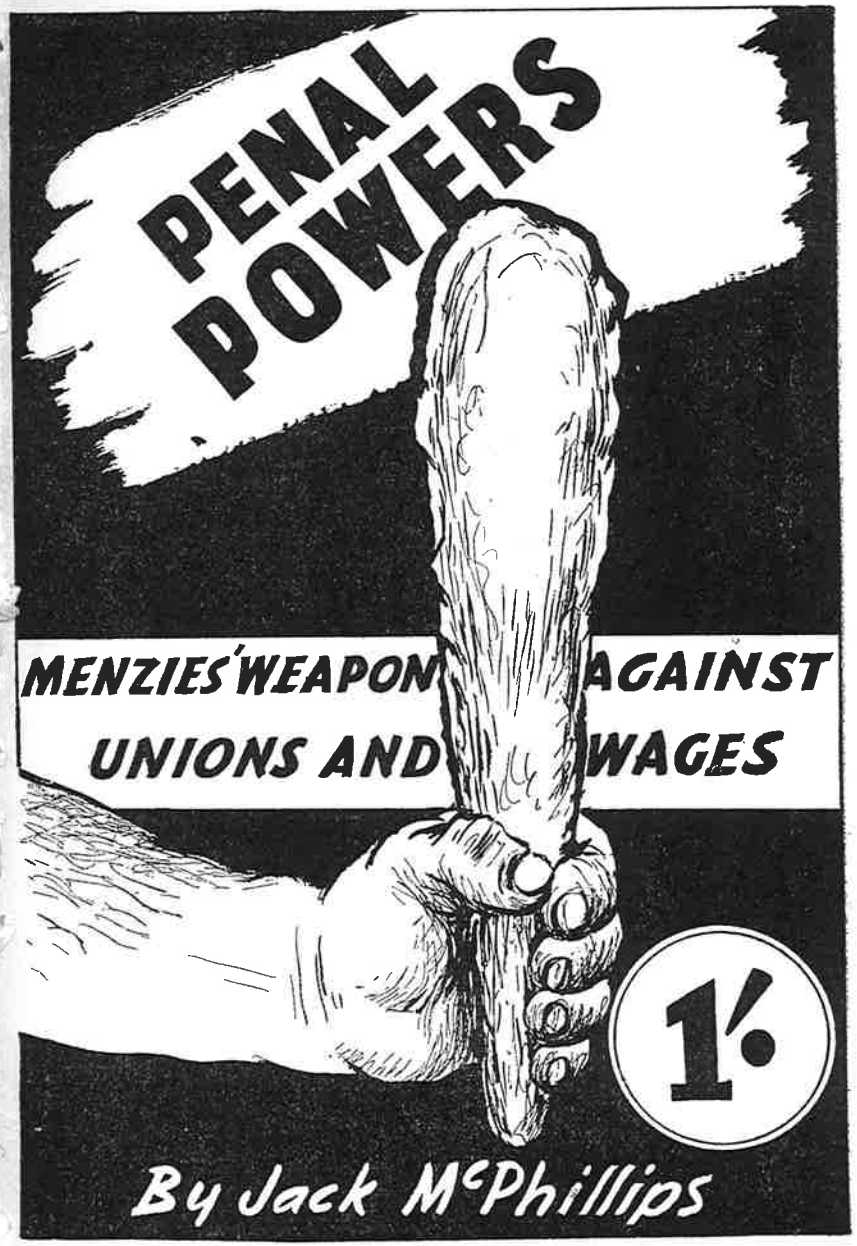
PENAL POWERS
MENZIES' WEAPON AGAINST UNIONS AND WAGES
1/-
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PENAL POWERS ABOLISH STRIKE "RIGHT"

On May 15, 1958, the Sydney newspaper "The Sun" reported the result of a Gallup Poll taken in Australia concerning the right to strike.

Although these "polls" invariably "write down" the results of questions asked on matters concerning the working class, this report showed 58% of those interviewed said Unions should have the right to strike. Seventy-five per cent of Labor voters and 48 per cent of anti-Labor voters favoured the right to strike. The percentage of people who believe the unions should have this right is almost certainly higher than the figures quoted.

This reflects a widely-held belief that the right to strike exists and is approved.

Facts however show that this right has been virtually abolished in Australia.

Perhaps the reader of these lines will say: "I never heard of any decision or Act of Parliament directed at abolishing the right to strike!"

No doubt. But abolition of the right to strike is the objective at which certain penal sections of Arbitration Acts are aimed and in their operation they have been almost as effective as any piece of legislation directed immediately at this purpose.

These penal provisions have not completely prevented strikes and other actions by workers in support of their demands.

But they have imposed severe penalties on Unions exercising the right to strike and by this means have placed a prohibitive price on the right to strike.

The result is that the legal right to strike is abolished and is replaced with a code making strikes and other forms of direct action an offence punishable by heavy fines and other penalties.

These penal provisions of Arbitration Acts do not stand in isolation and their full effects can be realised only when considered in conjunction with decisions of the Arbitration Tribunals covering wages and other matters dealt with by these tribunals.

The following points — by no means a thoroughly complete study — give some idea of the purpose and extent of the use of these penal powers.

STRIKE "RIGHT" ESSENTIAL

Amongst the lessons born of the actual, and often bitter, experience of the world trade union movement, is the fact, that in the final analysis united action by workers themselves is the

only effective means of defending their rights and improving their economic conditions.

This is a lesson born also of the experiences of the Australian trade union movement.

The system of compulsory Arbitration in Australia in no way lessens the need for this united action by workers.

In fact, experience shows that the existence of the Arbitration system renders such actions by the workers even more necessary.

These are the facts which caused the Congress of the Australian Council of Trade Unions in 1951 to carry a resolution stating:

"We declare that the Australian Trade Union movement must retain its right to strike in order to maintain and improve living standards and working conditions."

The 1951 Congress of the ACTU had good reason for this forthright declaration of the value of strike action.

During the previous six years the Australian workers had shown a willingness and ability to effectively use united action to protect themselves from attacks by employers and to back up their economic demands.

Immediately following the war and continuing up to the end of 1950 Australian workers took united and widespread actions of various forms in support of demands to improve living standards and to resist attacks from Governments and employers.

UNITED ACTIONS BRING SUCCESS

The biggest of these struggles included strikes of steel workers in Newcastle and Port Kembla (NSW), railway workers in West Australia, Meat Workers in Brisbane, Government transport workers in Victoria, Metal workers in Victoria and Railway workers in Queensland.

In addition a great range of actions of varying character and involving small and large number of workers of almost every category was carried on in all States.

These actions included protest resolutions, public meetings, central rallies, leaflet campaigns, deputations to Parliament, street processions, stop-work meetings, overtime bans, go-slow tactics, bans on new labor, mass resignations, 24 hour stoppages, refusals to work certain shifts, short unheralded stoppages, stay-in strikes and other strikes of varying duration.

