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## Back to the Future: A Comparison of the Maritime Disputes of 1890 and 1998

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# Back to the Future: A Comparison of the Maritime Disputes of 1890 and 1998

## **Abstract**

Stuart Svenson<sup>1</sup> claims that the Maritime Strike of 1998 was history repeating itself in the way that it resembled the 1890 Maritime Strike. There are a number of points of comparison – who was involved, what the issue was at stake, the economic context – but it is the contrasts which are the most important when examining the two strikes. The major point of contrast was the legal context within which the unions were operating. In 1890 there was no formal recognition of trade unions – this did not come until after the strike – whilst in 1998, the recognition, and associated ‘power’, that had subsequently been achieved was considerably diminished by the newly elected conservative government’s Workplace Relations Act 1996.

Back To The Future:  
A comparison of the Maritime  
Disputes of 1890 and 1998

*Jo Kowalczyk*

“Well, when I look out the window in the 1990s  
the industrial relations scene looks just the same  
as in the 1890s to me”

*(Dr B Ellem, University of Sydney  
at National Labour History Conference,  
Perth, October 1997)*

Stuart Svenson<sup>1</sup> claims that the Maritime Strike of 1998 was history repeating itself in the way that it resembled the 1890 Maritime Strike. There are a number of points of comparison – who was involved, what the issue was at stake, the economic context – but it is the contrasts which are the most important when examining the two strikes. The major point of contrast was the legal context within which the unions were operating. In 1890 there was no formal recognition of trade unions – this did not come until after the strike – whilst in 1998, the recognition, and associated ‘power’, that had subsequently been achieved was considerably diminished by the newly elected conservative government’s *Workplace Relations Act 1996*.

The period 1860-90 has been described as the ‘long boom’, a time when the positive effects of the gold discoveries spread throughout the economy.<sup>2</sup> The economic prosperity enabled union expansion and, as a result of stronger and more efficient unions, an improvement in wages and conditions.<sup>3</sup> The 1890s saw the collapse of the land boom, a dramatic fall in the value of Australia’s exports and a withdrawal of overseas investments. As a result the economy went into depression and unemployment reached unprecedented high levels.<sup>4</sup> In response to the worsening economic conditions, employers sought to reorganise production and reduce the cost of wages thus bringing them into conflict with pastoral, mining and transport sectors and triggering a wave

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of strikes throughout the decade commencing with the Maritime Strike in 1890.<sup>5</sup>

We can draw parallels with these conditions and the economic context in which the 1998 Maritime Strike operated. Overall the preliminary factors were the same – high unemployment, economic downturn and the aim of the employers to achieve productivity and efficiency gains – the main difference was that for the first time since the 1930s Great Depression, union membership had fallen to only one-third of the workforce.<sup>6</sup> Griffith and Svensen<sup>7</sup> argue that the employer, Patrick Stevedores, had the objectives of decreasing costs, increasing profits and increasing the company's value by replacing its union labour force with 'cheaper and more compliant labour'. These objectives Griffin and Svensen<sup>8</sup> claim, were aided by the Conservative Howard government's objectives of introducing individual working arrangements – in this case called Australian Workplace Agreements (AWAs) – and to encourage the use of these AWAs throughout the entire workforce. In both years, 1890 and 1998, the waterfront was considered the strategic area in which reforms could be initiated that would reverberate throughout the labour market. In both instances conservative governments sided with the employers, aiding them in attaining their goals. In 1890, just prior to the onset of the depression, the employers strengthened their position by forming a number of employer associations. When the Maritime Strike broke, the employers were more organised than the unions.<sup>9</sup> In comparison, in terms of organisation prior to the dispute, in 1998 there is some evidence, including through government documents, that the coalition government, under Prime Minister John Howard, was instrumental in the planning stages of the events that occurred and so took a proactive role in the dispute.<sup>10</sup> A memorandum by departmental officers in March 1997 outlined ways in which employees could be terminated for breaches of the Workplace Relations Act in the form of illegal strike action:

... stevedores would need to activate well-prepared strategies to dismiss their workforce and replace them with another quickly ... a dispute would not, of itself, remove or alter MUA coverage, remove or suspend registration, or cancel the award or terminate any agreement ... What would be needed for the MUA's influence on the waterfront to be significantly weakened would be for a range of affected service users and providers to take decisive action to protect or advance their interests.<sup>11</sup>

The 1890 Maritime Strike which began in August, arose when marine officers walked off their ships after the refusal by the

shipowners to negotiate rates of pay and conditions while the Mercantile Marine Officers' Association remained affiliated to the Melbourne Trades Hall Council.<sup>12</sup> A letter from a member of the Steamship Owners of Australasia to the Secretary of the Mercantile Marine Officers' Association, outlines the employers' concerns with the affiliation:

