a Socialist Left document entitled 'Divide and Rule?' were prompted to suggest that 'the whole series of events surrounding the BLF Derecognition [sic]

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<sup>138</sup> Caroline Hogg, 'Fabian Society' 9 November 1985, [5-6/7], Socialist Forum 1984-1998, Box 1, Socialist Forum 1985/6.

<sup>139</sup> Ibid., [6/7].

<sup>140</sup> *News Weekly*, 1 May 1985, p.3.

<sup>141</sup> 'Strategic Choices for Socialism' – Edited transcript of speech by Mark Taft at Socialist Forum seminar, 23 February 1986, Socialist Forum 1984-1998, Box 1, Summer Conference 1986.

<sup>142</sup> Eason et al, 'Divide and Rule?', [1/4].

Bill' had become 'symptomatic of' an escalated 'erosion of rank-and-file control of democratic procedure in the faction, and beyond that, in the party as a whole'.<sup>143</sup>

The genesis of this complaint was Cain's refusal to heed Conference and Administrative Committee demands for inquiries into two closely related matters: (a) the circumstances surrounding Gallagher's trial and conviction on charges arising out of the Winneke Royal Commission; and (b) the nature of Cain's anti-BLF legislation. Certainly, sections of the labor movement wished Gallagher and the BLF expelled from their midst. But all were aghast when those accused of providing secret commissions – George Herscu, Maurice Alter, Bruno and Rino Grollo – escaped with fines and good behaviour bonds, whilst Gallagher was sentenced to more than four years in prison.<sup>144</sup> Nor was labor movement enthusiasm for Cain's anti-BLF legislation improved by the realisation that other 'troublesome' unions could be treated in similar fashion. FEDFA state secretary, Malcolm McDonald, articulated what many in the union movement were quickly coming to realise. He said: 'Cain and Hawke might think that they are aiming this legislation at the BLF, but the labor movement is wondering who is going to be next'.<sup>145</sup> His remarks were dramatically underscored in a legal opinion that Labor Senator, Barney Cooney circulated in late July 1985.

Cooney's status as a former industrial barrister and factional ally of Cain's Independents made him well placed to critically assess the BLF (De-recognition) Bill. He slammed it as 'a reversal in constitutional history' and 'an instrument whereby one body, namely the Parliament... [decided] on the guilt of the BLF... [made] a law against it and... [determined] how that law...[would] be executed'.<sup>146</sup> He claimed that the Bill was a denial of the historic separation of powers between Parliament, the government and the judiciary, and in a harsh reminder to the rest of the labor movement, warned of the retrospective nature of the legislation and the dangers that it posed for other refractory unions.<sup>147</sup> In Cooney's opinion, the Bill promised to punish the BLF for 'misdemeanours' that had not been legislatively prohibited at the time at which they occurred. He further stated:

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<sup>143</sup> Ibid.

<sup>144</sup> Gallagher was found guilty on 13 June 1983 on 20 charges of receiving secret commissions. *Sydney Morning Herald*, 14 June 1985, p.1. He was sentenced the following week to four years and three months in prison. See for example, *National Times*, 9-15 August 1985, p.18; *Sun*, 9 August 1985, p.3; *Direct Action*, No. 535, 14 August 1985, p.12. The developers had been released on good behaviour bonds on 2 March 1983. See *Age*, 3 March 1983, p.3.

<sup>145</sup> *Age*, 22 July 1985, p.1.

<sup>146</sup> *Age*, 31 July 1985, p.19; *Herald*, 31 July 1985, p.8.

<sup>147</sup> *Herald*, 31 July 1985, p.8; *Age*, 31 July 1985, p.19.

No matter what criteria has been used by those deciding to legislate against the BLF, the penalty of legislative execution was not in existence at the time the acts, in respect of which the criteria has been used, were committed. Whatever else may be said, the penalty now imposed upon the BLF has been imposed retrospectively.<sup>148</sup>

Cain responded in typically blunt and dismissive fashion, saying of Cooney's legal opinion:

He's wrong so far as he suggests it's a denial of due process or something unconstitutional. There's no such denial in either our legislation or the Commonwealth legislation.<sup>149</sup>

Referring to Hawke's plan to have the ACAC rubber-stamp anti-BLF legislation introduced at federal level, Cain opined:

The Federal Government's process ensured there is a judicial hearing as to whether or not the conditions set out in the Act have been breached. If there is a finding of a breach then deregistration follows.<sup>150</sup>

The Premier's use of the past tense whilst referring to a process that had not yet taken place was, in retrospect, rather chilling. The Building Industry Act had not yet been taken to Federal Parliament, but Cain was clearly cognisant of its intentions and the outcomes it would achieve.

The VTHC echoed Cooney's concerns and expressed some of its own.<sup>151</sup> The legislation was inappropriate, Trades Hall objected, because it contravened International Labor Organisation (ILO) conventions on 'the freedom to organise and the right to choose an organisation to represent a worker'.<sup>152</sup> Moreover, it was 'of questionable constitutional validity' and went 'further than normal deregistration proceedings'.<sup>153</sup> Not only did the legislation 'cancel the individual rights of...BLF members', Trades Hall protested, but it also encouraged police on to building sites and provided for the removal of 'the financial and property rights of the BLF'. The VTHC executive argued, therefore, that the trade union movement could not abide by 'the principles contained in the Bill'.<sup>154</sup>

The Victorian government responded by promising not 'in any circumstances' to proclaim sections of the Act designed to exclude BLF members from working on state

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<sup>148</sup> *Age*, 31 July 1985, p.19.

<sup>149</sup> *Herald*, 31 July 1985, p.8.

<sup>150</sup> *Ibid.*

<sup>151</sup> *Sun*, 26 July 1985, p.13.

<sup>152</sup> Victorian Trades Hall Council (VTHC) minutes, 25 July 1985, p.2. (Hereafter, VTHC minutes).