During this period when workers were acting on a widespread scale in support of their demands the following general gains were won:

Two basic wage increases (7/- in 1946 and 19/- in 1950), increased margins (highest general increase in margins ever won), week-end penalty rates (established for the first time) increased shift rates, 40 hour week, increased annual leave.

But the willingness and ability of the workers to take these actions and the success they brought to claims which the unions believed would, otherwise, have been rejected, was being recorded in spheres other than the leading councils of the trade unions.

Employers and their organisations, the arbitration tribunals and certain Governments also recorded these facts. Some of these forces demanded a halt to the onward march of the unions.

MENZIES HITS AT UNIONS

In response to these demands the Menzies Government directed a series of blows at the Unions. These blows were all intended to weaken the ability of the Unions to defend and improve the living standards of the workers and to produce the "tame cat" unions warned against by the late J. B. Chifley.

Some of these blows took the form of penal sections of the Arbitration Act.

Shortly after its election in December, 1949, the Menzies Govt. aimed its first blow against the united strength of the trade unions.

Its infamous Communist Party Dissolution Act, aimed ostensibly at the Communist Party was aimed also and directly at the trade unions.

Menzies and all the other anti-union forces in Australia knew that the Communist Party had whole-heartedly supported the workers in their many actions to defend their rights and win their economic demands. This Party they declared must be put out of existence.

They also knew that members of the Communist Party who were officials of trade unions had been to the fore in raising workers' demands and in assisting to organise and lead many of these successful actions. These officials, they declared, must be removed from their positions.

They knew also that these many successful actions were impossible without the full participation of a large body of active outspoken rank and file unionists.

These too, they said, must be intimidated and silenced by threats and penalties.

All this and more they sought to achieve by the viciously anti-union Communist Party Dissolution Act.

Joint action by the militant and progressive sections — communist and non-communist — of the whole Labour Movement was a factor in the High Court declaring this legislation to be invalid, beyond the powers bestowed upon the Government by the Australian Constitution.

But the needs of the anti-union forces were urgent. They planned to attack workers' living standards. So Menzies and Co. sought to obtain by Referendum the powers which the High Court decision denied them.

This time the Labor Movement was even more united in its opposition to the Menzies Government's attack and as is well known, a great victory was recorded by the defeat of the Referendum proposals.

MENZIES EXTENDS PENAL POWERS

In between these two defeats the Menzies Government proceeded with its plans to attack the trade unions and reduce their capacity to defend and improve living standards.

The Commonwealth Arbitration Act was amended so as to greatly extend and strengthen penal powers over Trade Unions.

Provisions for ballots for officials to be taken out of a union's hands and conducted in a manner contrary to the union's rules were included. The powers of the Industrial Registrar over union rules were greatly extended.

Heavy fines and gaol sentences were provided for unions, officials and rank and file members for advocating, encouraging or participating in any action contrary to an award or order of the Arbitration Court.

These and other amendments were said by Menzies' Minister for Labor, Mr. Holt, to put "teeth into the Act".

It was following consideration of these amendments that the ACTU Congress in 1951 made its declaration on the right to strike already referred to.

In the same resolution this governing body of the Australian trade union movement said:

"Further, the propsal to amend the Arbitration Act to provide that breaches of the Award may be treated as contempt of the Court, in addition to other existing penalties, is obviously intended to take away from the Australian trade unionist his right to strike and, to use the Commonwealth Arbitration Court, which originally was set up as a purely Industrial Court, as a punitive tribunal for the purpose of intimidating and preventing the Trade Union movement from carrying out its proper role as the protector of the conditions of its members."

Subsequent events show the Congress to have by no means exaggerated the purpose of this Menzies legislation.

The Commonwealth Arbitration Act has been amended several times since 1951 and each time the penal provisions have been strengthened.

COURT OF PAINS AND PENALTIES

After the Boilermakers' Society had been fined £500, under the "contempt" powers conferred on the Court by this Menzies legislation, because its members at Morts Dock shipyard in Sydney had financially supported Ironworkers' Union members who were on strike at that yard, the validity of the Commonwealth Arbitration Court's powers to impose such penalties was successfully challenged in the High Court.

Menzies and Co. replied to this successful effort by the unions to protect their organisation and members from attack by:

- Appealing to the Privy Council against the High Court decision.
- Refusing to refund to the unions the amounts paid in fines and legal costs illegally imposed upon them.
- Introducing an almost entirely new Act providing for a special Court — Commonwealth Industrial Court — to deal specially with penalties and thus putting these penal powers beyond challenge.

Attacking this legislation in the Commonwealth Parliament Dr. Evatt called this Court a "Court of pains and penalties".

This new legislation ensuring the power to penalise unions, their officers and members for all forms of direct action was introduced into the Parliament by the then Attorney General, Senator Spicer.

This gentleman has since been appointed by the Menzies Government to be Chief Judge of this "Court of Pains and Penalties", specially created by the legislation he introduced.

INDUSTRIAL GROUPS ENTER

The introduction of the first of these Menzies-inspired penal acts directed at the unions coincided with the entry of the first of the Industrial Groupers into positions of office in the trade unions.

(Entry to union office of the Groupers was first achieved by use of the Court's powers to interfere in the internal affairs of the unions — to investigate union-conducted ballots, remove elected candidates from office, appoint defeated candidates to

office and order ballots to be conducted by people outside the union and in no way responsible to the unions.

They have been kept in office in the Ironworkers' and Clerks' Union ever since, by ballots conducted under similar provisions of the Commonwealth Arbitration Act inserted by the Menzies Government).

These two events, the opening attacks on the unions by the Menzies Government and entry to union office of the Groupers, immediately preceded the opening of the attack upon wages.

EMPLOYERS ATTACK WAGES

In January, 1952, Conciliation Commissioner Galvin, made the first of the "wage-freezing" decisions. Despite a marked decrease in the purchasing power of margins since they were previously raised in 1947, following the Victorian metal strike, he rejected Metal Unions' claims for margin increases.

This decision also rejected as a reason for increasing margins, the main arguments advanced by the unions. This freezing order and the "reasoning" of Commissioner Galvin became the pattern for a series of decisions by other wage fixing authorities.

(For the majority of workers the "freeze" on margins has continued ever since and their margins remain at the 1947 level even to-day. Even those tradesmen and other higher classifications the margins for which were increased following widespread protests in 1954, have not yet regained their 1947 purchasing power).

Mr. Galvin's margin freezing decision of January, 1952, was followed by the Arbitration Court's decision freezing the Commonwealth Basic Wage in September, 1953. By this decision the Court abolished regular quarterly adjustments of the basic wage, which had operated for more than twenty years.

This decision was sought by the employers and supported by the Menzies Government as being in accord with its economic policy.