We do not object to any labor union or the Trades Hall Council *per se*, but we say that our officers are in a confidential and responsible position, together with the captain, as representing the owners interests. This being so, they should not associate themselves with any labor union which may be used tyrannically to force the owners, captains or officers to comply with any demands they deem it necessary to make.<sup>13</sup>

At the same time, shearers in NSW were in dispute over non-union shorn wool and subsequently the president of the Shearers Union met with representatives of maritime unions where a decision was reached that NSW maritime unions would boycott the wool.<sup>14</sup> When the Marine Officers walked off their ships, the promise of cross union support was honoured and the issue of non-union wool served to fuel the flames of the dispute. Within days seamen, wharf labourers and coal lumpers were on strike in support of the Marine Officers or against the non-union wool.<sup>15</sup>

In 1998 the dispute was 'announced' by Peter Reith, Minister for Workplace Relations and Small Business, in parliament on the night of April 7<sup>th</sup>. Moments after his speech, where he revealed that Patrick Stevedoring would be replacing its 1400 permanent and 600 casual staff with non-union members and that the government was intending to cover the redundancy and superannuation costs, workers, who had been transferred to labour hire companies without their knowledge, companies now claiming no assets, were ousted from the wharves by balaclava-clad security guards and replaced by scabs from other labour hire companies, including a company that had been formed by the National Framers Federation (NFF). The NFF had been leasing dock space from Patrick to train replacements and had recruited non-unionists to be trained in Dubai (where unionism is outlawed) and to return to train others in the workplace. The collapse of the Dubai mission, and the implication of government involvement, led to the events of April 7/8.<sup>16</sup>

In both instances, the target of the employers was to destroy the closed shop, or the rights of workers to organise collectively<sup>17</sup> and both occasions involved lockouts albeit with differently levels of sophistication by the employers and conservative governments in terms of conception and execution. In 1890 it was 'freedom of

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contract' and whilst not directly related to the dispute, the president of the Master Bakers gave a definition, from assumedly the point of view of the employers, of the term which seems to reflect the thinking of the time:

1. They [the employers] shall have the right to discharge any man without being asked the reason for so discharging.
2. They shall have the right to bring a man in to their shop without being questioned whether he is a union or non-union man.
3. They shall have the right to employ whom they please.
4. They shall pay what they choose without being questioned on the matter by anybody.<sup>18</sup>

In 1998 the desire to break the waterfront monopoly held by the Maritime Union of Australia (MUA), was a reason cited by John Sharp – Minister for Transport and initially responsible for the government's waterfront reform – for entering politics.<sup>19</sup> On the 9<sup>th</sup> of April Prime Minister John Howard appeared on the Channel 9 program "A Current Affair". When asked by the host, Ray Martin, "if it was about productivity then why sack waterfront workers in Adelaide and productive ports?", John Howard replied "Well, they are all part of one union".<sup>20</sup> There can be little doubt that the overriding objective in both 1890 and 1998 was to destroy the union movement and to begin this by breaking the MUA – the union considered to be the most militant and, by virtue of this, the strongest – in the hope that it would demoralise the rest of the union movement.

As the employers in 1890 fought back against the unions, primarily by recruiting non-union labour, more and more unions came out in sympathy with the strikers.<sup>21</sup> Whilst there was also recruitment of non-union labour in 1998 – most notably the Dubai recruits – this support, through sympathy strikes was illegal in 1998 under the terms of the Workplace Relations Act 1996 which, amongst other things, prohibited primary boycotts if they involved movement of goods overseas (obviously targeting the MUA) and restored secondary boycott provisions to the *Trade Practices Act* to hinder worker solidarity.<sup>22</sup> Whilst unions in 1890 had no legal recognition within the industrial relations framework of Australia, this recognition – as the legitimate bargaining agent for employees<sup>23</sup> – was part of the conciliation and arbitration system which arose out of a recommendation of the 1891 Royal Commission on Strikes<sup>24</sup>, and has been in operation for most of this century. This recognition was subsequently diminished by

the Workplace Relations Act which curtails union power considerably.<sup>25</sup>

Despite the legal limitations, the support in 1998 was considerable – both from other unions and from the general community. Initially the Howard Government's anti-MUA campaign gained support in the general public. The campaign, which contained allegations that not only was the union responsible for the inefficiencies and low productivity levels but that wharf labourers were also earning up to \$90 000 a year, served to outrage many Australians.<sup>26</sup> But Bramble<sup>27</sup> argues that it was the sight that greeted many Australians on the morning of April 8<sup>th</sup> 1998 of balaclava wearing security guards with rottweilers ousting MUA members from ports which changed peoples' minds and saw the swing of community support away from the government and towards the workers. Within the context of support and solidarity, we see a huge contrast between the two strikes – the 1890 Maritime Strike would more correctly be called a general strike, while in 1998, in spite of the desire of many unions to go on strike, the constraints of the *Workplace Relations Act* made a general strike virtually impossible.

