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The relative significance of the ACTU and the Labor Council of New South Wales

Ray Markey

University of Wollongong

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Ray Markey

Department of Economics
University of Wollongong

Coordinated by Associate Professors C. Harvie & M.M. Metwally
Working Paper Production & Administration: Robert Hood
Department of Economics, University of Wollongong
Northfields Avenue, Wollongong NSW 2522 Australia
ABSTRACT

It is commonly assumed that the ACTU is the most important peak union council in Australia, since it is a national body, which has had no serious rivals for fourteen years. During the last decade its authority and prestige have also expanded dramatically, largely as a result of its special relationship with the federal ALP government, underwritten by the 'Accord in its various forms. However, this paper argues that the recent period is an aberration, departing from the historical norm, and unlikely to be maintained in the long term. For a number of historical reasons outlined here, the Labor Council of New South Wales has been the main instigator of industrial reform in Australia.
Ray Markey (1949) is Associate Professor in Industrial Relations at the University of Wollongong, Australia. He is author of The Making of the Labor Party in New South Wales (Kensington, 1988), Industrial Democracy at Port Kembla (Canberra, 1988), and In Case of Oppression. The Life and Times of the Labor Council of NSW, (Pluto Press, Sydney, 1994). He has also published about forty articles in Australian and comparative labour history, technological change and industrial relations, and industrial democracy. He has been a consultant to the Australian Department of Industrial Relations, the ILO, and a number of firms and trade unions in Australia, Britain and Yugoslavia, and is currently chairman of the International Industrial Relations Association Study Group on Workers' Participation.
INTRODUCTION

It is commonly assumed that the ACTU is the most important peak union council in Australia. However, this apparently obvious assumption has rarely been tested in the literature of labour history and industrial relations. Indeed, the literature relating to the role of peak union councils in general has been rather limited, and that which exists has been almost exclusively devoted to the authority of the national peak council, the ACTU.

This is surprising because it has always been recognised that the state labour councils were important in the formation and operations of the ACTU, especially its pre-1947 activities. As Gollan noted: 'the way in which the ACTU functioned left most real authority in the hands of the individual unions and the state trades and labour councils'\(^1\). The ACTU's then president, Albert Monk, claimed at the 1940 Congress that 'in the early years it had simply existed, and it would not have done so had it not been for loans advanced by the Melbourne THC\(^2\). Unlike the state labour councils, the ACTU did not even have a full-time official until 1943.

From the Second World War onwards, the role of the ACTU in Australian industrial relations and union affairs expanded, and hence, it is largely this more recent period of ACTU history with which most of the literature is concerned. In 1947 the state labour councils finally renounced their veto power over ACTU Congress decisions, which had been proposed by Congress since 1943.\(^3\) From the late 1950s Martin argued that the role and authority of the ACTU had significantly increased since the 1940s to surpass that of the TUC in Britain, even though the ACTU still lacked substantial formal control over affiliates. Martin noted a growing acceptance of ACTU authority in industrial disputes by affiliates, particularly in key industries such as the waterfront.
and mining, in co-ordinating public sector union claims, and in formulating basic wage case submissions. The latter role virtually ensured a place for the ACTU in industrial relations under a centralised system of wage determination. But Martin also noted the growth in union affiliations and incorporation of industry groups of unions into the ACTU’s structure as important elements contributing to its enhanced authority.4

Other commentators on the ACTU’s role in the 1950s were less convinced of its emerging authority, particularly with regard to industrial disputes.5 Nevertheless, Martin’s interpretation was influential until challenged by Dabscheck in 1977.6 From then until the mid-1980s the general consensus was that the ACTU’s authority over affiliates is relatively weak.7 Subsequently, a new consensus has developed that the ACTU’s general authority has increased dramatically, as a result of its absorption of ACSPA and CAGEO from 1979 to 1981 to become the sole national peak union council, and especially since 1983 as a result of the special relationship between the ACTU and the ALP government characterised by the various versions of the Accord.8

A notable omission in all of this literature remains the comparison with the authority of state labour councils. It is still simply assumed that the national peak body is more important. It is not the purpose of this paper to evaluate the respective claims, in themselves, in this literature over time, but to introduce a new element of evaluation by comparison with the premier state peak union council in Australia. In doing so, I have broadened the focus away from the concept of authority to that of general significance in affecting the industrial relations environment of Australia. I employ three of Martin’s yardsticks for evaluating relative authority:

- membership of affiliates, in aggregate and as a proportion of all trade unionists and the workforce;
the industrial function of the peak body, in terms of its role in bargainining and/or arbitration, controlling industrial action, and intervening in demarcation disputes between unions; and

- the political function of the peak council.

A fourth yardstick employed by Martin refers to the structural diffusion of power within the organisation, between the executive and the affiliates, including the governmental powers exercised over the affiliates. For the purposes of this article, I have subsumed consideration of this under the yardstick relating to industrial function, since this is where much of the literature has concentrated when discussing internal diffusion of power. However, I have added one extra yardstick derived from Headey's check-list, namely:

- the level of resources, including staff, but especially finances.

Historically, the argument in this article is largely based upon the Labor Council's senior status amongst peak union councils in Australia, the federal structure of industrial relations, and the Labor Council's close relationship with the most electorally successful state branch of the ALP. The last section examines the changes in industrial relations since 1983, and speculates on their likely future impact on the relative significance of the Labor Council of NSW and the ACTU.