(Since that date the Court has upon four separate occasions, rejected applications made by the unions for the removal of this "freeze" on the Federal basic wage by raising the wage to what it would have been had quarterly adjustments remained and by restoring the system of adjustments.

The most recent rejection of this ACTU-backed claim was made in February, 1958.

As a result, this freeze on the wage still continues in relation to the Federal basic wage and also the State wage in South Australia and Victoria.)

This decision by the Commonwealth wage tribunal has cost workers millions of pounds.

In February, 1954, the Commonwealth Court followed its decision freezing the basic wage with another decision rejecting applications to restore the purchasing power of margins.

This decision continued Mr. Galvin's margins-freezing decision of 1952.

In these two decisions, and in other decisions made since, the Court made the following facts crystal clear:—

- The basic wage is not fixed according to the "needs" of a worker or his family, nor according to the cost of living and was not assessed as a "living" wage but was fixed at a figure which in the opinion of the Judges was the highest amount which industry could afford to pay as a minimum wage for adult male workers. When determining this "highest minimum" the Court also takes into consideration all other payments made under awards.
- Margins are fixed according to the Judges' estimate of the skill or other special qualification required to carry out a job, and once fixed, the margin remains unaltered unless the skill or special qualification alters.
- Decreased purchasing power of the amount fixed as a margin, due to price rises, is not of itself a ground to increase the amount.
- When fixing an amount to be paid as margins in an award, the Court takes into account the amount being paid as a basic wage together with other payments prescribed in the award such as shift rates, week-end penalty rates, sick, annual and long service leave and in the light of these payments considers what amounts industry can pay as margin rates.

A.C.T.U. CONDEMNS WAGES DECISIONS

These decisions provoked widespread resentment throughout the trade union movement.

Some people who had previously been passive in their attitude towards the Court now became its strongest critics.

A Conference of Federal Unions convened by the ACTU on April 6, 1954, carried a resolution submitted by the ACTU Executive which stated:

"The marginal judgment by the Court is viewed with disgust by this Conference. By failing to arrive at a decision which would have increased margins, and issuing instead a specious document to cover its own ineptitude, the Court has lost the confidence of the Trade Union movement. We express the

opinion that the Court as functioning represents a menace to the industrial peace of this nation due to its failure to discharge its primary function in that there is, as yet, no settlement of a grievous industrial dispute."

On June 30, 1954, a further Conference of Federal Unions reiterated the above declaration and said "that the failure of the Commonwealth Arbitration Court to satisfactorily resolve the margins issue has led, and will continue to lead, to an intensifying period of industrial unrest in Australia."

Heartened by the Court's decisions the employers moved over to the attack.

But the strong stand of the ACTU backed by a series of varied actions by workers, was followed by some change in the attitude of the Court.

On November 5, 1954, a further decision by the Court granted some partial satisfaction of the demand for increased margins.

COURT'S MARGINS FORMULA UNACCEPTABLE

Just how far short of the unions' claims this decision fell is revealed by a resolution of a Federal Unions Conference held on December 2, 1954, which stated:—

"Conference declares that the decision on margins given by the Commonwealth Arbitration Court on November 5, is unsatisfactory. Under this decision a large proportion of workers will receive no marginal increase while tradesmen and others who are to receive an increase, will receive only a small part of the 100 per cent increase required to restore margins to their previous purchasing power."

This judgment on margins which was so unsatisfactory to the unions was completely in accordance with the economic policy of the Menzies Government.

A further Conference of Federal Unions in May, 1955 reaffirmed "that the two-and-a-half times formula adopted by the Court does not satisfy the ACTU claims for doubling of margins for all workers". (The two-and-a-half times formula referred to, was the formula adopted by the Court by which margins were fixed at 2½ times their 1937 rate. Adoption by the Court of this new formula was aimed at removing the basis for assessment of margins achieved by the 1946-47 metal strike and establishing a new basis).

This Conference also decided: "All unions, or groups of unions are advised to press claims for increased margins in line with ACTU policy by direct negotiations with employers."

(ACTU policy was, and still is today, the restoration of the full purchasing power of the margins won in the 1947 metal strike).

Having failed to obtain satisfaction on urgent wage claims through the Arbitration Court, the unions decided to try direct negotiations with the employers.

This is still the policy of the ACTU.

EMPLOYERS USE PENAL POWERS

But the employers having succeeded so well through the Arbitration Court have shown no inclination to negotiate directly with the unions.

(In January, 1958, the employers' national organisations rejected proposals by the ACTU for direct negotiations on claims for increased margins. They insisted that these claims must be dealt with by the Arbitration Commission).

This stand by the employers is strengthened by their experience of the use of the penal provisions of the Arbitration Acts, put there for their benefit by the Menzies Government.

Although by no means the only penal sections of the Commonwealth Arbitration Act, those which so far have been most widely used against the unions and workers pressing claims for wage increases are sections 109 and 111.

Section 109 provides:

"The Court is empowered —

(a) to order compliance with an award proved to the satisfaction of the Court to have been broken or not observed;

(b) to enjoin an organisation or person from committing or continuing a contravention of this Act or a breach or non-observance of an award;"

Section 111 provides:

"The Court has the same power to punish contempt of its power as is possessed by the High Court in respect of contempts of the High Court.

"The Court has power to punish as a contempt of the Court an act or omission although a penalty is provided in respect of that Act or omission under some other provision of this Act or under some other Act."

This section then empowers the following penalties "in respect of a contempt of the Court consisting of a failure to comply with an order of the Court:"—

- £500 fine on a union.

- £200 fine or imprisonment for 12 months on an officer of a union — Committee of Management member, President, Vice-President, Executive officer, trustee, Secretary, etc.
- £50 fine on a rank and file member of a union.

SIMPLE PROCEDURE BRINGS HEAVY FINES

In the course of unrestricted use of these two sections of the Act employers have developed a very simple procedure which has resulted in unions being fined thousands of pounds.

If an employer rejects a demand made on him by workers and they take some form of direct action to enforce their demand, the employer simply applies to the Commonwealth Industrial Court for an order directing the union or unions concerned to cease being parties to a breach of the Award concerned.

All that the employers need do is show that a breach of the Award has occurred and the Court acting in accordance with Section 109 of the Act, orders compliance with the Award and also directs the union or unions concerned in the breach to pay the employers legal costs.

If the order is not obeyed, the employer asks the Court to impose the penalties set out in Section 111. The Court not only imposes the penalty but again orders the employers' legal costs in seeking the penalty to be paid by the union concerned.

The wording and purpose of these sections is such that in the course of all these proceedings, the merits of the industrial dispute causing action by the workers are not dealt with by the Court.

Just how favorably these penal provisions work for the em ployers and how harshly they operate against the unions is shown by some examples concerning the Metal unions.