<sup>153</sup> *Ibid.*

<sup>154</sup> *Ibid.*, pp.2-3.

government sites.<sup>155</sup> It also pledged not to seize BLF assets, except where it could be demonstrated that the rights of former BLF members were likely to be threatened.<sup>156</sup> But it was a ruse that was quickly exposed by Cain's introduction of a building industry code of conduct that blackmailed employers into excluding BLF members from their sites. Automatic exclusion from government contracts applied where firms refused to sign up to or were found in breach of guidelines (the code) that were introduced 'to further strengthen and maintain' the employers' support for elimination of the BLF.<sup>157</sup> But the code of conduct meant that employers who avoided government contracts could also be deprived of vital government-controlled services, such as electricity, water, and a broad range of industry and other permits.<sup>158</sup>

Cain's anti-BLF measures were controversial in many respects. But as a report prepared for the VTHC executive noted, it was really only when compared with legislation handed down at federal level that the full savagery of his BLF (De-recognition) Bill was exposed.<sup>159</sup> The Building Industry Act provided a sliver of hope that the union might one day be re-registered, provided it could satisfy conditions set down by the serving Minister for Industrial Relations. But as Anna Pha – a VTHC executive member and author of the aforementioned report – suggested, Cain's measures ensured that in Victoria, at least, no such possibility could ever occur. When Cain spoke of removing the BLF from the industrial landscape, Pha argued, 'he really meant it'.<sup>160</sup>

### **Game, set and match: Gallagher goes to jail and Cain gets his party**

In tabling the Winneke Royal Commission report in parliament in July 1982, Cain claimed that delaying publication of that report until after 'completion of any possible committal hearings, and then perhaps trials', would likely result in the generation of 'rumour, innuendo and calumny'. It was necessary, he argued, to 'remove some of these doubts and, more importantly', enable parliament 'to examine the Royal Commissioner's findings and [enable] the Government to take appropriate action upon them'.<sup>161</sup> A crown prosecutor was appointed

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<sup>155</sup> Letter from Steve Crabb, Minister for Employment and Industrial Affairs, to Peter Marsh, Secretary, VTHC, 23 October 1985, in Boyd papers, Box 2, 1/13-1/24.

<sup>156</sup> Ibid.

<sup>157</sup> See Pha, 'Report on the Deregistration', pp.17-19; 'Victorian Building and Construction Industry Guidelines for Victoria: Code of Conduct and Financial Assistance', pp.1-4, in Boyd papers, Box 66, 15/12-15/15.

<sup>158</sup> Pha, 'Report on the Deregistration', p.20.

<sup>159</sup> Ibid., p.16.

<sup>160</sup> Ibid.

<sup>161</sup> Cain, Ministerial Statement, VPDLA, 1 July 1982, p.2454; *Herald*, 1 July 1982, p.3; *Sun*, 2 July 1982, p.2.

‘to examine all offences alleged by the report and recommended for prosecution’, with those offences to be ‘followed up as quickly as possible’. Additionally, Cain pledged to go beyond Winneke’s recommendations to ensure that those who were alleged to have taken *and* given secret commissions would be dealt with equally.<sup>162</sup> It was his government’s view, the Premier/Attorney-General suggested:

that the whole practice of secret commissions...[undermined] commercial morality in this State [Victoria], and that all who participate[d] in such commissions, whether givers *or* receivers, act[ed] improperly and...[were] subject to legal sanction.<sup>163</sup>

In October 1982, Cain informed Parliament that, ‘on the recommendation of chief crown counsel, proceedings would be commenced against Norm Gallagher and one other union official [Robert Harry (Bob) Dalton], four companies and three developers personally’.<sup>164</sup> The indications were that Gallagher and those accused of bribing him would be treated equally. But with committal proceedings not scheduled to begin until February of the following year, an antagonistic media received several valuable months in which to further sensationalise the allegations that were levelled against Gallagher, which included accepting kickbacks from building companies.<sup>165</sup>

Running from 14 February to 23 September 1983, the committal hearings became the subject of contentious debate between Cain on the one hand, and BLF legal representatives (Holding Redlich solicitors and Jeremy Rapke QC) on the other. Gallagher’s representatives alleged that Crown Prosecutor Gordon Taylor’s opening address had been heavily biased against their client. They also alleged that Taylor, Magistrate John Dugan and counsel for those accused of bribing Gallagher had struck a ‘deal’ that resulted in the developers receiving good behaviour bonds, whilst Gallagher was to be sent to trial.<sup>166</sup>

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<sup>162</sup> Cain, Ministerial Statement, VPDLA, 1 July 1982, pp.2454-5. Cain noted that ‘The givers of the alleged secret commissions were outside the terms of reference’ of the Royal Commission, but insisted that if secret commissions were to be condemned, if they were contrary to the law, ‘then both groups ought to be treated the same’. *Age*, 2 July 1982, p.1.

<sup>163</sup> *Ibid.*, p.2455. (Emphasis added) See also, *National Times*, 21-27 June 1985, pp.8-9. Following the election of April 1982, Cain was simultaneously Premier, Attorney-General (April-September 1982) and Minister for Federal Affairs (April-December 1982). See Cain, *John Cain’s Years*, p.306; About Parliament, Parliament of Victoria, Members (Former Members), available at <http://www.parliament.vic.gov.au/> Accessed 27 October 2012.

<sup>164</sup> Cain, *John Cain’s Years*, p.120.

<sup>165</sup> *Direct Action*, No.535, 14 August 1985, p.3.

<sup>166</sup> Taylor allegedly portrayed the offences of which the developers were accused as a ‘very pale shade of grey’, whilst painting Gallagher’s alleged receipt of secret commissions in ‘jet black’ terms. Memorandum prepared by Jeremy Rapke QC, representing N.L. Gallagher and R.H. Dalton in the matter of *Steward v N.L. Gallagher* and in the matter of *Stewart v R.H. Dalton*, 24 February 1983, in ‘February, 1983 – A Fateful Month’, Section 3, *The Cain Papers: An expose on the political frame-up of N.L. Gallagher*, 3<sup>rd</sup> Ed, Citizens for Democracy, Haymarket, NSW?: May 1985 (Hereafter, *The Cain Papers*); Letter from Redlich to Cain, 15 April 1983. A copy of Rapke’s six-page memorandum was forwarded to Cain on 25 February 1983. See Letter from P.J.

