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The Journal of Industrial Relations

The Journal of the Industrial Relations Society of Australia

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A Neglected History: Walter Hurrell and the Victorian Flour Millers

HUMPHREY MCQUEEN

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FIRST-HAND accounts of trade unionism in Australia are so rare that works as tendentious as those of W. G. Spence have acquired a majesty more appropriate to the Epic of Gilgamesh. This makes it all the more intriguing that an even earlier trade union history should have been passed over in silence. Gollan, Fry, Ebbels, Macarthy, Isaac and Ford, Philipp and Serle contain no mention of Walter Hurrell's 135-page *Unionism: Capital and Labour as Exemplified in the Milling and Baking Industries*, published in Melbourne in 1893. This is not to suggest a conspiracy¹ but rather that, despite there being copies in the Mitchell, the National and the Victorian State libraries,² it has been difficult for historians to recognize something that was not already in Coghlan or Sutcliffe. It is unlikely that Hurrell's work will be republished; this article is designed to bring it to the attention of students of labour history by presenting a synoptic review. Because of the probable difficulty of obtaining copies of the original this article will allow Hurrell to tell much of the story in his own words—perhaps too much for the sake of literary elegance, but this must be accepted as necessary for the presentation of a document. Since all quotations are from Hurrell the page references will be included in the text and not given as footnotes, which will be reserved for annotations.

An attempt was made to discover something further of Hurrell's career. There were a number of references to Hurrell as a trade unionist but only the outline has been located concerning his personal life. Walter Henry Hurrell was born in 1866 at Geelong to the wife of a shoemaker. He married in 1893 and had three sons and three daughters. He died in Sydney in 1945 at which time he was employed as a storeman.³ The

1. It is worth pondering what the radical legenders would have done if Hurrell had been available and Spence's works lost.
2. Ferguson lists one in the Mitchell but a check in May this year revealed that it had been torn from its covers. The Mitchell Library staff pointed out that this had occurred within the last seven years as the binding was of a recent style.
3. Details supplied by Bede Nairn of the Australian Dictionary of Biography at the A.N.U.

Sydney Morning Herald, September 25, 1916, carried a pro-conscription letter from him. The only additional information is that in 1895 he published *The Australasian Millers and Bakers' Handbook and Trade Directory* which was nothing more than a list of names and addresses. Sands and McDougall's Melbourne *Directory*, which was examined from 1883 to 1913, lists a Walter Hurrell only for the years 1897 to 1901 and 1903; the 1898 entry includes the notice that he is secretary of the Amalgamated Millers' Society. The address given for each year is different but all are in the North Carlton and North Fitzroy areas. There can be no certainty that they refer to the same man.

* * *

In 1873 and 1874 there was a demand in Victoria's milling trade for a Saturday half-holiday which by the end of 1874 had been granted by eight firms including one in the country. His scanty treatment of these activities is explained by Hurrell: ". . . as non-unionist workmen have no history, never having been known to do anything worth recording . . ." (p. 134). This situation was remedied on September 8, 1883, when a meeting in the Britannia Hotel⁴ agreed that "it is desirable to form a Society of millers, engine-drivers, and mill workmen, to obtain the eight-hours system of labour, and to protect the interests of the trade in general" (p. 9). Two years later the union had virtually collapsed and was kept alive by the efforts of five or six stalwarts. In an effort to revive the union a circular was sent out but only 98 mill workers responded. None the less it was decided to keep the union going and to demand the eight-hour day at existing wages as from February 1, 1886. A fortnight before the deadline the president of the Master Millers' Association of Victoria addressed a union meeting and promised the eight-hour day at present wages if ten country mills agreed. He expressed shame at not having the millers in the eight-hour march but said he too had "a wife and family to support, and he must do them justice" (p. 15). Matters took a turn for the better and by February 8, 1886, most mill owners had agreed to the eight-hour system⁵ (pp. 18-20). Three months later "it was reported to the Society that the Secretary had decamped with the funds, and was believed to have gone to England" (p. 22). From this point the union declined severely and

Great difficulty was now experienced in keeping the members together in the Association . . . [and the Officers] . . . found the members rapidly decreasing in number, meetings were poorly attended, contributions ceased to come in as freely as heretofore, complaints from the country districts commenced to be received of attempts to undermine the eight-hours system in the mills where

4. The Sands and McDougall Melbourne *Directory* for 1883 lists four Britannia Hotels.
5. Clearly it would be unwise to present union victories as a simple function of their organizational strength. A much more complex dynamic is at work in the 1880s especially in Victoria.

it had been introduced. A number of members were apparently infatuated with the erroneous idea that in mills where the privileges of the eight-hours' system had been secured, combination was no longer necessary; a little time, however, sufficed to explode this theory, as, no longer confronted by a formidable combination of workmen associated in the cause of liberty, the employers began to again hanker after the flesh pots of Egypt. (pp. 23-24)

From December 11, 1886, to March 31, 1888, the Millers' Union "may be said to have merely existed in name" (p. 25). When on March 31, 1888, Hurrell became secretary of the United Millers', Engine Drivers' and Mill Employees' Society of Victoria it boasted thirty members: thirteen in Melbourne, eight in Sandhurst, one in Yarrowonga and seven on the honorary list including W. E. Murphy (pp. 29-30).