The Federal Metal Trades Award has a provision headed "Compulsory Overtime" which states:—

"An employer may require any employee to work reasonable overtime at overtime rates and such employee shall work overtime in accordance with such requirements."

(Note: What constitutes reasonable overtime is determined by the employer).

"No organisation party to this Award shall in any way whether directly or indirectly, be a party to or concerned in any ban, limitation or restriction upon the working of overtime in accordance with the requirements of this sub-clause."

Another clause of this Award headed "Prohibition of Bans, Limitations or Restrictions" states:—

"No organisation party to this Award shall in any way, whether directly or indirectly be a party to such ban, limitation or restriction."

EVERY FORM OF DIRECT ACTION IS PUNISHED

So, "reasonable" (?) overtime is compulsory, failure to work it is a breach of the Award and so also is every form of direct action and every such breach renders a union liable to penalties for every day the breach of the Award continues.

The combined application of those two clauses of the Award and Sections 109 and 111 of the Commonwealth Arbitration Act means:—

1. Every form of direct action by any section of workers covered by the Federal Metal Trades Award is a breach of the Award.
2. By the nature of the legislation the employers almost automatically obtain an order from the Court directing the breach of the Award to cease. For example, directing a ban on overtime or new labor or a strike to cease.
3. If the Court order is not obeyed and the workers continue their direct action the Court imposes a fine on the Union.
4. In each case the Union is directed to pay the employers legal costs.
5. At no time during these proceedings does the Court con sider the reasons for the action taken by the workers. The justice of their cause is of no account in such proceedings.

This simple process for use of penal sections of the Act against the unions was pursued with particular vigor in the latter part of 1954.

It is noteworthy that this extensive use by the employers of the penal provisions of the Commonwealth Arbitration Act occurred after a series of unsuccessful claims by the unions in connection with the basic wage and margins and at a time when workers were acting to overcome these adverse decisions.

ACTION ON A.C.T.U. CALL BRINGS PENALTIES

In response to decisions of Conferences of Federal Unions condemning the Court's judgment in February, 1954, and which continued the freeze on margins, workers in many work-places made direct approaches to their employers for increased margins.

Rejection by employers of these claims was followed by a series of diverse actions by workers.

In some instances employers countered these actions by victimising Delegates and other active unionists.

Consequently some actions by the workers were directed at forcing a wage increase and some directed at protecting active unionists and trade union organisations.

Experiences during these many and diverse struggles provide clear examples of how the penal clauses of the Commonwealth Act are used by employers against all forms of direct action taken by workers to enforce wage and other claims and to overcome what they believe to be injustices.

The following examples by no means exhaust the list available:

Australian Forge and Engineering Co. (Sydney): In July, 1954, Blacksmiths and Ironworkers employed by this company restricted output in retaliation against decisions by the management which had reduced the workers' weekly earnings.

This restriction of output was a breach of the Metal Trades Award.

On July 29th, the Court responded to a request by the employers and fined the Blacksmiths' Society £150 and the Ironworkers' Association £100 plus costs against both unions.

Steelbilt Ltd. (Sydney): This firm gave a week's notice of dismissal to a number of workers and told them to report at another plant belonging to the firm for further employment.

The Sheetmetal Workers' Union Delegate was amongst those who received notice and the workers considered that this action was taken against the Delegate because of his union activities on the job.

Negotiations with the management failed and to protect a Delegate from what they considered was victimisation the workers went on strike.

This action was declared by the Court to be a breach of the Award.

On August 5, 1954, the Court fined the Sheetmetal Workers' Union and the Amalgamated Engineering Union £150 each plus costs, and on September 10, granted a further application by the employers and fined the A.E.U. a further £450 and the Sheetmetal Workers' a further £200. Costs of the employers were again levied against the unions.

Ford Motor Co. of Aust. Pty. Ltd. (Sydney): Eleven mechanics stopped work in protest against a changed method of work which they considered to be detrimental to themselves.

On December 2, 1954, the Court fined the A.E.U. £500 plus half the employers' costs and on December 17, a further £500 plus full costs.

N.S.W. Commissioner For Transport: Following rejection of their claims for wage increases mechanics in Sydney Bus Depots commenced a series of strikes.

On 26/8/54 the Court fined the A.E.U. £250 plus costs.

N.S.W. Railways Commissioner: In support of a claim for increased margins Boilermakers employed by the N.S.W. Railways Commissioner placed a ban on the working of overtime.

On 16/8/54, the Court on an application by the Commissioner fined the Boilermakers' Society £500 plus costs.

ASSISTING STRIKERS A "CRIME"

Morts Dock and Engineering Co. (Sydney): This orgy of fining reached a climax in June, 1955, when the Ironworkers' Association and Boilermakers' Society were fined in connection with a strike at Morts Dock and Engineering Co.

Only a comparative "hand-full" of Ironworkers' Association members received increased margins in the decision of the Arbitration Court in November, 1954. Their claims were refused by the employer and rejected by the Court.

In support of their claims for wage increases, Ironworkers at Morts Dock took strike action.

Boilermakers with whom the Ironworkers were employed supported the Ironworkers financially per medium of a levy decided upon at a workshop meeting. But the Boilermakers were not on strike.

When the matter first came before the Court the Judges commended the Ironworkers' officials for their efforts to end the strike and in view of these efforts, the Court did not impose a penalty.

The Court made the order as requested by the employers and when the Ironworkers' strike continued and Boilermakers went on giving their mates financial assistance, the employers asked the Court to penalise the Boilermakers for contempt of the Court's order.

Opposing the employers' application, the Boilermakers' General Secretary showed that:

- The union had not paid strike pay.
- The union was in no way responsible for collections that had been made.
- The levies were decided upon by the members themselves and were purely voluntary.
- The union could not interfere with members' rights as individuals.

Despite this, the Court, on June 21, 1955, fined the Society £500 — the maximum fine permitted — plus costs.

The Court's view of its penal powers is shown in the following extracts from its Judgment:

"The ban, limitation or restriction of work was imposed by members of the Federated Ironworkers' Association on or about February 15, 1953 and still continues.

"The defendant Society has been a party to and concerned in this ban, limitation or restriction by permitting its members to subsidise the strike by contributing periodically what is known as "strike pay" to the striking members of the F.I.A.

"The defendant Society has permitted such contributions by its members in such circumstances that it must be held actively — through its contributing members — subsidising the strike and leading to its prolongation."

The next day the Court fined the Ironworkers' Union £500 plus costs.

Subsequently this Union was again hailed before the Court on this same matter. The officials announced the expulsion of one member and the imposition of £10 fines on others involved in the strike. At this the Court found the union still guilty of contempt but did not impose a fine.

It merely ordered the union to pay the employers' legal costs.

MENZIES GETS AROUND HIGH COURT DECISION

Another feature of this case well worth noting was the summonsing of shop delegates to give evidence.