Cain was unmoved by these allegations of bias and conspiracy to pervert the course of justice. Nor would he accept as evidence sworn affidavits in which Bob Dalton claimed to have been forewarned of the 'deal'. Dalton claimed to have been told of the arrangement during telephone conversations that he and Bruno Grollo had conducted on 18 and 28 February 1983, a claim that Grollo did nothing to deny.<sup>167</sup> His affidavits were tendered to the Solicitor-General on 1 March 1983 – that is, the day before Magistrate Dugan passed sentence on the developers – but Cain labelled their contents 'hearsay upon hearsay of the vaguest sort'.<sup>168</sup>

Peter Redlich was a staunch Labor man and natural ally of Cain's, but he took serious issue with the Premier/Attorney-General's persistent refusal to investigate the accusations of bias and conspiracy that were being laid before him. He accused Cain both of reneging on his promise of equal treatment for the givers and takers of secret commissions, and of denying his responsibilities as Attorney-General of Victoria.<sup>169</sup> Those indictments were raised after Cain had dismissed both Dalton's affidavits and Rapke/Redlich's complaints as fantasy – a ploy to have Gallagher's case resolved from outside of the courts – and after he had insisted that the case against Gallagher must proceed 'as soon as possible'.<sup>170</sup> They were an expression of the dismay with which Redlich's firm viewed Cain's intransigence on all matters connected with Gallagher's committal hearings. Not only did Cain fail to address 'the merits of the submissions' that had been raised, Holding Redlich complained, but he had deliberately avoided doing so.<sup>171</sup>

Committal proceedings dragged on intermittently until September 1983, when Morris Lewis (director) and Brian Daly (construction manager) of project management company, Montvale Developments Pty Ltd were called upon to give evidence. Both men initially refused to answer questions about materials that had allegedly been given to Gallagher for construction of a holiday house at McLaughlin's Beach, Victoria.<sup>172</sup> However, their recalcitrance was quickly effaced by the indemnities from prosecution that they received from the Crown Prosecutor and the Director of Public Prosecutions. Those indemnities

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Redlich to The Honourable Attorney-General, Mr. John Cain, 25 February 1983, in 'February, 1983 – A Fateful Month', Section 3, *The Cain Papers*.

<sup>167</sup> For Dalton's affidavits, see 'Deal Fever', Section 2, *The Cain Papers*.

<sup>168</sup> Letter from Attorney-General, John Cain to Messers. Holding Redlich & Co., 6 May 1983, in 'Cain Dead Bats Again', Section 7, *The Cain Papers*.

<sup>169</sup> Letter from Holding Redlich & Co., to Mr J. Cain, Attorney-General, 2 June 1983, in 'No Let Up', Section 8, *The Cain Papers*.

<sup>170</sup> Ibid.

<sup>171</sup> Ibid.

<sup>172</sup> *Age*, 9 September 1983, p.4; 'Indemnity Confetti!!!', Section 9, *The Cain Papers*; *National Times*, 21-27 June 1985, p.8.

prevented Lewis and Daly from being charged with aiding and abetting criminal activity. But they also meant that Lewis and Daly could not be charged with perjury for altering testimony that they had given before the Royal Commission – not even when their new testimony proved condemnatory of Gallagher.<sup>173</sup>

Confronted about these developments, Cain suggested that indemnities were quite common, that the decision to grant them would have been made on the advice of the Solicitor-General, and that such day-to-day matters were dealt with by the newly created office of Director of Public Prosecutions.<sup>174</sup> It was a brush-off, but one that was easier to make because an enraged Bill Landeryou – whom Cain had only just sacked as Minister for Industrial Affairs – was a primary source of criticism.<sup>175</sup> If Landeryou's reproach could be dismissed as a case of sour grapes, those who repeated it might be similarly written off. Yet, there was a growing belief within the labor movement that the government was treating Gallagher and the developers differently.<sup>176</sup>

The belief that Gallagher was being targeted was bolstered by a letter that Cain sent to a meeting of the party's Administrative Committee in July 1985. According to Food Preservers' Union secretary, Tom Ryan, those letters, which were numbered and collected for return to the Premier's office immediately upon completion of the meeting, had repeated the claim that the Department of Public Prosecutions was responsible for arrangements under which developers pled guilty and received good behaviour bonds.<sup>177</sup> But there was a glaring problem with that explanation, Ryan insisted: whilst the Director of Public Prosecutions Act 1982 had been 'proclaimed in part on January 12 1983...only certain sections dealing with the appointment of staff' had actually been proclaimed on that date; that section of the Act granting the Director of Public Prosecutions the power to prosecute was not proclaimed until 11 May 1983 – more than two months after the developers had been released on good behaviour bonds. Prior to that date, Cain had, as Attorney-General of Victoria, been ultimately responsible for the conduct of the case.<sup>178</sup>

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<sup>173</sup> *National Times*, 21-27 June 1985, pp.8-9; 'Indemnity Confetti!!!', Section 9, *The Cain Papers*; *Age*, 9 September 1983, p.4.

<sup>174</sup> *National Times*, 21-27 June 1985, p.9.

<sup>175</sup> *Ibid.*, p.8. Landeryou was sacked because of an alleged conflict of interest. Landeryou had apparently accepted a reduced interest rates' loan from a company (133 Sydney Road Pty Ltd) that was controlled by the Storemen and Packers' Union, of which he was a former secretary and president. See *Age*, 1 September 1983, p.1.

<sup>176</sup> Neil Mooney, 'After Big Norm, the political fallout', *National Times*, 21-27 June 1985, p.8.

<sup>177</sup> *Vanguard*, 5 February 1986, p.9.