ORIGINS

The Labor Council, founded in 1871 as the Trades and Labour Council of Sydney, is the oldest peak union body in Australia,
and one of the oldest in the world. Its only possible rival as the oldest Australian peak body is the Melbourne Trades Hall Council, which was founded in 1856, but until 1883 it was essentially a building management committee rather than a peak council. The London Trades Council was the earliest English peak body to be formed, in 1860, and the English Trades Union Congress began in 1868, only three years before the formation of the Sydney TLC.

The ACTU was not formed until 1927. Prior to then, on those rare occasions when government needed to consult with representatives of the union movement at a national level, the Labor Council was one of the two principal bodies chosen, usually with the Melbourne Trades Hall Council, and sometimes with the AWU. All three were influential with the federal ALP, in or out of government. Even for the Industrial Peace Conferences called by the Nationalist federal government in 1928-9, immediately after the formation of the ACTU, the NSW and Melbourne Labor Councils were the principal union representatives.

In the formation of the ACTU itself, the Labor Council was arguably the single most important force. The earliest instance of interstate or national union organisation were the seven Intercolonial Trades Union Congresses of 1879-91. These were initiated by the Sydney TLC when it organised the first of these congresses in 1879 (and the third in 1885). The 1891 congress formed the Australasian Labour Federation, but only in Queensland and briefly NSW, did this become operational. In 1902 the Labor Council instigated the first, and in 1918 the largest, of six Interstate Congresses of Trade Unions organised between those two dates. These were succeeded by the four All-Australian Trade Union Congresses of 1919, 1921, 1922, and 1926. The Labor Council played a major role in all of these congresses, particularly in organising the early ones. Its secretary,
E. J. Kavanagh, was elected secretary of the first Federal Grand Council of Labour, which was formed at the 1913 Congress.\textsuperscript{16}

As with their nineteenth century predecessors, these congresses were essentially discussion forums over industrial grievances and political issues. But from the outset the Congresses were interested in developing some form of national labour federation, led by the Labor Council of NSW. From 1902 this idea was subject to various proposals and planning refinements to give it effect. As might be expected, given the momentum provided by the Labor Council, the proposals revolved around relatively loose federations of state labour councils, upon which representation for the congresses themselves was largely based.\textsuperscript{17} However, as large national unions began to emerge, they favoured a more centralised national organisation based on direct union representation. Hence, a rival Australian Labour Federation was formed representing large unions in 1914, but it was unsuccessful in gaining full commitment from its members and soon faded from view.\textsuperscript{18}

From about 1915 the issue of union federation became subsumed in notions of closer organisation in the One Big Union Movement. The OBU broadened the basis of support for the ideas of the radical syndicalist IWW (Industrial Workers of the World), which had advocated the complete federation of all unions in one large organisation which lowered all craft and occupational barriers.\textsuperscript{19} From 1916 the Labor Council became the major exponent of the OBU, and the 1918 Interstate Congress organised, and dominated, by it in Sydney was preoccupied with this issue, as were the succeeding All-Australian Trades Union Congresses. The Labor Council's secretary, Jock Garden, became secretary of the OBU's Organising and Propaganda Committee at the 1918 congress, which also adopted the Council's IWW-based preamble committing it to class struggle, in preference to the AWU's more moderate version.\textsuperscript{20} The OBU scheme was again
endorsed at the 1919 congress, and the subsequent congresses of 1921-2 took organisational steps in this direction, particularly with the establishment of the Commonwealth Council of Action. 21 However, opposition to the OBU emerged at the federal and NSW ALP conferences from 1919, and from moderate unions, especially the AWU. The refusal of the Commonwealth Industrial Registrar to register the OBU in 1924 marked the effective defeat of this movement. 22

Nevertheless, when the ACTU was formed in 1927 it was largely as a result of the Labor Council's momentum in this area. In July 1925 the Labor Council, in association with the Melbourne Trades Hall Council, organised a meeting of labour council delegates from all states in Adelaide. This formed the Commonwealth Industrial Disputes Committee to control disputes referred to it by the labour councils. 23 Although this committee was never active, the momentum for national organisation persisted with a further conference of state labour councils in 1926, to support the 44 hour week and oppose the federal government's legislation for increasing its own industrial powers. The latter was supported by the federal parliamentary Labor Party and the Commonwealth Council of Federated Unions (CCFU), which had been formed in 1923 by moderate unions disillusioned with the OBU, mainly based in Victoria. Hence, the labour councils' activities were partly designed to prevent losing the initiative to a national federation based on unions rather than state councils. The labour councils then asserted themselves further through the Commonwealth Council of Action, which called the third All-Australian Trade Union Congress of 1926. 24 Held in Sydney, it was dominated by the Labor Council of NSW, numerically and in terms of initiative. It unanimously adopted Garden's motion for the formation of a permanent central organisation at the national level, based on an annual congress. Garden was also elected to the committee of five
charged with organising a further congress in 1927. This was duly held in Melbourne to form the ACTU.25

The Labor Council of NSW had a major impact on the nature of the ACTU, since its constitution was based largely on NSW proposals, with Garden playing a leading role in this area. The ACTU's objective for 'the socialization of industry', and its primary 'constitutional method' of supplanting craft with industrial unionism,26 indicated the continuing influence of the OBU, principally via the Labor Council. A major structural presence was also given the state labour councils. They became the state branches of the ACTU, with power of veto over congress decisions until 1947, and with majority representation on the executive until 1957.27 In 1927-30 the ACTU's affiliation to the Pan-Pacific Trade Union Secretariat, which was effectively a branch of the Moscow-based Red International of Labour Unions, was a result of Labor Council influence.28

MEMBERSHIP

In terms of membership, the Labor Council of NSW has remained by far the most important of the ACTU's state branches since 1927. This has occurred for two reasons. First, NSW has a large number of unionists, largely because it has been the most populous state in Australia throughout the twentieth century, and one of the two most industrialised states. Since unions traditionally have experienced greatest concentration in secondary industry, this has enabled unions to achieve a density of membership in excess of the Australian average throughout this century also, with the minor exceptions of the 1930s depression and 1949-50. Table 1 shows that from 1912 to 1922 and in the 1940s this excess varied between 8 and 18 percentage points, although it became more marginal (never above 6 per centage points) from the 1950s, and by the 1990s had virtually
disappeared.