Those summonsed were obliged to give evidence concerning the collection of the money to assist the strikers and also concerning the activities of the Committee handling the dispute.

Following this case the Boilermakers' Society with ACTU backing, challenged in the High Court the powers of the Arbitration Court to impose such penalties.

The High Court held that the Arbitration Court could not exercise these penal powers.

But despite this ruling Menzies and Co. have refused to hand back to the Unions the fines and costs illegally imposed upon them by the Arbitration Court.

Instead, the Menzies Government amended the Arbitration Act to overcome the High Court's decision and created the "Court of pains and penalties" with specially unchallengeable powers to deal with unions whose members act to defend their rights.

This Court — Commonwealth Industrial Court — has continued the line of action of its predecessor. Orders and fines for contempt follow — almost automatically — every stoppage of work or any other form of direct action.

FINES ON UNIONS INCREASE

An indication of the extent of the powers possessed by the Court under the Menzies penal legislation was given in May, 1957, in a case involving the Seamen's Union.

In that instance the Seamen's Union suffered three fines — £400, £300 and £200 — for the same dispute.

When the owners of the "Kumalla" brought the ship on to the Australian coast with a non-Australian, non-union crew, they were unable to obtain an Australian crew to man the vessel.

The Court ordered the union to provide a crew.

When an Australian crew was not provided the ship-owners asked the Court to penalise the union.

The union sought a stay of proceedings and asked the High Court to prohibit the Industrial Court from exercising its powers in this case.

The High Court rejected this application and the matter went back to the Industrial Court.

The above-mentioned fines were imposed by the Industrial Court for three of the days upon which a full crew was not provided for the "Kumalla" after the Court made its order.

Costs awarded against the union in the High Court and the Industrial Court totalled £2502 in addition to the fines totalling £900.

UNION FUNDS DOWN THOUSANDS

The ACTU Executive report to the Congress in September, 1955, recorded that:

Between 1951 and the Congress date employers made 47 applications to the Commonwealth Court for orders directing unions to cease being parties to bans, limitations or restrictions on work.

The Court made orders as requested in 30 of these cases and imposed fines upon 16 occasions for contempt of the Court when the orders were not obeyed.

Fines imposed in these cases totalled £5,300. Legal costs increased the loss to Unions' funds by some additional thousands of pounds.

These penalties were imposed on five metal unions — A.E.U.,

Sheetmetal Workers', Boilermakers', Blacksmiths', Ironworkers' — and on the Waterside Workers' Federation.

Since then and up to April, 1958, the "Court of pains and penalties" created by Menzies' legislation has made a further 23 orders against various unions and in each case has ordered the unions to pay the legal costs of the employer in seeking the orders.

In no case in which the employer has sought an order has it been refused.

Unions against which these orders were made are: Painters' and Dockers', Ironworkers', Boilermakers', A.E.U., Airline Pilots', Miners', Waterside Workers', Seamen, Marine Stewards', Marine Cooks' and Bakers'.

In only 3 of these cases were the actions of the workers continued after the Court ordered the action to cease, and in each of these cases the employers sought and obtained penalties on the unions for "contempt of Court".

These fines totalled £1000 — £900 of which was levied against the Seamen's Union — plus legal costs.

UNION OFFICIALS FINED

The Commonwealth Industrial Court is not limited for penal powers to the Sections of the Act already mentioned here — Sections 109 and 111.

Amongst other penal provisions is Section 138. This provides a fine of up to £100 on a person who holds office in a Branch or Federal body of a union, or is an agent of the union, for advising, encouraging or inciting any member in any form of direct action.

Fines of £40 each plus costs were imposed under this Section on March 6th, 1958, on M. Munro and N. Isaakson, Vigilance Officers of the Waterside Workers' Federation, Sydney Branch.

In November, 1956, these men were charged with advising wharfies not to work in accordance with the Award.

These officials had supported their members in a complaint that the method used in manning a certain job was contrary to practice and was unsafe.

The Magistrate before whom the case was heard dismissed the matter.

Shipowners then appealed to the High Court. This Court referred the matter to the Commonwealth Industrial Court which imposed the fines, £40 each, and ordered all the employers legal costs, i.e., before the Magistrate and the appeal to be met by the two union officials.

(Both these officials were re-elected in the recently-concluded ballot in the Waterside Workers' Federation).

DE-REGISTRATION ANOTHER PENALTY

Another penal power possessed by the Court is that of de-registration provided in Section 143.

This Section states that the Court, the Conciliation and Arbitration Commission or the Registrar, may for any one of a number of reasons, cancel a union's registration.

(This Section of the Act has been greatly strengthened and extended in recent amendments introduced by Menzies and Co).

On August 27, 1948, the Building Workers' Industrial Union had its registration under the Commonwealth Arbitration Act cancelled. It had supported its members in Victoria in action they took to obtain a wage rise.

Between then and February 7, 1950, the Union made 3 unsuccessful applications for re-registration.

On October 17, 1950 the Industrial Registrar granted registration to the Amalgamated Society of Carpenters and Joiners which had been formed as a breakaway from the B.W.I.U. This registration was objected to by 12 Unions.

COURT SAYS "ABANDON DIRECT ACTION"

On May 2, 1951 a fourth application by the B.W.I.U. for re-registration was rejected by the Court.

In his Judgment the late Chief Judge Sir Raymond Kelly said:—

"I think the Court is entitled, and indeed bound, to require a completely unequivocal undertaking that any right to resort to direct action in order to enforce the claims of its members, which the Executive or Association may think it is otherwise entitled to assert, will be abandoned, and never asserted, but that a loyal adherence to the purposes and provisions of the legislation under which registration is sought will be maintained."

This requirement is in line with a later pronouncement by this Judge that Unions are required to submit their claims to arbitration and abide by the results whatever they may be.

The following extract from Judge Dunphy's judgment on the B.W.I.U. application for registration is also interesting:—

". . . this refusal of registration does not mean that members of the B.W.I.U. are forever denied the protection of this Court. They can see to it that their leadership is in the hands of people who are likely to keep them within the province of industrial

law and order . . . Furthermore, they can seek, within the list of registered Unions, an organisation or organisations to which they could conveniently belong."

This appears to be an invitation to members of the B.W.I.U. to get rid of their elected officials or to join the then recently registered breakaway Society of Carpenters and Joiners.

The A.C.T.U. has rejected the proposal that any Union should give an unequivocal undertaking not to resort to strike action.

It has also rejected affiliation from the breakaway body favored by the Court.

HARSH PENALTIES IN N.S.W. ACT

But the Commonwealth Industrial Court is not the only tribunal possessing and exercising penal powers over unions.

Far reaching penal powers are also possessed and exercised by the N.S.W. State Industrial Commission under the N.S.W. Industrial Arbitration Act.

The penal powers most frequently used by this Commission are those enabling it to impose fines up to £500 and to cancel the registration of Unions for what are termed "illegal" strikes.