<sup>178</sup> *Ibid.*

Suspicious about the systematic targeting of Gallagher were further inflamed when trial judge, Glen Waldron, sentenced him to more than four years in prison. The discrepancy between his punishment and that which had been accorded the developers was both profound and obvious. But equally disturbing was the revelation that Waldron had twice refused to dismiss the jury in Gallagher's trial, even though jurors claimed an inability to reach unanimous decisions on the charges they had been asked to consider.<sup>179</sup> News of Waldron's impropriety formally emerged on 9 August 1985, when a troubled juror – pseudonymously named 'Kim' – told her story to the media.<sup>180</sup> Again, Cain was dismissive: he denied any possibility of problems with Victoria's judicial system and the way in which it operated. He insisted that public comment on the Gallagher case was 'very unwise and should stop', and, in a veiled suggestion that 'Kim' was a threat to democracy, said: 'If people want to undermine the jury system, that's up to them'.<sup>181</sup>

'Kim's' revelations were predated by state Conference and Administrative Committee demands for a government inquiry into the circumstances surrounding Gallagher's conviction.<sup>182</sup> They were also predated by calls for a special party Conference to consider the implications of the BLF (De-recognition) Bill. Meeting on 22-23 June 1985, incensed Conference delegates believed that Gallagher's case represented 'a grave miscarriage of justice' and that the government and the courts had singled him out for special treatment.<sup>183</sup> Cain was unimpressed and immovable. Conference had a right to express its views, he suggested, but his government would implement no part of the pro-BLF resolution that delegates there had so unanimously passed.<sup>184</sup> There would be no inquiry into Gallagher's conviction or the circumstances leading up to it.<sup>185</sup>

Conference had passed a strongly-worded, BLF-generated resolution with only one amendment: delegates refused to support calls for an inquiry into the activities of the Attorney-General's office, particularly as they related to Gallagher's trial and conviction.<sup>186</sup> Such an inquiry would be too politically damaging to the man who had led Victorian Labor out of the abyss, but that amendment notwithstanding, it was clear that Gallagher and the BLF had scored a significant victory in their war with Cain and the Victorian government.

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<sup>179</sup> *National Times*, 9-15 August 1985, p.18; *Direct Action*, No. 535, 14 August 1985, p.13.

<sup>180</sup> *National Times*, 9-15 August 1985, pp.18-19.

<sup>181</sup> *Direct Action*, No. 535, 14 August 1985, p.12.

<sup>182</sup> *Age*, 20 July 1985, p.10.

<sup>183</sup> *Age*, 24 June 1985, p.5.

<sup>184</sup> *Sydney Morning Herald*, 24 June 1985, p.2; *Age*, 24 June 1985, p.5; Cain, 'The Builders Labourers' Federation', p.30.

<sup>185</sup> *Age*, 24 June 1985, p.5; *Sydney Morning Herald*, 24 June 1985, p.2.

<sup>186</sup> *Age*, 24 June 1985, p.5; Cain, 'The Builders Labourers' Federation', p.30.



Moreover, if the rebuke that had been delivered to Cain was indicative of labor movement displeasure vis-à-vis Gallagher's trial and conviction, it was also a sign that party officers intended to use that and other BLF questions to assert/reassert their authority over the Victorian labor movement's parliamentary wing. This battle for control of the Victorian Labor Party escalated considerably over the following couple of months.

On 15 July 1985, Cain was summoned and refused to attend party headquarters for an extraordinary meeting of the Administrative Committee.<sup>187</sup> Party officers were instead ordered to attend a meeting at Cain's office in Treasury Place.<sup>188</sup> The change of venue was much more than symbolic, particularly given the issues under discussion: Cain's defiance of Conference directives; the anti-BLF legislation that was about to go before Parliament; and of course, the trial and conviction of N.L. Gallagher. Stony-faced party officers left Treasury Place after more than two hours of discussion. They had been made cognisant of their responsibility to protect Labor's chances at the forthcoming Nunawading by-election. Important questions about Gallagher, the BLF and who really controlled the ALP in Victoria were yet to be decided, but already it seemed that protecting Labor's electoral success was paramount.<sup>189</sup>

Cain had warned his parliamentary colleagues that handled properly, the re-scheduled meeting would provide them with a golden opportunity to establish their authority over the Administrative Committee.<sup>190</sup> He proved to be correct. At least some of those who attended the Treasury Place meeting – Gerry Hand (state president), Peter Batchelor (state secretary), Solange Shapiro and Caroline Hogg – were easily convinced not only of the priority that must be given to Labor's electoral success, but of their own roles in achieving it. As members of the 'sensible...Left', Cain reminded them, it was their duty 'to take a stand on this [BLF] issue within the Left'.<sup>191</sup> His argument was apparently so persuasive that 'sensible Left' members were moved to caution 'that the whole [BLF] issue was designed to "get" [him]'.<sup>192</sup> But there were others on the Left for whom ideology and Labor Party principles and traditions continued to reign supreme. And for those people – Hartley, Crawford, Joan

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<sup>187</sup> *Age*, 16 July 1985, p.1; *Sun*, 16 July 1985, p.1; Cain, 'The Builders Labourers' Federation', pp.30-31.

<sup>188</sup> *Age*, 16 July 1985, p.1.

<sup>189</sup> Party officers told waiting media that they were seeking ways to provide both sides of the argument with 'some ice to skate on'. According to one source, party officers were desperate to minimise the electoral damage that any split over the BLF might engender. *Sun*, 16 July 1985, p.1.

<sup>190</sup> Cain, 'The Builders Labourers' Federation', p.31.

<sup>191</sup> *Ibid.*, pp.31-2.

<sup>192</sup> *Ibid.*, p.32.

Coxsedge, Jean MacLean and their supporters – questions about where the ALP was headed were intimately connected to the Gallagher/BLF affairs.

Crawford, Coxsedge and MacLean were Upper House members of the Victorian Parliament. But any hopes they had of officially frustrating Cain's anti-BLF legislation were quickly shut down. Crawford was absent from the Caucus meeting that approved the BLF (De-recognition) Bill, and so thought himself unconstrained by that decision.<sup>193</sup> He vowed not to vote for deregistration of any union, but was quickly whipped into submission by Cain's threat of disciplinary action: expulsion from the Party.<sup>194</sup> Cain was willing to subvert Conference and Administrative Committee authority, but he brooked no subversion of rules that bound party members to Caucus decisions, regardless of how those decisions were realised.