Secondly, in comparison with other state bodies, the Labor Council has been able to achieve a relatively high proportion of affiliations from amongst those unions organising in the state for most of its history. The main exception was in the 1920s and early 1930s, although ironically, as we have seen, this period was one of the most nationally influential for the NSW Labor Council. From 1901, even prior to extending its jurisdiction from Sydney to the state as a whole in 1908, it has never faced a serious rival for the status of premier union organisation in the state. Although the AWU was a significant omission from the Council’s affiliates for much of the first half of the century, it was never as important a union in NSW as it has been in Queensland, and so, never the genuine rival it was for the Brisbane TLC. Nor did the NSW Labor Council ever endure a major split of the kind which occurred in Victoria and took a third of that state’s unions and half of its unionists outside the jurisdiction of the Victorian Trades Hall Council, to form a rival power centre from 1967-73.

It is impossible to directly compare ACTU and Labor Council membership because of different jurisdictions and lack of reliable statistics for either organisation. Two general points, however, may be made. First, the proportion of unionists which each peak council covered in their respective jurisdictions appears to have been similar from the 1950s, as it slowly rose from about 65 per cent, but since NSW was more densely unionised throughout this period, the Labor Council actually enjoyed a stronger membership base. Secondly, unlike the ACTU, no major union remained unaffiliated to the Labor Council after the late 1930s, including the AWU which did not affiliate to the ACTU until 1967.
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Sources: Commonwealth Labour Reports, Commonwealth Yearbook, and ABS Trade Union Statistics from 1974. Figures from 1985 are for financial members, with total members in brackets.
By the 1980s the Labor Council of NSW accounted for almost 40 per cent of total ACTU membership. From the mid-1970s its affiliated membership had grown dramatically because of the upsurge in white collar and public sector unionism. Many of these remained outside the Labor Council and ACTU at that point, and were affiliated to their own national peak organisations, the Australian Council of Salaried and Professional Associations (ACSPA) and the Council of Australian Government Employee Organisations (CAGEO). However, ACSPA merged with the ACTU in 1979, and CAGEO followed suit in 1981. ACTU rules for affiliation of national unions required that they affiliate also with at least one of its state branches. Virtually all of the previously unaffiliated ACSPA and CAGEO unions joined the Labor Council of NSW first, and in some cases, only that state branch of the ACTU.

By 1983, two years after the ACTU's absorption of ACSPA and CAGEO, the proportion of unionists in unions affiliated to the ACTU and Labor Council of NSW in their separate jurisdictions was 89 and 96 per cent respectively. The NSW Labor Council figure was 5 per cent higher than for the Victorian Trades Hall Council, and much higher than for other state labour councils. (The Western Australian Trades and Labour Council enjoyed the third highest affiliated membership, with 74 per cent). By 1989, when the number of Labor Council affiliates reached an all-time record of 132, even though the total number of unions declined as a result of amalgamations, there was no union of any significance that remained unaffiliated to the Labor Council, in contrast to other state labour councils. Most significantly, the proportion of unionists in organisations affiliated to the ACTU was also lower in other states. This suggests that the Labor Council of NSW has actually boosted the level of ACTU affiliated membership since the early 1980s.
Recent disaffiliations from both peak councils are too recent to suggest any significant trends. The secession of the TWU from the ACTU, whilst remaining affiliated to the Labor Council, and the secession of the Australian Manufacturing Workers Union (formerly the Metalworkers) from the Labor Council, whilst remaining affiliated to the ACTU, appear to be isolated events. In any case, the respective gains and losses are even.

INDUSTRIAL ROLE

The long term numerical strength and representativeness of the Labor Council has assisted it in developing a significant industrial role in the state, which has usually surpassed that of the ACTU at a national level. Historically, the ACTU has played a very limited role in control of strikes, or intervention in their settlement. Despite the post Second World War growth in intervention by the ACTU in some key national industries, it was not until the era of the Hawke presidency that the ACTU began to regularly intervene in industrial disputes. Since then, this role has been confirmed and even expanded by the special circumstances of wage indexation and the Accord.