Inference here is that some strikes are legal and not subject to penalty. However experience shows this to be not so.

The scope in which these powers are operated is shown by two very far reaching decisions of this Commission in which it was laid down that:—

1) A strike is any form of concerted action taken by employees without the permission of the employer.

2) The Arbitration Act vests the supervision and control of Unions in the hands of the Industrial Commission.

Using these wide powers and in accordance with the above self-declared interpretation of the Act the Judges of the N.S.W. Industrial Commission have virtually abolished the right to strike.

The A.C.T.U. Executive in its report to the Congress in September, 1955, recorded that between 1950 and the date of the Congress the N.S.W. Industrial Commission had imposed 28 fines totalling £5156 plus legal costs upon 10 Unions.

Since then and up to April, 1958, the Commission has imposed 13 fines totalling £2202 plus costs on 8 unions.

It has in this same time also cancelled the registration of two Unions and rescinded the de-registration only after the Unions had given far-reaching undertakings impossible of fulfillment if members' interests are to be effectively protected and completely contrary to the policy of the A.C.T.U. on the right to strike.

FINES NOT THE ONLY PENALTIES

But the exercise of these penal powers by the N.S.W. Industrial Commission does not stop at the imposition of heavy fines.

Some idea of just how far these powers can and do go is gained from recent experiences of the Building Workers' Industrial Union, N.S.W. Branch, and more especially of the Federated Engine Drivers' and Firemen's Association (N.S.W. Coast District Branch).

In December, 1954, this Commission threatened to take action against the B.W.I.U. because of articles appearing in the Union's official organ "Building Worker".

The paper had praised and supported members of the Union for their various actions taken to obtain improved wages and working conditions which had been refused by the employers and by the Industrial Commission.

The employers asked the Commission to invoke the penal clauses of the N.S.W. Arbitration Act against the Union and to assist their case drew the attention of the Judges to the articles in "Building Worker".

The Industrial Commission condemned the Building Worker and required the Union to act "without any delay" to bring the policies and criticisms published "within due and proper grounds".

The Judges added the warning:

"Failure may involve consequences serious indeed to the Union."

This was a threat to fine the Union for articles appearing in the official journal.

WIDE PENAL POWERS IN N.S.W.

In addition to powers to fine the Union, Section 8 of the N.S.W. Industrial Arbitration Act provides:—

"The Commission may, *for any reasons which appear to it to be good* cancel the registration of any industrial union."

Section 10 of this same Act provides:—

"The Commission may, if satisfied that an industrial union is instigating to or aiding any other union or any of its members in a lock-out or strike for which such other union or any of its members are liable to a penalty under this Act, in its discretion cancel such registration and cancel any award or industrial agreement relating to such industrial union or the members thereof."

In August, 1957, the Master Builders' Association of N.S.W. asked the Industrial Commission to exercise its powers under these Sections and cancel the registration of the B.W.I.U.

The "crimes" of the Union, which in the opinion of the employers warranted this penalty, are set out in the Commission's Judgment given on November 1st, 1957, as follows:

"In support of the application the Association placed before the Commission evidence to the effect that the Union, purporting to act as a member of what is known as the *Building Trades Group* of the Labor Council of New South Wales, and which professes to represent all building trades unions, *has associated itself with a demand upon employers for increased wages, and alteration of conditions, and has sought to enforce this demand by resort to direct action, which has mainly taken the form of stopwork meetings.* The Association also called evidence to the effect that there have been on certain building projects prolonged stoppages of work through strikes, and that there was a failure upon the part of the Union to take proper and reasonable steps to bring these to an end."

The Commission granted the employers' application but stood over the operation of its order cancelling the Union's registration to enable the Union to give the Commission satisfactory undertakings.

To avoid loss of registration the B.W.I.U. was obliged to undertake not to resort to direct action and to take steps such as fines and expulsions against its members who did resort to such action.

These undertakings however did not restore to an Organiser of the Union his "right of entry" which was cancelled by the Commission because of his activities in connection with stopwork meetings.

B.H.P. ATTACKS F.E.D.F.A.

However the most far-reaching use of penal powers prescribed in the N.S.W. Industrial Arbitration Act is the series of penalties imposed since mid-1955 on the N.S.W. Coast District Branch of the Federated Engine Drivers' and Firemen's Association.

A study of the facts associated with the imposition of these penalties and of the judgments of the Commission show these to be the results of a plan by the steel monopoly — B.H.P. — to use the penal sections of the Act to deliberately drive this Union out of existence.

These attacks on the F.E.D.F.A. by B.H.P. have been assisted by the Industrial Group leaders of the Ironworkers' Union.

Here are the briefly stated facts in relation to the attack by B.H.P. upon the F.E.D.F.A.

This Union was for many years registered as an "Industrial Union" under the N.S.W. Industrial Arbitration Act until late 1952 when, following some direct action by sections of its membership the registration was cancelled.

It was again registered in 1953.

In April, 1955, the F.E.D.F.A. was again de-registered. The actions which the Industrial Commission considered warranted this penalty were:—

1) A 24 hour stoppage of work by members in Newcastle to consider rejection by employers of wage claims. 2) A series of short stoppages by 72 members engaged by a haulage company at Port Kembla (N.S.W.) over rejection of demands concerning quick shifts. 3) A 3-day stoppage of members in one Department at Australian Iron and Steel (Port Kembla) in protest against the suspension of a fellow member.

In connection with this last matter the Union charged the company with having created a lock-out by closing down sections of its plant before any attempt was made to settle the dispute in the Department concerned.

A lock-out is a punishable offence under the N.S.W. Arbitration Act. But the Industrial Commission rejected the Union's charge against the A.I. & S.

De-registration of the Union did not remove it from "supervision and control by the Industrial Commission."

FINES — FINES — FINES

Three months after its deregistration the Union was fined twice — £100 each time — plus costs for short stoppages of work by 72 members. These men were protesting against unacceptable conditions associated with "quick" shifts.

Imposing these fines the Industrial Commission discussed the stoppages and made clear its view of what constitutes an "illegal strike" as follows:— "They are illegal strikes. The men, in concern, *left their jobs without the permission of their employer* and in each case stayed out for the period decided upon at meetings called for that purpose."

On March 1st, 1956 — 11 months after de-registration — the Union was fined £500 for a strike involving members of the Union employed at the works of Commonwealth Steel Co. at Newcastle.

The strike followed a decision by Mr. Justice Richards by

which the fortnightly total earnings of some of the men were reduced.

Commenting on this strike the Industrial Commission's Judgment states:—

"We regard this strike as being entirely without justification. The attitude of the employees in this matter is reprehensible and inexcusable."

Wages were reduced by the Arbitration tribunal and the strike in protest against this is said to be "without justification", "reprehensible and inexcusable".