Speaking out against the BLF (De-recognition) Bill was also prohibited: when Coxsedge and MacLean criticised it they were quickly reprimanded and threatened with disciplinary action.<sup>195</sup> They had publicly accused Cain of employing apartheid-style measures and 'straight-out anti-union legislation' to deal with Gallagher and the BLF.<sup>196</sup> Not only did the legislation threaten the trust and comradeship of the labor movement, Coxsedge insisted, but it singled out one group of people whose crime was to demand better working conditions.<sup>197</sup> The BLF (De-recognition) Bill was, Coxsedge and MacLean agreed, 'contrary to everything the Labor Party stands for'.<sup>198</sup>

Crawford, Coxsedge and MacLean were temporarily supported by a small group of federal MPs who argued that the severity of Cain's legislation was being driven by his electoral obsession and his determination to prove – in the context of the Nunawading re-election – that his government would not go soft on the unions.<sup>199</sup> But whilst they promised to have Cain's legislation brought into line with federal proposals, those same MPs quickly rebuffed calls for a special state Conference at which the Victorian legislation and Cain's defiance of party authorities would be discussed.<sup>200</sup> Concerns about Gallagher, the BLF and the implications of Cain's BLF (De-recognition) Bill were one thing; apprehensions about the Nunawading by-election were something else: Labor simply could not risk the political

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<sup>193</sup> Recently elected to represent the Upper House seat of Jika Jika, Crawford had not been sworn in until immediately after the Caucus vote had occurred (16 July 1985). *Herald*, 17 July 1985, p.1.

<sup>194</sup> *Sun*, 18 July 1985, p.2; *Age*, 18 July 1985, p.1; *Australian Financial Review*, 23 July 1985, p.5.

<sup>195</sup> *Age*, 26 July 1985, p.3.

<sup>196</sup> *Herald*, 25 July 1985, p.3; *Age*, 25 July 1985, p.3.

<sup>197</sup> *Sun*, 25 July 1985, p.5.

<sup>198</sup> *Ibid.*

<sup>199</sup> *Herald*, 25 July 1985, p.3.

<sup>200</sup> *Ibid.*

damage that might stem from holding a special state Conference at that time, and around those issues.<sup>201</sup>

Calls for a special Conference originated with a letter Gallagher sent to Peter Batchelor. But they were quickly taken up by Socialist Left unions and those most concerned about the direction in which the ALP was moving.<sup>202</sup> But the problem of whether to hold a special Conference was ultimately resolved in spectacular style on the night of 26 July 1985. Cain was attending a campaign rally for the Nunawading by-election when party officers telephoned him with an Administrative Committee ultimatum: defer proclamation of the BLF (De-recognition) Bill and engage in widespread consultation with the labor movement, or face a specially convened state Conference on 24 August 1985.<sup>203</sup> The Premier was apparently primed and ready for that ultimatum. He exploded with an ultimatum of his own: drop the calls for a special Conference or he would see to it that one was organised, not for the week after the Nunawading by-election, but on the weekend before it was due.<sup>204</sup>

The impact of Cain's response was immediate: Socialist Left members of the Administrative Committee should have been bound by an earlier decision of their ruling executive in which officers had voted 10:8 in favour of proceeding with a special Conference.<sup>205</sup> But the prospect of being blamed for a Labor loss in Nunawading was more than pragmatic Socialist Left members could bear. Consequently, they not only bowed to Cain's threat, but agreed on the need for a diminution of the struggle between Labor's parliamentary and organisational wings.<sup>206</sup>

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Labor's assault on the BLF coincided with political realignments within the ALP generally and within the left-wing of the party in particular. Prompted by the transition from Hayden to Hawke, those realignments had seen the power and influence that the Left exercised within the federal party slump to its lowest level for perhaps a generation.<sup>207</sup> The transformation was so swift that by early 1982, Keating felt able to say this:

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<sup>201</sup> Ibid.

<sup>202</sup> *Sun*, 23 July 1985, p.2.

<sup>203</sup> *Age*, 29 July 1985, p.3; *Herald*, 27 July 1985, p.6; *Sun*, 29 July 1985, p.24.

<sup>204</sup> *Sun*, 29 July 1985, p.24; *Age*, 29 July 1985, p.3.

<sup>205</sup> *Age*, 29 July 1985, p.3..

<sup>206</sup> Ibid.

<sup>207</sup> Jaensch, *The Hawke-Keating Hijack*, p.172.

These people [the Left] are trying to make *my* party into something other than it is. *I'm* in the mainstream of my party; a lot of others are not. They're appendages. That's why I'll never abandon ship, and never let these people capture it.<sup>208</sup>

As the engine room of left wing thought and influence, Victoria provided much of the terrain over which struggles for ownership and control of the ALP occurred. The rise of Socialist Forum was a direct response to and consequence of those battles. But in presenting their vision of socialism and the role and purpose that Labor parties should play in Australian society, Forum members sparked a parallel contest in which they battled Old Guard members for ownership and control of the Socialist Left. In that contest, the Forum's pragmatic approach to policy-making, its support for the Labor-ACTU Accord, and its commitment to the election and re-election of Labor governments clashed with the 1950s style politics and ideologies to which Old Guard Socialist Left members ferociously clung. Jaensch concisely illuminated this dichotomy when he wrote:

To the Left, the Labor Party exists to carry out a programme of reform with social objectives which are directed to the party's original constituency – the working class, the unemployed, the underprivileged, and the dispossessed. To the electoralists, winning government is the first priority, retaining government the next, and both depend on convincing 'middle Australia' that the party deserves support.<sup>209</sup>

In the Socialist Left, the degree to which the 'programme' could or should be compromised in the interest of electoral success was what set Forum members and those whom Cain labelled 'the extremists in the party' – Old Guard members such as Hartley, Crawford and their followers – apart.<sup>210</sup>

A 'new-style Left' had emerged within the ALP for whom compromise was not only an acceptable avenue to 'influence and authority', but for whom winning office represented the only possible chance of implementing *their* vision of socialism.<sup>211</sup> That willingness to compromise in pursuit of electoral success prevented many on the Left from offering more than token resistance to Cain's assaults on party authorities such as state Conference and the Administrative Committee. But it also weakened the ability that left-wing elements of the ALP had to push Cain and his government on issues affecting Gallagher and the BLF. That those two factors – Gallagher/the BLF on one hand, and the challenges that Cain successfully mounted against Conference, the Administrative Committee, and 'extreme' Left sections of

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<sup>208</sup> *Bulletin*, 2 February 1982, in Jaensch, *The Hawke-Keating Hijack*, p.173. (Emphasis added)

<sup>209</sup> Jaensch, *The Hawke-Keating Hijack*, p.141; p.171.