The Labor Council, in contrast, has frequently been in a position to exert a high degree of control over disputes, and been willing to do so, with peaks of control in the 1880s and early 1890s, during the special circumstances of the First and Second World Wars, and from the 1940s through to the mid-1960s.36 For most of this century the Labor Council has preferred to avoid industrial action where possible, particularly when it is likely to electorally damage the Labor Party, but even during the period of the ascendancy of the right in the Council's leadership, after the Second World War, this did not necessarily mean a total rejection of the strike weapon. The Council was willing to co-ordinate industrial campaigns on a number of occasions, such as for eight
hours in the 1870s, 1970s and 1980s. Nor did the Council's officers necessarily exert control over industrial action from the centre; the Building Trades Group of Council traditionally managed its own affairs in a relatively autonomous manner, even though it usually included some militant unions, because it was generally self-reliant, rarely embroiled other unions in its troubles, and usually applied the strike weapon judiciously.37

The reason that the Labor Council could function with a relatively high degree of control over disputes, notwithstanding a constitution which, like the ACTU's, gave it limited formal authority in this area, was that affiliates were willing to acknowledge Council authority in this way. ACTU intervention in disputes, such as it has been, has also relied on this informal concession of authority by affiliates. However, the degree of this concession seems to have been greater over time with the Labor Council, which has also been willing to more forcefully exert its authority in those peak periods described above than the ACTU has generally been able to do.

Historically, even if the ACTU did intervene in a dispute, it usually did so through one of its state branches, i.e. the labour councils, because they were their agents 'on the ground'. Limited staff and resources, together with the 'tyranny of distance' if a dispute occurred outside Victoria, placed great restrictions upon the ability of the Melbourne-based ACTU to intervene in many disputes until well after the Second World War. Even with modern improvements in transport and communications since then, and with more recent improvements in the staff resources of the ACTU, it is not equipped for regular intervention in a wide range of disputes beyond those of special national significance. It still must function largely through the labour councils because these state branches are usually closer to the parties involved. This role is underwritten in legislation for the Labor Council of NSW, in a way which federal legislation does not provide for the
ACTU. An amendment to the state Industrial Arbitration Act in 1981 gave the Labor Council the right to appear in all disputes before the Industrial Commission, and this clause was retained in the new Industrial Relations Act of 1991.38

The importance of the NSW industrial system within a dual system of arbitration in the Australian federal framework also fostered an important industrial role for the Labor Council. A significant majority of NSW workers have always been covered by state awards. The NSW arbitration system was the first to become effective in Australia, and it arguably remained more important than the federal system for many years for NSW workers, even after the 1907 Harvester judgment which created the basic wage system. NSW established its own basic wage system in 1914, before the federal system covered many workers at all, and the NSW basic wage continued after the abolition of the federal basic wage system in 1967. The Labor Council has enjoyed a major role in submission of general wage cases and some other test cases before the state Industrial Commission, in much the same way as the ACTU has before the federal tribunal. Automatic quarterly cost of living adjustments to the state basic wage (as with its federal counterpart) reduced this role somewhat from 1920-64, but it is noteworthy that this role was enhanced from 1964-74 because of the coincidence of the abolition of automatic quarterly cost of living adjustments and the continuation of the basic wage at the NSW level.

This role continued even as the system became more centralised from the mid-1970s. When the federal commission adopted its wage indexation guidelines in 1975, the state commission did also, but it did vary federal decisions slightly, and wage increases were not automatic. After the abandonment of wage indexation in 1981, the Labor Council continued to present a state wage case, even after 1983, when the federal commission, followed by its state counterparts, adopted a new
centralised system based upon the Accord. In the past, and still even in recent times, it has been responsible for a small number of test cases which have pioneered union gains through the federal and other state systems. The most recent example was the case which extended family leave entitlements to gay couples.

RESOURCES

The Labor Council of NSW has always had a greater level of resources than the ACTU. The Council had a full-time secretary from the beginning of the 20th century, and a full-time assistant secretary in 1938, five years before the ACTU’s first full-time secretary. The ACTU’s second full-time officer, its president, was not appointed until 1949. Further extensions to the ACTU’s specialist staff did not occur until 1967, with three additions, followed by a further three over the next four years. By the early 1970s however, the NSW Labor Council had also embarked on a significant expansion in its own specialist staff, which grew from three to thirteen to 1983. This staff continued to grow during the 1980s, but in that decade the ACTU’s staff also expanded rapidly. By 1996 the ACTU staff of 38 was slightly more than twice that of the Labor Council. This ratio corresponded with the respective affiliated memberships of both organisations.

The considerable growth in ACTU and Labor Council staff of the 1980s and 1990s was partly due to the growth in income generated by a higher level of affiliations and of per capita fees paid by affiliates. It was also dependent upon Labor government support for specific programs, particularly in the case of the ACTU, since the Labor Council lived with a non-sympathetic Liberal/National State government from 1988 to 1994. However, as the Labor Council discovered in that period, resources dependent upon political largesse are unreliable, and its number of officers actually declined for a period under non-Labor rule. To
the extent that ACTU staff resources depend upon the continuation of a federal Labor government, they indicate a potential weakness.

The greatest resource advantage, however, which is enjoyed by the Labor Council of NSW is a result of historical accident; namely the 1925 decision to establish the first labour radio station in the world, 2KY. Through its generation of advertising revenue this investment has always given the Labor Council a level of financial security independent of its income from affiliation fees. The income from 2KY grew dramatically as a result of secretary Barrie Unsworth's securing of the TAB contract to broadcast races. By the early 1990s this income alone was worth $2 million to the Council, funding many of its expanded activities.42