On the same day the Commission fined the Union £200 for stoppages by 72 members engaged by a haulage company at Port Kembla (N.S.W.).

These stoppages occurred on two days in January — six weeks before the fines were imposed.

These stoppages were in protest against changes in the method of rostering.

Some workers believe that if their actions are justified this is a defence against the imposition of penalties. This point is answered by the following comment in the Commission's Judgment when imposing this £200 fine:—

"We are not concerned to inquire whether the men had been rostered properly and in accordance with the system in operation for locomotive engine drivers and crews. *Even if the employees were correct in their submissions, the action taken by them in striking . . . was inexcusable.*"

RANK AND FILE CONTROL "DANGEROUS"

On October 18th, 1956, five of sixteen Unions involved in a series of short stoppages at power houses in N.S.W. on August 6th were fined. Heaviest fine — £250 — was imposed on the F.E.D.F.A. These fines were imposed even though the stoppages had occurred two months earlier.

Explaining the attitude of the Union the State President, Mr. W. Lane, said the policy was "that the Union shall be run from the bottom and not from the top and all matters emanating from the top to go to the bottom for ratification."

The State Secretary, Mr. D. Ferguson, explained to the Commission that in accordance with this policy the rank and file had the right to consider and decide whether they would obey a direction from the Executive.

This is a democratic practice dear to the hearts of all active unionists.

But it is not a defence against a penalty under the provisions of the N.S.W. Industrial Arbitration Act referring to "illegal strikes."

Fining the Union £250 the Judges spoke of "the consequences which flow from the failure to ensure that the members of the union act in conformity with the industrial law of this State" and added:—

"A union whose executive adopts the policy 'that the Union shall be run from the bottom and not from the top, cannot fail to come into conflict with the law."

On April 12th, 1957, the Union was again fined for a stoppage of work by its members engaged by a Port Kembla haulage company.

The Judges' main concern was "that the governing body of the Union did not take any reasonable steps to prevent the occurrence of strikes by the members of the Union . . . no disciplinary action had been taken against the men or delegates," the Union organiser had only "made threats and warnings."

This official record taken from Judgments of the Industrial Commission shows that although de-registered and thus deprived of its right to seek awards or variations of existing awards the F.E.D.F.A. was also fined, in a period of only two years, a total of £1350 plus legal costs.

The actions causing these fines were in every case legitimate traditional trade union actions taken to rectify genuine grievances.

PENALTIES CAN END UNION'S EXISTENCE

Some indication of a far-reaching purpose behind this attack by the B.H.P. upon the Union, per medium of the penal provisions of the N.S.W. Industrial Arbitration Act, is gathered from a judgment of the Commission given on April 11, 1956, concerning a 24 hour stoppage of F.E.D.F.A. members employed by B.H.P. (Newcastle) and Australian Iron and Steel (Port Kembla) and due to commence the following day.

Describing the stoppage as "wicked and wanton" and having "no justification whatever" and rejecting "the explanation that the stoppage is a demonstration by the membership in general in protest against alleged grievances in their industry" the Judges made this significant remark:—

" . . . unless the behaviour of the members of this Union alters, or unless the control of the Union activities is placed in other hands . . . the Union will not only remain de-registered as

an industrial union without the rights of an industrial union . . . but it will be exposed to further penalties and it may even go out of existence altogether."

The Commission has since refused to re-register the Union in connection with the steel and associated industries in Newcastle and Port Kembla.

F.E.D.F.A. members in these industries, says the Commission, can leave their own Union and join the Federated Ironworkers' Association.

This decision was facilitated by an application made by Industrial Group leaders of the Ironworkers' Union to have F.E.D.F.A. classifications in the two steel works included in the Ironworkers' Award.

The F.E.D.F.A. has had members and separate awards in these two works for many years and the Ironworkers' application was granted by the Industrial Commission despite strong opposition from F.E.D.F.A. members.

"GROUP" LEADERS ASSIST B.H.P.

This refusal of the Industrial Commission to re-register the F.E.D.F.A. in connection with the steel industry was further assisted by the opposition of the Ironworkers' officials to the re-registering of the F.E.D.F.A.

B.H.P. took exactly the same attitude.

The Commission's decision was made despite undenied evidence that the F.E.D.F.A. had large numbers of members employed at the steel plants.

This decision deprives the F.E.D.F.A. of the right to represent approximately 3000 members — a sizeable proportion of its total membership.

A sinister feature of this concerted attack upon the F.E.D.F.A. by use of the penal provisions of the N.S.W. Industrial Arbitration Act is the fact that every application for a penalty has been made by the B.H.P., A.I. & S. or one of the subsidiary companies of the anti-union steel monopoly.

This powerful monopoly group has been able to use the penal sections of the N.S.W. Arbitration Act to have the F.E.D.F.A. de-registered, fined and now refused re-registration in connection with the steel and its associated industries.

Apart from these penal powers themselves the attitude of some Judges in exercising these powers is of importance.

In the various Judgments of the N.S.W. Industrial Commission concerning the F.E.D.F.A. and already referred to, actions of workers taken against what they held to be injustices are

described by the Judges as "disgraceful", "wanton," "wicked", "without merits", "deplorable", "inexcusable", "without justification", 'reprehensible" and of course always as "illegal".

JUDGE'S STRANGE ATTITUDE

But on some occasions a peculiar attitude has been adopted to those representing Unions before the tribunals.

Here are some examples taken from the official record of Court proceedings in three cases:

During the hearing of contempt proceedings against the Seamen's Union in relation to the dispute over manning the "Kumalla", Counsel for the union, Mr. E. F. Hill, objected to Chief Judge Spicer adjudicating upon the constitutionality of the legislation which set up the Industrial Court on the ground that Chief Judge Spicer as Atorney-General in the Menzies Government had sponsored the very legislation.

The official transcript records the following:

Mr. Dunphy, J.: I do not think that it is an objection that can be taken at all under any circumstances.

Mr. Hill: Why, Your Honour?

Dunphy J: Because it is contrary to all principles, as far as I am concerned.

Mr. Hill: Your Honour, what principle is it contrary to?

Dunphy J: You heard me quite plainly, Mr. Hill.

Mr. Hill: I did, and I ask Your Honour, with respect, to what principle is it contrary?

Dunphy J: I am not answering the question.

On February 2, 1958, the Commonwealth Industrial Court was hearing an application by Shipowners for an order against the Waterside Workers' Federation because of a stoppage of work by Melbourne Branch members over a dispute concerning "gang" sizes.

The unions Branch Secretary, Mr. C. Young, was giving evidence and the transcript of proceedings records the following:

Dunphy J: Mr. Young, legal remedies are available to both sides equally. If you have got a just case, you can get legal redress without any firm, direct action. Everybody could have kept on working and your case would have been vindicated if it was a true one.