Community support was also evident during 1890 when the Marine Officers remained on strike whilst the shipowners refused to accede to a conference. Churchward<sup>28</sup> claims that the Sydney and Melbourne Labour Defence Committees, which were formed to organise the strike, were able to, in the twelve weeks of the strike, raise 72 000 pounds from both unions and the general community. One of the most notable of these supporters was Chief Justice Higinbotham who wrote the following letter:

The Chief Justice presents his compliments to the President of the Trades Hall Council and requests that he will be so good as to place the amount of the enclosed cheque of \$50 to the credit of the strike fund. While the United Trades are awaiting compliance with their reasonable requests for a conference with the employers, the Chief Justice will continue for the present to forward a weekly contribution of \$10 to the same object.<sup>29</sup>

The Maritime Strike of 1890 lasted for twelve weeks and involved at least 50 000 workers. One of the main stumbling blocks was the employers refusal to meet with the unions. When 16 000 shearers in NSW, in a show of support, ceased work on the 24<sup>th</sup> of September the employers agreed to a conference if the shearers returned to work. The shearers returned but there was no conference. To add insult to injury the shearers were prosecuted under the Master and Servants Act, fined and had

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their wages forfeited.<sup>30</sup> Gollan claims that

seven weeks after the outbreak of the strike the shipowners refused offers of mediation on the grounds that there was no need to confer with the unions since all of their ships were running with non-union labour.<sup>31</sup>

Unlike 1890, the 1998 picket lines of MUA members and members of the community including politicians, actors and sports people, were able to stop anything getting in or out of the ports and were thus in a much stronger bargaining position. This coordination at a national level was aided by the existence of a peak body namely the Australian Council of Trade Unions (ACTU).

The ACTU also played a major role in negotiations and the legal processes after the breakdown of a bargaining relationship between the MUA and Patricks. With the initial lockout at Webb Dock on the 28<sup>th</sup> of January 1998 (when the NFF recruits were to take over the dock and commence training of other non-union labour), the Government rejected the MUA's request to establish a tripartite body that would deal specifically with the regulation of wharf employment and Patrick refused the MUA request that the dispute be submitted to arbitration.<sup>32</sup> In contrast to the employers in 1890 who refused requests for a conference, on the 27<sup>th</sup> of May 1998 the company called for talks with the union and the ACTU, and in June the framework of an agreement was reached. The employees were to be transferred back to Patrick, enterprise agreements were to be negotiated and any outstanding matters to be referred to the Australian Industrial Relations Commission.

There has been much criticism of the MUA's and the ACTU's reliance on courts throughout the dispute.<sup>33</sup> Griffin and Svensen argue that the whittling away of the power of the Australian Industrial Relations Commission has resulted in the usage of a variety of state and federal courts and that the dispute heralds the move away from specialised tribunals towards the general courts.<sup>34</sup> What does this move mean for the Australian industrial relations landscape? Ron Callus, the Director of the Australian Centre for Industrial Relations Research and Training claims that: 'The waterfront dispute highlights that industrial relation disputes are better resolved in the tribunals rather than civil courts where the aim is to win rather than compromise.'<sup>35</sup>

In 1890, the employers were well placed to anticipate complete victory. Due to the depression and associated high levels of unemployment in 1890, employers faced no difficulty in finding workers to fill the strikers' places.<sup>36</sup> The surplus labour meant



that employers were also in a position to secure wage reductions and to reverse the conditions of employment that the union, stronger at this time than at any period which had gone before, had successfully improved.<sup>37</sup> Workers returned to work on the employers' terms. Non-union shearing sheds did not become unionised; ships continued to be manned by non-union labour; miners returned to work on pre-strike conditions; and the Marine Officers' remained unaffiliated to the Melbourne Trades Hall Council.<sup>38</sup> Sutcliffe argues the result was disastrous for the unions and funds were practically exhausted and this, plus the depression of the next few years led to a considerable decline in union membership.<sup>39</sup>

In contrast, the winners and the losers of the 1998 strike are not so clear cut,<sup>40</sup> although Griffin and Svensen claim that the obvious losers are the government, who were heavily implicated in the 'conspiracy'; and the NFF backed P&C Stevedores and their non-union recruits.<sup>41</sup> The eventual agreement made between the MUA and Patrick involved 626 voluntary redundancies and to the contracting out of about 40 security, cleaning and linemarking jobs and 160 maintenance jobs.<sup>42</sup> In terms of wages, the union has achieved its goal of higher base wages in return for overtime reductions. But most importantly, the waterfront remains unionised and covered by a collective agreement – "the union survived as a strong viable entity with a de facto closed shop at Patrick Stevedore".<sup>43</sup>

The company could count amongst its gains the redundancies it did not have to fund; changes to rostering and job control that should lead to improvements to productivity. Another gain was the agreement to cease all litigation by the MUA (and against the MUA). On the other hand, it is now faced with the prospect of having lost market share and having to regain it with a hostile workforce.<sup>44</sup>

While a number of authors have cited the Maritime Strike of 1890 as being the culminating factor in the unions' drive to organise for parliamentary representation and that the Royal Commission on Strikes recommended voluntary conciliation and arbitration which evolved into the compulsory system, it is not so easy to see what the long term outcomes of the 1998 dispute will be.