POLITICAL ROLE

However, the single most important factor which has shaped the significance of the Labor Council has been its special relationship with the state branch of the Australian Labor Party (ALP), which has enjoyed more electoral success than any other branch of the Party. The Labor Council formed the Labor Party in 1891, and in that same year the Party achieved the balance of parliamentary power in the first election that it contested. Although there is some debate as to which state branch of the Party was formed first - NSW, Queensland or South Australia - the NSW Party clearly achieved the first significant parliamentary presence. In 1910 the NSW branch formed the first full majority state ALP government, in the same year that it achieved this success at the national level for the first time, relying on NSW seats to a significant extent. Since 1910 the ALP in NSW has been in government for 47 of 85 years, or 55 per cent of the time, including an unbroken quarter of a century of office from 1941 to
1965. Although the Labor Council lost direct control of the ALP at an early stage in the 1890s, it has maintained a close relationship with the ALP's NSW branch. Since the early 1900s a high proportion of the Labor Council's affiliates have been affiliated to the ALP, with union delegates usually accounting for 60 per cent of the total at state ALP conferences. Through the support that it could muster at conferences, the Labor Council has consistently enjoyed representation on the Party executive and a significant influence on Party policy, especially regarding industrial matters. From the 1940s the major mechanism for this influence was the ALP's industrial committee, which essentially prepared the ALP's legislative agendas. Labor Council officers traditionally dominated this committee, to such an extent in the 1950s and 1960s that newspaper reporters often failed to distinguish between it and the Council's executive.43

This situation has provided the Labor Council with tremendous opportunities to influence industrial legislation, since under the federal constitution most industrial powers have resided with the states, rather than the Commonwealth. Improvements in industrial conditions through legislation, therefore, have been usually instigated by state ALP governments. The electoral success of the NSW branch of the ALP has given it the greatest opportunities in this way, opportunities which NSW governments of the ALP have usually grasped, under the influence of the Labor Council.

The best example of how this has worked to the benefit of all Australian workers has been with the general reduction in working hours. The first workers to achieve the 48 hour working week (or 8 hour day, six days per week) were building tradesmen in Melbourne and Sydney in the 1850s, as a result of union action.44 Subsequently, the first extension of this 'boon' was to metal tradesmen in Sydney in the 1870s, as a result of an industrial campaign organised by the Labor Council.45 For the
next fifteen years the Council and individual unions attempted by
industrial action to extend the eight hour day to a number of
other trades, but with limited or temporary success, because few
other unions wielded the strategic bargaining power of the
building and metal tradesmen. From an early stage, therefore,
the Council sought to overcome these weaknesses with general
legislation through the Labor Party. The first general legislative
reduction, to a 44 hour week, was introduced by the Storey ALP
government in 1920. The gain was initially shortlived, because of
repeal by a Nationalist government, and after its reintroduction
by the Lang ALP government in 1925 it was repealed again. Lang
permanently restored the 44 hour week in 1930. In 1947 the 40
hour week was also first introduced by an ALP government in
NSW (followed soon afterwards by the Queensland ALP
government). In both cases the state legislation provided an
important base from which the ACTU was able to generalise
reduced hours through the Commonwealth Arbitration Court (as
it then was), with the NSW government intervening in that Court's
proceedings on behalf of the unions.

Although further reductions in working hours in the 1970s and
1980s occurred on an industry or occupational, rather than
general basis, the NSW Labor Council provided the main
leadership, in the public and private sectors. In 1957 the ACTU
Congress adopted the 35 hour week as its policy, targeting the
coal and power generation industries as the best points at which
to start. The first breakthrough for reduced hours came when the
state Labor government granted a 37 and a half hour week to
NSW miners, as a result of Labor Council and mining unions' pressure. However, after the failure of a 35 hour claim before the
Coal Industry Tribunal in 1960, little was done to implement the
35 hours policy for some years, despite its consistent
reaffirmation at subsequent Congresses. Again, in 1965 the
ACTU reaffirmed its policy as a matter of priority, but with little
more impact than before. However, it was significant in 1965 that the ACTU Congress ceded titular, as well as effective, leadership of the campaign to its state branches, with particular reference to the Labor Council of NSW. The main focus from 1969 became the NSW Electricity Commission, where the Labor Council led a campaign involving negotiations, Industrial Commission hearings and industrial action for the next ten years. Finally, in 1979 a 38 hour week was achieved. From 1980-7 this gain spread throughout the NSW public sector, on an individual departmental or authority basis, as the result of negotiations led by the Labor Council. Most NSW public servants had reduced working hours by 1985.

A major momentum for generalisation of the 38 hour week occurred as a result of these breakthroughs in the NSW public sector, arising out of Labor Council pressure on the then state ALP government. In the private sector the wharf labourers and coal miners had gained 35 hours in 1970-1 by collective bargaining, with the assistance of the ACTU. But their cases were exceptional and by their nature did not flow on to other industries. Sporadic action in the oil industry at this time, coordinated by the ACTU, failed to gain reduced hours. However, soon after the breakthrough in the Electricity Commission, the Labor Council’s intervention during strike action in the brewing industry achieved a 35 hour week as part of a package involving technological change. At that point the Metal Workers’ Union instigated a concerted campaign for the 35 hour week on a plant-by-plant basis, initially with the participation of all unions in the Metal Trades Federation, and with the support of the ACTU. However, after the federal Arbitration Commission threatened to withhold wage increases under the wage indexation system then operating, the ACTU and a number of metal unions withdrew from the campaign for a time. Nevertheless, the Metal Workers persisted, achieving reductions on a plant-by-plant basis,
especially after the collapse of wage indexation in 1981. From 1981 the Labor Council regained leadership of the general reduced hours campaign, organising stopwork rallies, and coordinating or leading the negotiations in a number of significant cases, including CSR chemicals (36-hour week), Hunter Valley construction sites, and ship building and repair. The public and private sector campaigns of the Labor Council and the Metal Workers' Union were able to feed off each other for the remainder of the 1980s, usually under the jurisdiction of the federal Arbitration Commission, which adopted a 38 hour week standard, based on productivity trade-offs on an industry or plant basis. Indeed, by 1983 a majority of the workforce already enjoyed the 38 hour week.49