<sup>210</sup> Cain, *John Cain's Years*, p.93.

<sup>211</sup> Jaensch, *The Hawke-Keating Hijack*, p.141.

the Victorian ALP, on the other – were intimately connected, has been acknowledged by none other than Cain himself. This is what his unpublished diary notes had to say on the matter:

This issue of the dominance of the party had dogged Labor governments over the years. In fact it had been a critical issue with the Parliamentary party when in Opposition. State Aid to non-government schools had raised such conflict in the run up to the 1970 election in Victoria. Traditionally the party has sought to direct the Parliamentary party with some particularity. This can be embarrassing in Opposition, but fatal in Government. The BLF matter brought the issue into sharp focus.<sup>212</sup>

As to the role that party authorities such as state Conference should play, Cain wrote:

...despite the oft repeated phrase that conference [sic] is supreme and decides policy, in effect when the crunch comes, if the Government is right and has *popular support* in the community and significant support of the Party, then it can hold sway against the conference [sic].<sup>213</sup>

What was true for Victoria was equally true for the federal party. National Conference had been established as the final arbiter of disputes affecting the party and ‘all levels of the hierarchy of the organisation of the party [were] responsible to the Conference, including the parliamentary Labor Party’.<sup>214</sup> But the episodic nature of national Conferences had historically enabled Parliamentary Labor Party (PLP) leaders to aggregate more and more authority to themselves. This leaching process sharpened significantly from the mid-1960s onwards, Jaensch suggested, but the election of the Hawke Government in 1983 caused sections of the party to regard as ‘a flood’, what had traditionally been understood as ‘a seepage of authority’ to the PLP.<sup>215</sup>

Cain drew all of this together whilst recalling his time as Premier of Victoria. Noting that the long-term consequences of his government’s dispute with the BLF had ‘yet to be measured’, he nevertheless argued that ‘it proved to be the dispute in which...the rules on government-party-relations’ were re-written. The dispute had, he suggested, ‘established the strength and capacity of the Labor government to defy its own base’.<sup>216</sup> Just as Whitlam’s ‘changes to National Party rules [had] removed the ‘36 faceless men’ tag from Federal Labor’, so, Cain argued, had ‘his ‘stand against the BLF demonstrated that a...Labor

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<sup>212</sup> Cain, ‘The Builders Labourers’ Federation’, p.31.

<sup>213</sup> Ibid., p.48. (Emphasis added)

<sup>214</sup> Jaensch, *The Hawke-Keating Hijack*, p.101.

<sup>215</sup> Ibid., p.129.

<sup>216</sup> Cain, *John Cain’s Years*, p.118.

Government could stand up to party direction and win'.<sup>217</sup> He might well have added that Gallagher and the BLF were excellent lenses through which Labor's transformation from a mass to a catch-all party could be observed, and that they had provided an excellent mechanism through which potential disquiet about that transformation could be quelled.

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<sup>217</sup> Cain, 'The Builders Labourers' Federation', p.54.

## **Chapter Twelve**

### **Conclusion**

In September 1981, Conservative governments in Canberra and Melbourne commenced Royal Commission and deregistration proceedings aimed at Norm Gallagher and the BLF. The Royal Commission was predicated on suspicions that Gallagher had accepted bribes from developers, whilst allegations of thuggery, empire building, and excessive militancy were proffered as justification for the deregistration action. However, as commentators across the political spectrum recognised, the cynicism and political motivations that underpinned these anti-BLF actions were not easily disguised. Prime Minister, Malcolm Fraser, and Victorian Premier, Lindsay Thompson, might well have been under pressure to confront one of Australia's most militant unions in the interests of foreign and local capital. But they were also anxious to 'kick the BLF drum' as a means of gaining re-election. For Andrew Peacock, meanwhile, the opportunity to take on and beat a union of the BLF's renown was one that promised to boost his ambitions of becoming Liberal Party leader and Prime Minister of Australia.

The Thompson and Fraser governments were pushed from Office in April 1982 and March 1983, respectively. But their hopes of removing the BLF from the industrial scene had already been dashed by a combination of ministerial incompetence, Liberal Party in-fighting and a paucity of support from employers on whose behalf the deregistration action had ostensibly been made. Nor had the BLF stood idly by. Having at the outset committed their union to fight to the death, Gallagher and his comrades used every available means, both to frustrate the onset of deregistration, and to forestall enemies who would profit from their plight. With organisations such as the FIA and the AWU lining up with employers and their agents in government, BLF members and officials chose political and industrial attack as the best form of defence. Thanks to some favourable High Court decisions, they not only succeeded in pushing back government, employer and rival union assaults on their territory and power, but at sites such as Loy Yang and Omega, subjected those forces to embarrassing defeats.

That sections of the labor movement were willing to support Conservative governments and employers in their attacks on the BLF was in part testament to the polarising effects of Gallagher and his union. The labourers had made significant monetary and status gains under Gallagher's leadership. Their rates of pay were fast approaching or, in some cases, capable of exceeding those of tradesmen; and their growing power had enabled

them to shed their reputation as the bottom-dwellers of the building and construction industry. But in making those strides, BLF members and officials had earned a different repute: their uncompromising approach to industrial relations had made them the ugly face of Australian trade unionism.

Though promulgated by anti-union forces, this was a visage that elites in the industrial and political wings of the Australian labor movement found equally troubling, particularly as the ALP sought to become the natural party of government at state and federal levels. An ALP National Committee of Inquiry report published in 1979 identified the difficulty facing the labor movement in the following terms. Trade union conflicts, particularly those involving militant blue-collar unions, had a nasty habit of flowing into and contaminating the politics and electoral prospects of Labor parties. That such unions were affiliated with the ALP at state, rather than federal level, mattered not; the conflicts they invited and provoked were capable of damaging the party in all its forms. In that context, the ugly face of trade unionism tag made all the easier the task of rival unions for whom an assault on Gallagher and the BLF was not only acceptable, but indeed opportune.