The dispute was the first real test of the government's *Workplace Relations Act* and the union's strong response would surely have surprised those ministers who had changed existing and introduced new legislation in an attempt to cripple the power of the unions. Are we destined to repeat history again and again or can we move on from here? One thing is for certain, the

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solidarity of the union can never be ignored and no amount of punitive legislation will stifle the spirits of the workers. Spence's words in 1890: 'The fact is that the leaders in the employer organisations were ignorant of the real strength of unionism, knew nothing of the spirit underlying it,'<sup>45</sup> were echoed in the words of Jennie George in 1998 when she said: 'I tell you Mr Howard, when you mount an attack on one of our family, you face the rest of our family. The truth about this dispute is not about productivity, it is about the politics of union bashing.'<sup>46</sup>

### Notes

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- 4 Scates, B. (1997) *A New Australia. Citizenship, radicalism and the First Republic*, Cambridge, p. 24
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- 7 Griffin, G., and Svensen, S., (1998) *Industrial Relations Implications of the Australian Waterside Dispute*, National Key Centre in Industrial Relations, Monash University, <<http://www-personal.buseco.monash.edu.au/~svensen/muaabl.html>>, p. 1.
- 8 *ibid.*
- 9 Ebbels, *op. cit.* p. 18.
- 10 See in particular Elias, D., (1998) 'War and Peace: Parts 1-4', *The Age*, 17 June, 1998, <<http://www.theage.com.au/daily/980617/news/news30.html>>
- 11 'Dock plot: how to kill a union', *The Australian Financial Review*, 16 December 1997.
- 12 Sutcliffe, J. (1967), *A History of Trade Unionism in Australia*, 2nd ed, Macmillan, p. 93.
- 13 Letter of James Huddart of the Steamship Owners of Australasia to CE Parkin, Secretary of the Mercantile Marine Officers' Association, *The Age*, cited in Ebbels, *op. cit.* p. 125.
- 14 Sutcliffe, *op. cit.* p. 94.
- 15 Merritt, J. (1986), *The Making of the AWU*, Oxford University Press, p. 163.
- 16 Svensen, *op. cit.* p. 1.
- 17 *ibid.*, p. 2.

- 18 Spence, W.G. (1909), *Australia's Awakening: thirty years in the life of an Australian agitator*, Worker, p. 112.
- 19 Elias *op. cit.* Part 1, p. 2.
- 20 ACTU Fact Statement for Union Members Re: Maritime Dispute, April 21, 1998. <<http://www.actu.asn.au/mua/resources/muafact1.htm>>, p. 3 (25/5/99).
- 21 Merritt, *op. cit.* p. 163.
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- 23 Svensen *op. cit.* p. 10.
- 24 Section XXIV of the Report of the Royal Commission on Strikes, 1891 cited in Ebbels, *op. cit.* p. 157.
- 25 Kingston, *op. cit.* p. 5.
- 26 See, amongst others, Elias, *op. cit.*
- 27 Bramble, *op. cit.* p5.
- 28 Churchward, *op. cit.* p. 19.
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- 32 Svensen and Griffin, *op. cit.* p. 6.
- 33 see in particular Bramble.
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- 35 Cited in O'Neill, S. (1998), *The Waterfront Dispute: from High Court to Settlement- Summary and Comment: Current Issues Brief 1 1998-99*, Economics, Commerce and Industrial Relations Group, <<http://www.aph.gov.au/library/pubs/cib/1998-99/99cib01.htm>> (16/6/99) p. 15.
- 36 Turner, *op. cit.* p. 45.
- 37 Ebbels, *op. cit.* p. 18.
- 38 Waters, *op. cit.* p. 104.
- 39 Sutcliffe, *op. cit.* p. 97.
- 40 See Svensen, Griffin and Svensen.
- 41 Griffin and Svensen, *op. cit.* p. 8.
- 42 *ibid.*
- 43 *ibid.* p. 9.
- 44 *ibid.*
- 45 Spence, *op. cit.* p. 96.
- 46 Quoted on the MUA homepage <<http://mua.tcp.net.au/Pages/war7.html>>, (25/5/99).