The Labor Council also led the way in the continual extension of annual leave for Australian workers, through a similar process to that which had gained the earlier (pre-38 hours) reductions in working hours. In 1944 the ALP government of NSW legislated to extend annual leave for workers under state awards from one to two weeks, and in December 1945 this flowed on to pace-setting printers and metal workers under federal awards, from whence it eventually spread further when the Commonwealth Arbitration Court adopted this as a general standard. The state government then legislated for three weeks annual leave in 1958, and the Commonwealth Commission (as the Court had become) extended the NSW gain to federal awards in 1963. Following this, the NSW Labor government granted four weeks annual leave to state employees in 1964, only four years after the Labor Council had originally endorsed this demand, but only three years after the Commonwealth Arbitration Commission had originally rejected three weeks leave, and ten years before four weeks annual leave was generalised throughout the rest of Australia by other ALP governments and finally, by the Commonwealth Arbitration Commission.50
NSW Labor governments, prodded on by the Labor Council, initiated industrial reforms in a number of other areas. Long service leave was first introduced in NSW by legislation in 1951 and 1955. After further improvements in 1963, the Commonwealth Arbitration Commission granted long service leave in federal awards, again after intervention by the NSW Labor government in support of an ACTU submission.\textsuperscript{51}

The issue of equal pay motivated the Labor Council at an early stage, well before the ACTU became involved in this campaign. As early as 1924 the Labor Council resolved support for a uniform basic wage for men and women. Four years later it placed an organiser at the disposal of the Militant Women’s Group to assist it in organising women workers and campaigning for equal pay for equal work.\textsuperscript{52} In 1937 Council affiliates formed the Council of Action for Equal Pay, and it continued to lobby over the issue during the second world war. During the war the ACTU held a number of union conferences and began lobbying for equal pay, largely as a result of its affiliates fearing the permanent displacement of male members by cheaper female workers who maintained industrial output during the absence of the men in the armed forces.\textsuperscript{53} After the war, the issue subsided for a time as troops returned to displace women from the wartime factories, and the unions engaged in long campaigns for basic wage and margins increases and reduced working hours.

It was the Labor Council which revived the equal pay campaign from 1949. In 1950 it successfully persuaded the state government to legislate to equalise the state female basic wage with the higher federal version, which had been increased to 75 per cent of the male basic wage. For a time thereafter, the Labor Council was more concerned with a major margins case, but from 1956, it revived the equal pay campaign. In 1957 the Labor Council called on the ACTU to organise a national conference and lobby government over the issue.\textsuperscript{54} Its equal pay committee,
formed at this time, requested the ACTU 'in all future wage claims to incorporate the common basic wage irrespective of sex'. Largely as a result of Council lobbying, the NSW government in 1958 legislated again to prevent the Industrial Commission from absorbing margins into the higher female basic wage, and required the Commission to provide equal pay for work 'of a like nature and of equal value' in the marginal or secondary portion of women's wages. A year later the female basic wage was increased to 80 per cent of the male rate, and thereafter, was to be increased by 5 per cent per annum, until equal to males in 1963. However, equal pay was not applicable to predominantly female work, where most women worked. Pressure mounted for full equal pay in the early 1960s, particularly from the Teachers' Federation. Yet, NSW took a backwards step in 1964, when it equalised the state basic wage with the federal version, which then involved a downwards movement for the female basic wage. By 1969 only about 14 per cent of those women under state awards had gained equal pay. Although this was a somewhat higher proportion than in Australia as a whole, it represented a failure on the part of the Labor Council and the state government. By the end of the 1960s the main focus for achieving equal pay was at the federal level.

In all of these areas, the NSW labour movement, led by the Labor Council, became the pacesetter for industrial gains for the rest of Australia. Apart from the limited successes in the area of equal pay, these gains were some of the greatest on the industrial front in the history of the labour movement, and in many respects NSW labour led the world in its industrial achievements.

RELATIVE AUTONOMY OF THE LABOR COUNCIL OF NSW

Because of its size, high level of resources, and the dual nature of the federal structure of industrial relations in Australia, the Labor
Council has also operated with a high degree of autonomy from the ACTU in practice. It is inconceivable that it would follow the recent example of the Queensland Trades and labor Council in adopting the title of 'Queensland Branch of the ACTU'. The 'tyranny of distance' contributed to NSW autonomy in early times, of course. The location of the ACTU in Melbourne has allowed the NSW Labor Council a larger degree of autonomy than if it had been in Sydney, and its proximity to the ACTU may have retarded the development of a stronger Victorian Trades Hall Council. But in itself this is insufficient explanation, for other state labour councils even more distant from Melbourne did not develop the same degree of autonomy. The continuation of the Labor Council's autonomy since the improvements in modern transport and communications, indicate more complex trends. With the institutional concentration of the national offices of many unions, together with the federal industrial commission and the major national peak employer councils all based in Melbourne, a partial institutional vacuum was left at the state level of union leadership to be filled by labour councils. The NSW Labor Council had the critical mass in terms of affiliated membership, and the institutional framework through the NSW arbitration system, to develop a virtually rival centre of union power and leadership. Underlying all of this, it appears that the ambiguous relationship between the two bodies encompasses a degree of Sydney-Melbourne rivalry, which permeates so many institutional relationships in Australia.