This standing as the unacceptable face of trade unionism had been enhanced by Gallagher's mid-1970s takeover of the NSW BLF. That action had caused unionists across the political spectrum to regard him with contempt – a situation that deposed BLF leader, Jack Munday, was constantly eager and able to inflame. With memories of those events still fresh in their minds, left-wing union leaders in NSW were in 1981 willing, both to expel the BLF from the local TLC, and to support right-wing calls for the union to be disaffiliated from the ACTU. But if their anti-BLF attitudes were informed by industrial jealousy and memories of battles past, NSW union leaders were also keen to shore up and expand their personal fiefdoms at Gallagher's expense.

With membership numbers and employment opportunities shrinking due to economic pressures and the technological changes then washing through Australian industry, union leaders to the left and right of the political range were becoming increasingly conscious of the battle for survival in which they were engaged. If a troublesome union such as the BLF had to be destroyed in their push for territorial advantage or survival, then that was a price that other union leaders were willing to bear. Indeed, it was in that context that left-wing unions such as the BWIU and the NSW branch of the PGEU joined with their right-wing brethren to form an anti-BLF alliance centred round Trades Hall in Sydney – an alliance that was formed even as Fraser and Thompson sharpened their sword.



Gallagher and the BLF were certainly trying to grow their presence in NSW, especially in those areas where a burgeoning mining and energy boom was present. The BLF had not only defied a bout of deregistration in the mid-1970s, but had in fact grown through that process. However, internal conflicts and an obsession with green bans had seen membership of the NSW branch of the union shrink, particularly outside of the Sydney area. The mining and energy boom that promised to rescue Australia from the economic doldrums of the late 1970s and early 1980s provided Gallagher and the BLF with an opportunity to redress those losses. As Arbitration Commission and High Court rulings on demarcation disputes at Loy Yang and Omega demonstrated, it was a course of action the labourers were perfectly entitled to pursue.

But it was whilst they were attempting to lock the BLF out of NSW that unions such as the FIA and the AWU took the fight into Gallagher's home state of Victoria, and treacherously aligned themselves with the natural enemies of trade unionism and the Australian working class: Conservative governments, employer organisations and their clients in international capital. Gallagher had been accused of treachery when he ousted the popular NSW BLF leadership team of Jack Munday, Joe Owens, and Bob Pringle. He had, it was alleged, acted with the imprimatur and financial support of the NSW MBA. But whilst Gallagher's enemies were quick to base their allegations on whatever circumstantial evidence could be found, they remained ironically silent as unions such as the FIA openly sided with the most virulent of all anti-union and anti-working class forces.

Victorian union leaders were under no less pressure to survive than their NSW counterparts. Their memberships faced at least the same economic and technological challenges as those experienced in NSW. And nor were they immune to the anti-union actions and attitudes of the Fraser Government and its shadow in Melbourne. But Victorian union leaders were constrained both by the pro-BLF sentiments of their members, and by the viciousness of Fraser and Thompson's assault. They might well have baulked at Gallagher's takeover of the NSW BLF. But against that, Victorian unionists had to weigh the significant improvements that BLF members and officials had won, in areas such as wages, working conditions, and occupational health and safety.

The methods used to make those gains might not always have been laudable, particularly where more conservative Victorian union leaders were concerned. But the flow-on effects that they produced were always warmly embraced. A BLF victory invariably meant a win, not only for building and construction workers, but indeed for workers in other areas of the economy. If threats of deregistration and a Royal Commission were being made

by the perceived enemies of the working class, they were, in Victoria at least, dangers that had to be resisted. Indeed, it was only when the deregistration baton passed from Conservative to Labor hands that many Victorian unions began to falter in their support for the BLF. Thereafter, a combination of fear, greed, threats and misplaced faith in the ALP caused them to abandon Gallagher and his union.

Victorian unionists feared a quick return to the Conservative rule under which they had previously toiled. Such an outcome would naturally end the ALP-ACTU Accord that some in the Victorian labor movement had worked hard to achieve, and in which most Victorian unionists placed their trust. Union leaders in that state also feared that by continuing to support the BLF, they would attract onto themselves the wrath of Labor governments for which militant unionism was increasingly anathema. In taking up the cudgels of deregistration, Labor governments at state and federal levels undoubtedly signalled their readiness to deal harshly with unions who defied the Accord process and threatened their electoral prospects. But rival union leaders also feared missing out on the spoils that were offered to those who participated in Labor's anti-BLF crusade. For the BWIU in particular, it was an opportunity to realise a century old goal of leading one big building and construction union.

The Victorian and federal Labor governments elected respectively in April 1982 and March 1983 were quite unlike any that had come before. Certainly, John Cain moved rapidly to end Victoria's participation in Conservative-initiated moves to deregister the BLF, thereby establishing a precedent that Labor governments in South Australia and West Australia were quick to follow. The Hawke Government failed to act with quite the same haste. But it did move, within nine months of coming to power, to uphold promises that former leader, Bill Hayden, had made, about ending or reversing the Liberals' plans to deregister the BLF. However, it is arguable that in pulling back from those deregistration efforts, Cain and Hawke were merely seeking opportunities by which to mount more reliable, and even more drastic anti-BLF actions.

The commonly accepted explanation for Cain's about-turn on deregistration is that Gallagher misused union muscle to fend off personal difficulties that had arisen out of the BLF Royal Commission. The crunch allegedly came during a heated demarcation dispute at the Melbourne Cricket Ground. Cain argued that the MCG dispute proved the impossibility of reasonably resolving the BLF question. But as this thesis has demonstrated, and indeed, as Cain openly acknowledged – both in unpublished diary notes of the time and in a later, published account of his time in Office – plans to destroy the union had in fact begun well in

advance of the MCG dispute. They had also begun to formulate well in advance of Federal Labor's withdrawal from deregistration proceedings in December 1983.