Mr. Docker (WWF Industrial Advocate): Might I take the opportunity of asking Your Honour what legal redress may have been available in that form in connection with this matter?

Dunphy J: I am talking to the witness, Mr. Docker, and I am asking him did he think of legal action.

Mr. Docker: Your Honour's remarks appeared to give the impression that Your Honour was reflecting on the integrity of the Federation in its approach to this matter and I sought some information.

Dunphy J: I asked the witness did he not give any consideration to any legal action whatsoever or even to finding out whether there was any available.

Mr. Docker: That may be so, Your Honour, but I can assure Your Honour that that is not the position the Federation is in; and if Your Honour takes the view which goes beyond the view the Federation took, we would appreciate some advice from Your Honour as to what redress may have been available.

Judge Dunphy did not indicate the "legal remedies" he had in mind when he was questioning the witness and made no reply to Mr. Docker's request for advice on what legal redress was available.

On March 3, 1958, Mr. Justice Gallagher on his own initiative, questioned Miners' Federation General Secretary G. Neilly, on a stoppage of work by miners in N.S.W. Southern District.

Although the matter before the Judge was not this stoppage, Mr. Neilly explained the position. He said dismissals from the "Tongara" mine were the first such dismissals indicating the development of mass unemployment in the Southern NSW mining district.

These dismissals, said Mr. Neilly, caused "genuine apprehension" amongst the workers and a general stoppage in the district was called as a protest.

Mr. Neilly's attempted explanation was interrupted several times by the Judge. Then the following dialogue took place:

The Chairman (Judge Gallagher): Did your Union know that this stoppage was to take place today?

Mr. Neilly: We did.

The Chairman: Did it take any steps to prevent it?

Mr. Neilly: No the union did not.

The Chairman: That seems an extraordinary attitude on the part of the union. You have a union that is registered and generally bound to abide by the law and yet you take no steps whatever to control your own members. On the contrary, this strike seems to have taken place with the full acquiescence of so-called responsible officials of the Federation.

IRRESPONSIBLES AND DUPES

Mr. Neilly sought to explain that the union's Southern Branch Board of Management made the decision to call the

stoppage. He was interrupted by a further statement from Judge Gallagher in which he said:

"They must be an *irresponsible body and the men are very foolish indeed to allow themselves to be duped by such people.*"

According to this statement the elected officers of the union are "irresponsible" and the rank and file are "duped". Such language can scarcely be said to indicate respect for the officers or the intelligence of the men.

When in reply Mr. Neilly said:

"I feel that if there is any irresponsibility it could be laid at the feet of those who are allegedly in control of this industry." The Judge interrupted and said: "That is utterly wrong."

Judge Gallagher continued to upbraid the union and the men and then said:

"It is a matter for the employers. If they wish to make any appropriate application they can; it is open to do so. I am not prejudging the matter, but it is very doubtful whether a union that allows members to be duped in the way these men have been duped, should be allowed to stay on the register".

Miners' Federation paper, "Common Cause" reported this latter statement as "virtually inviting an employers' application for the de-registration of the Federation."

This record, incomplete though it is, but taken from Court documents, shows that the power to register, de-register and fine unions has been used to virtually abolish the right to strike.

It shows also that the penal powers are used to force upon unions decisions in relation to wage and associated matters which they would otherwise refuse to accept.

A.C.T.U. OPPOSES PENAL POWERS

This was clearly pointed to by the ACTU as far back as 1955 when a Conference of Federal Unions declared:

"Recent experience has confirmed the use of these provisions as a means of compelling acceptance by the unions of totally unacceptable decisions of the Courts and other Tribunals and the abandonment of the right to strike or take other steps to obtain justice on industrial claims.

"This conflicts with the declared policy of the A.C.T.U.

"Conference therefore calls for an immediate campaign against the existence and use of these penal powers which are directed against dearly won traditional Trade Union rights."

Three years earlier in September, 1952, a special Congress of the A.C.T.U. declared:

"That Congress re-affirms its 1951 decision that the Australian Trade Union Movement must retain its right to strike in order to maintain and improve living standards and working conditions.

"Congress therefore is opposed to any union registered or seeking registration being required to give a completely unequivocal undertaking that the right to resort to direct action to enforce the claims of its members will be abandoned and never asserted and when any such demand is made by the Court the A.C.T.U. will fully support the union or unions concerned in their refusal to give such undertaking."

Maintaining this attitude another Special Congress of the A.C.T.U. in June, 1956, said:

"Congress declares that the amending Commonwealth Conciliation and Arbitration Act is unacceptable to the Trade Union Movement in that it continues the use of penal and contempt provisions which can be exercised by the new Industrial Court . . .

"We re-affirm the declaration of previous Congresses that all punitive provisions of Federal and State Industrial laws throughout the Commonwealth, which authorises the imposition of penalties against unions for participation in strikes, should be repealed, and we call upon the Interstate Executive and State Labor Council to renew their representations to the Commonwealth and State Governments for the repeal of these objectionable features of their industrial legislation."

A.L.P. ALSO OPPOSES PENAL POWERS

The 1957 Congress of the A.C.T.U. reviewed the Commonwealth Act and declared:

"The operation of the Act with the exercise of penal action and sanctions by the Judicial Industrial Court has substantiated the apprehension of the Trade Union Movement.

This policy has been endorsed by all representative bodies of the Trade Union Movement. In pursuance of this the NSW Trades and Labor Council has made representations to the NSW Labor Government for abolition of the objectionable penal clauses from the NSW Industrial Arbitration Act. So far these representations have been without result.

The 1958 Annual General Conference of the NSW Branch of the Australian Labor Party repeated its 1957 decision for repeal of the anti-strike clauses of the NSW Act in the following terms:

"That the penal clauses in the NSW Arbitration Act allowing unions to be fined following Court orders be removed and that all other sections of the Act abhorrent to the Unions be removed."

UNITED ACTION THE ANSWER

Despite the penal powers and decisions of Arbitration Tribunal the cause of strikes has not been removed.

Consequently the penal powers have not prevented strikes.

They have however made the use of the right to strike a punishable offence.

This is clearly opposed to very positive decisions of the ACTU and other leading bodies of the Labor Movement.

Clearly the penal powers prescribed by the Arbitration Acts are a weapon in the hands of the Menzies Government and the employers. Equally clear is the fact that this weapon is used against the Unions in their efforts to defend and improve living standards.

So long as these penal provisions remain the freedom and independence of the trade unions is restricted and the struggle to defend and improve living standards is seriously hindered.

The successful pursuance of the wage and other claims advanced by the ACTU require backing by united action from all sections of the trade unions.

This activity is and will be heavily restricted by the penalties imposed under penal powers at present exercised over unions.

The need then is to give life to the decisions of the ACTU in relation to these penal powers by united action to compel withdrawal of these sections from all Arbitration Acts.