Ideology and factional loyalties often provided a broader motivation for autonomy than merely state loyalties. In the 1920s and for much of the 1930s the Labor Council was under the radical and militant leadership of 'Jock' Garden and his associates, whereas the ACTU was dominated by more conservative national and Melbourne-based unions.59 Conversely, by the 1970s a right-wing Labor Council leadership faced a
centre-left domination of the ACTU.  

Under all of these circumstances, the NSW Labor Council has never achieved dominance of the ACTU leadership, nor even provided a president or secretary. The only break in recruitment for these positions from Melbourne-based union officials occurred when Cliff Dolan was president from 1981-5, and although he had been a Labor Council delegate years before, he had long since ceased to play an active role on the Labor Council. Indeed, for most of the period from the late 1960s to the early 1990s, it is notable that the senior labour council secretary in the country did not hold the senior vice-presidency of the ACTU. On the other hand, the importance of the Labor Council meant that the ACTU could not fail to consult with its leadership before taking major decisions. The attraction of this situation for the Labor Council was that, since its officers were not bound by decisions reached by the ACTU's inner circle of leadership, of which it was generally not part, its ability to operate independently was accordingly increased.

**PRESENT AND FUTURE**

The argument for the future significance of the NSW Labor Council must by its nature be more speculative than the historical record. There has been a continuous trend for the enhancement of the status and authority of the ACTU since the time of the Hawke presidency, with a significant intensification of this process from the time of the Prices and Incomes Accord in 1983, and its various new versions. Much of this enhancement of the ACTU's status and authority has been on an informal basis. But there is no doubt that its affiliates, which represent virtually all unions in the country, employers, government and the Australian Industrial Relations Commission (as it became in 1988) have ceded this authority in the last twelve years.
Since 1988 there has also been an unmistakable shift in the balance of industrial powers from the state to the federal sphere, which will tend to reduce the importance of state government industrial legislation. This has been based on more expansive High Court interpretations of the Commonwealth corporations and external affairs powers under the constitution, which have allowed the federal government to intervene more directly in industrial matters, over, for example, unfair dismissals and minimum standards for enterprise bargaining. This, together with the longest period of federal ALP government in Australian history, means that the ACTU has come to wield the type of influence at a national level that the Labor Council has long wielded at state level with ALP governments. Indeed, given the precedence that federal industrial legislation now appears to take over state legislation, the ACTU might be seen by some as supplanting the Labor Council's role.

Nevertheless, a number of current trends in Australian industrial relations suggest that the foundations for the ACTU's enhanced industrial status may only be of a temporary nature. Politically, the ACTU will always have an important role of consultation with government, particularly Labor governments. However, the specially influential role which it now enjoys will inevitably be diminished greatly when the ALP eventually suffers electoral defeat at the national level. At the same time, the Labor Council's role of influence in government has just been rejuvenated with the return of an ALP government in NSW. One aspect of the shift of influence to the national level had been the absence of ALP government in NSW over the past eight years. The ACTU and federal ALP have a long way to go before they can equal the long term relationship between the NSW Labor Council and ALP, and its consequent impact on government.

Nor is the shift of the balance of legislative power in industrial matters to the federal sphere as total or as settled as some
commentators have suggested. The corporations power under the constitution is subject to various limitations which limit federal jurisdiction to corporations, interstate trade or commerce, Commonwealth Territories, or parties to contracts with the Commonwealth or its agents. The main impact of these limitations would be to remove much of small business from federal jurisdiction. Furthermore, in the application of ILO conventions under its external affairs powers, the federal government may be principally involved with establishing minimum, rather than absolute, standards. If this is the case, state legislation would need to equal the federal provisions, but may improve upon it. There are clear indications that the current federal and NSW governments interpret the situation in this way, but it is too early to ascertain how permanent this interpretation is, especially without being able to predict the impact of a change of government.

More substantially, the widespread change in the structure and operation of Australian unionism, much of which has actually been instigated by the ACTU, is likely to diminish its direct industrial role. The decentralisation of the industrial relations system and the encouragement of enterprise level bargaining have removed the most important industrial role historically performed by the ACTU: namely, the presentation of union submissions for national wage cases. There does not appear to be a major role to replace this. True, the ACTU remains important in managing industrial campaigns and settling disputes in some key industries, and to some extent it has attempted to co-ordinate enterprise bargaining. But its ability to perform this co-ordinating role is limited at the national level, especially given the relatively limited resources available to the ACTU for this purpose. To the extent that the ACTU does co-ordinate industrial activity it relies heavily on its state branches, the labour councils. The NSW Council itself has a substantial portfolio of
significant industries and firms for which it co-ordinates bargaining. It is a role which has emerged strongly for the Labor Council since the late 1970s, when it attempted to standardise the terms of a relatively large number of redundancy agreements negotiated at the time. Recent successes of the South Coast Labour Council in NSW in negotiating agreements to govern major new construction projects, also indicates the potential for provincial labour councils in this area. Labour councils at the state or provincial level have the advantage over the ACTU of being closer to their constituents and 'the coalface', of having longer experience at this level, and in the case of the state bodies at least, of having greater resources at this level.