Cain's admission also put the lie to claims that Federal Labor resumed deregistration proceedings against the BLF, only after Gallagher had betrayed promises given to Hawke and the employers between March and December 1983. Indeed the Federal Court that sanctioned the agreement on which Federal Labor withdrew from deregistration openly mocked suggestions that it was either acceptable or enforceable. Moreover, the employers, on whose behalf deregistration had ostensibly been pursued, had refused to immediately abandon their pursuit of the union. Their retreat from deregistration came only when it was apparent that Gallagher and the BLF were prepared to fight on through the courts, and only after they had reached a separate agreement with the BLF. In other words, Cain and Hawke's recognition that the Conservatives' efforts to destroy the BLF were 'half-baked' provides a more plausible explanation for their retreat from deregistration than does any claim to solidarity with Gallagher and his union.

As this thesis has demonstrated, the history of BLF-ALP relations between the mid-1960s and the mid-1980s was one in which BLF leaders such as Gallagher and his mentor, Paddy Malone, constantly criticised and challenged Labor Party leaders and their policies. But it was also a period in which the union came into conflict with and worked to undermine the ACTU and (according to Gallagher) its suspect leader, Bob Hawke. Like other Communists, perhaps, Gallagher and Malone saw little to recommend the ALP over the Liberal parties that it opposed. And nor did they appreciate the lengths to which ACTU leaders went in order not to embarrass or inconvenience Labor Party politicians. But they frequently argued an overwhelming need to 'bring Labor back to Labor'.

If this urgency to return Labor to its real or imagined roots as a socialist party failed to resonate with those of more 'sober' opinion, it nevertheless found some echo among those who recognised that Labor was deliberately slipping the anchors of its mass party origins. Jim Cairns, for example, used a trade union publication to highlight the dangerous cult of leadership that was developing around Whitlam. If allowed to continue, Cairns suggested, it was a trend that would push the Labor Party and its policies further and further to the right.

This notion, that Labor was deliberately shedding its largely working-class roots and cloaking itself in the catch-all garb of its Conservative opponents, was in evidence from the mid-1960s onwards. It was closely associated with the middle-classing of Australian society and the disproportionate effect that that phenomenon had on the ALP. Historians, political scientists and others have attributed this suddenly greater 'embourgeoisification' of the ALP

that occurred under Whitlam's leadership to the influx of tertiary-educated, technocratically-minded, white-collar professionals that he inspired. But according to Jaensch, for example, it was really only with the arrival of men such as Hawke and Paul Keating at the leadership table, that the transformative effects of Whitlam's revolution were finally and most forcefully realised. By the 1990s, Jaensch argued, the ALP had become an organisation that was Labor in name only, and for which first, second and all subsequent considerations focused on electoral success. The ALP had, in other words, become a better organised facsimile of the Liberal parties against which it was supposed to be opposed.

If Jaensch focused heavily on the federal Labor Party and the transformations that had occurred at that level, there is much in the literature to suggest that similar processes occurred at the Victorian state level. Ian Ward, for example, traced the middle-classing of the Victorian ALP back to its roots in the 1960s and 1970s, whilst former Participant, James Jupp, argued that the Cain Labor Government mirrored, in virtually every respect, the template for modern Labor that Whitlam and his supporters had prescribed. But whilst they have expertly elucidated the transformation of the ALP from mass to catch-all party status, historians and political scientists have less satisfactorily explained why rapid acceleration of that process in the 1980s failed to elicit a dramatic response, perhaps even of the sort that had caused the party split of three decades earlier.

Allusions have certainly been made, as to the object lesson that elimination of the BLF provided for other troublesome unions, but really only where maintenance and enhancements to the ALP-ACTU accords were concerned. Conversely, no real attempt has been made to explain the mechanism that both elimination of the BLF and the trial and conviction of Norm Gallagher provided for the peaceful transformation of the ALP and the broader labor movement. It is with that historiographical lacuna that this thesis has been concerned.

Labor's removal of the BLF from the industrial relations landscapes of Victoria, NSW and the ACT was backgrounded by a struggle for control of the party itself. That struggle had national implications and was, to a large extent, driven by Hawke and his supporters in NSW. But if there was an agenda to crush the Left in the councils of the party and thereby make Federal Labor more attractive to middle Australia, it was an agenda that some in Victoria undoubtedly shared, particularly as it applied to the 'extremists' on the Left. Moreover, it was in Victoria, where the Left was strongest, that attendant battles were fought. The BLF question was central to those battles. It was, some on the Left have argued, the mechanism by which unity on that side of the party was destroyed, and by which, coincidentally, the party

lost control over its elected representatives. Indeed, John Cain has acknowledged that the BLF problem proved to be the issue on which relations between the party and Labor in government were re-written. It had, he argued, given the party and those who led it, the power to defy their own base. Labor had, through the *bête noire* that Gallagher and his union provided, finally liberated itself from its mass party origins, leaving it free to out-Liberal the Liberals as the catch-all party of choice. If this was true for the Victorian Labor Party, it was also true for the party in all its other forms.

The middle-class forces that transformed the ALP into a catch-all organisation had also found their way into the industrial wing of the labor movement. A thoroughgoing examination of that process has been beyond the scope of this thesis. However, it is pertinent to note that the influx of tertiary-educated professionals into management levels of the trade union movement made shifts in the ALP easier to assimilate. What Scalmer and Irving on one side, and their critic, Bramble, on the other, referred to as ‘modern labour technocrats’, became the natural interlocutors of those who had concomitantly streamed into the ALP on Whitlam’s coat tails. Having quickly outgrown their roles as research, education and media officers to become the theoretical brains of several large and influential trade unions, not to mention the ACTU itself, these technocrats acted as brakes on the workers whose interests they had been hired to serve. Whether they were recruited as a buffer zone between union leaders and their memberships, as Bramble argued, or in the much more benign capacity that Scalmer and Irving suggested, is arguably less important than the interests they ultimately came to promote: those they held in common with the tertiary-educated, middle-class professionals who had come to dominate the ALP.

Elimination of the BLF was a politically-motivated process begun by Conservative governments in Canberra and Melbourne, but finally executed by Labor administrations at state and federal levels. In view of Labor’s trajectory from mass to catch-all party status, and in view of the concomitant shifts that had occurred in the industrial wing of the labor movement, it is arguable that removal of Gallagher and the BLF from the industrial relations landscape spoke to a convergence of agendas both between Liberal and Labor governments, and between governments, capital and BLF enemies in the trade union movement.

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