The ACTU's strategy for the creation of 20 large super unions, which is proceeding apace, also has negative implications for the future industrial role of the ACTU. Insofar as this policy achieves success in concentrating union resource bases to facilitate effective enterprise bargaining, the new super unions will be far more self-reliant and less likely to rely upon co-ordination by the ACTU. The recent unprecedented disaffiliation from the ACTU by the TWU may be an indication of what the future holds in this regard, although the disaffiliation of the AMWU from both the NSW and South Coast labour councils indicates that peak bodies could suffer at that level as well. Although it is too early to predict with any certainty, the historical record would suggest that both levels of disaffiliation are temporary. More importantly in the long term, it is by no means clear that all of the super unions will survive in their current form. Many recent amalgamations are entirely impractical political marriages of convenience, with little industrial rationale. In some cases the amalgamated bodies continue to operate effectively as separate unions, to the extent of opposing each other in tribunals in at least one case. Since the Industrial Relations Reform Act 1993 has reduced the minimum size of federally registered unions to 100
members, from the 1990 minimum of 10,000, which was intended
to encourage union amalgamations, it will be possible for new
smaller unions covering unorganised marginal groups (such as artists) to become registered. Something like this may be
necessary to arrest the decline of union membership which has
characterised the period of super unionism - larger unions
covering fewer workers - which are not perceived as relevant to
their needs by workers because of their bureaucratic modus operandi and a weak workplace or service-oriented presence. It is
extremely significant in this regard that the Labor Council of
NSW has been the foremost, virtually lone, critic of the ACTU's amalgamation policy.

CONCLUSIONS

If there is any serious challenge to the current trends in
restructuring, therefore, they will be based in the senior Labor
Council in this country, in NSW. Unlike other state bodies, the
Labor Council has the will to maintain an independent industrial
role which will be at least as important as that of the ACTU. This
is based on its historical achievements and expectations based
upon them, its stable relationship with a state branch of the ALP
which remains far more successful electorally than any other, its
far greater resource base than any other peak body in Australia,
including the ACTU, and the willingness of its leadership to
develop alternative visions of the nature of unionism in the future.

Historically, the Labor Council of NSW has been the main
instigator of industrial reform in Australia, operating with a high
degree of autonomy from the ACTU. The circumstances which
have enabled it to play that role - the strength of unionism in
NSW, the importance of the NSW industrial relations system and
its part in it, its close relationship with frequent state Labor
governments, and the farsighted decision to establish its own
radio station - have all been important for the greater part of the 20th century, and continue to be so. In contrast, the special circumstances which have increased the significance of the ACTU in the past 20 years are too recent and unstable to say that it has displaced the Labor Council yet.

Notes


5 For example, O. Foenander, Studies in Australian Labour Law and Relations, Melbourne University Press, Melbourne, 1952, p. 94.


10 And accordingly, was called the Melbourne Trades Hall Committee until 1883. J. T. Sutcliffe, *A History of Trade Unionism in Australia*, Macmillan, Melbourne, (1921) 1967, pp. 63-4.


15 Labor Council of NSW Executive Minutes, 19 June, 1 July, 20 & 26 August, 21 October, 11 November 1902; General Meeting Minutes 19 June, 14, 21 & 28 August, 23 & 30 October, 6 November 1902. The others, variously titled, were held in 1907, 1913, and 1916.


17 Labor Council General Meeting Minutes, 5 & 19 February, 16 April, 18 June 1903; 8 June, 27 July 1911; Labor Council Executive Minutes, 3 February 1903; as well as references in previous two notes, and Sutcliffe, *History of Trade Unionism*, pp. 186-8, 249-52.

18 SMH, 26 & 28 May 1914; *Australian Worker*, July 1914; Sutcliffe, *History of Trade Unionism*, pp. 210-2.


22 Labor Council General Meeting Minutes 15 March, 6 December 1923, 3 January 1924; Labor Council Annual Report, 31 December 1923; Labor Daily, 1 August 1924; H. Boote, OBU—Why It Failed, Worker Print, Sydney, 1924. For the OBU generally, see Hagan, History of the ACTU, pp. 22-5, 37-9; Markey, In Case of Oppression, pp. 97-100, 195-7.


28 ibid. p. 200.

29 For details, see Markey, In Case of Oppression, pp. 17-18, 76-7, 189-90, 288-9, 401, 531-2.


31 Hagan, History of the ACTU, p. 255.


37 ibid., pp. 418-20.

38 ibid., p. 461.


50 Commonwealth Labour Report, 1973, no. 58, pp. 130-1; Markey, In Case of Oppression, pp. 384-5, 464-5, 512,


52 Labour Council General Meeting Minutes, 17 April 1924, 12 July, 13 September 1928.


61 Jim Kenny lost the senior vice-presidency in 1967. His successor as Council secretary for 1967-74, Ralph Marsh, was only junior vice-president from 1969-71, when he lost that position before regaining it for 1973-5. John Ducker, who succeeded Marsh as Council secretary for 1975-9, was only junior vice-president from 1977-79. In the 1980s Barrie Unsworth (Council secretary 1979-83) did not seek election to an officer's position; nor did Michael Easson from 1989 until 1994, when he briefly held a junior vice-


64 As was acknowledged by G. Griffin, 'The Authority of the ACTU', in R. Callus and M. Schumacher (eds.), *Current Research in Industrial Relations. Proceedings of the 8th AIRAANZ Conference*, Sydney, February 1994, pp. 611-35.

65 For example, the federal Minister for Industrial Relations, Laurie Brereton, in SMH, 22 June 1995.


68 Involving the construction and mining divisions of the Construction, Mining, Forestry and Energy Union.


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