As a union leader Hurrell was a contradictory figure. In strategy he was constrained and continually asserted the essential identity of interests of employers and employees:

Unfortunately, of late years, disagreements between Capital and Labour have been of only too frequent occurrence; and instead of considering their grievances in friendly conference, in a straightforward and common-sense way, with a view to a permanent and amicable adjustment, both sides, perhaps, have been a little too prone to view each other in the light of antagonists, and to adopt angry and hostile measures to force one-sided terms upon the other, when, perhaps, if they had only come together earlier to talk over their differences the whole matter in dispute might have been settled by an interview, without the incurring of any bad blood or bitter feeling between them; or, at any rate, by conferring together they would have been enabled to see clearer each other's requirements, and less disposed to enter on a suicidal struggle, unprofitable alike to the interests of both, and inimical to the progress of the country wherein it was waged. (p. 6)

He was as ready to blame the workers every bit as much as the employers for poor working conditions:

The ordinary Australian workingman will not assert himself or fight for his own and posterity's just right. Steeped in selfishness, lacking earnestness, saturated with jealousy, fickle-minded, he no sooner joins a movement than his enthusiasm dies away. His want of stability, education and consideration for others renders the amelioration of the condition of the working classes most difficult, and blocks every scheme for reform. (p. 25)

This point is made somewhat differently when Hurrell claims that the union officials

had to contend, not only against the opposition of the employers, but the apathy, ignorance, and unjust treatment of a section of the workmen, who, in some cases, received the principles of Unionism readily, which did not take deep root, as on the first breath of opposition some were ready to desert the cause, others were too impatient to wait the favourable period for the accomplishment of their desires, forgetting that reform is always the slow fruit of time, requiring much patience, strife and agitation for its perfect development. (p. 10)

Despite his calls for conciliation Hurrell appears to have been a difficult person to negotiate with as there were a series of incidents where employers complained of his manner.⁶ One employer conceded the union's demands but complained that

had your Secretary been a little less bombastic and peremptory at the deputation, and granted time asked for the consideration of the document, matters would not have received such publicity, and also been settled without any unpleasantness whatever. (p. 58)

He was clearly an effective and energetic organizer and on June 2, 1890, a ballot of members agreed to appoint him full-time secretary at £3 a week; he also became secretary of the Domestic Servants' Association with his union's approval.

Tactically he saw three methods open to unions—moral suasion, strikes and the boycott. Of the three he preferred the first but when action was necessary he advocated the boycott:

. . . the strike method of the Unions is in most cases wrong, and a very suicidal method of fighting, inasmuch as it places most of the suffering that is caused by a strike on the shoulders of the working-classes instead of on the shoulders of the employers. It is for this reason that we recommend the boycott, and contend that not only is it right to boycott employers of the cormorant type, but further, that it is clearly the duty of the working-classes to do so in their own defence and the interests of humanity. Now the boycott does not deplete the Unionists' funds, and does not call on the members to make any sacrifice or suffer any great inconveniences in securing the recognition of their rights, but it strikes direct at the offending employer's trade. Its operation costs the working-classes nothing, and its power is almost unknown, hence employers have termed it the "brutal boycott". (pp. 50-51)

And again,

It is chiefly to the practical application of the principle of the boycott that the success of the Millers' Union may be traced. . . . Strikes, especially general ones, are most pernicious, and what the working classes of this colony really require is thorough organisation and intelligent guidance. In the past there have been strikes in season and out of season. Half-organised, uneducated Unionism has rioted in strikes, even to satiety. The ballot principle should be more extensively used amongst the Unions, as the way in which some societies decide on taking so extreme a step as a strike by a show of hands, in a meeting not representing a majority of the men affected, cannot be too strongly condemned. (p. 51)

Undoubtedly the union's central and over-riding concern was to achieve and maintain the eight-hour day. Every other demand was designed to preserve the "boon". So puissant was the popular appeal of the eight-hour

6. This is not simply a question of employers being annoyed because he beat them but it is evident from his writings that he was more than capable of irascible behaviour towards anyone who disagreed with him. In a union leader this may well have been a virtue.

day that every employer engaged in a conflict with the union went to great pains to prove that his men were really working the "eight-hour system" even if they worked nine and a half hours each day. The only open opposition to the eight hours as a formal requirement came from some of the operative millers who preferred a Saturday half-holiday. Certainly there was a sense of pride in the fifty millers who marched behind their £9 banner in the eight-hour procession for the first time in 1886 although

Considering that the Society had adopted steps to have the day observed as a strict holiday, it was a standing disgrace to the trade that so few of the workmen who had so recently been liberated had spirit or manliness enough to demonstrate publicly their allegiance to the cause. (p. 22)

Five years later the situation had improved so much that a new union banner costing £200 was carried: its mottos were "The golden grain, God's gift, we grind" and "Peace and plenty, with equity to all" (pp. 77-78). Some indication of the fervour with which the eight-hour system was embraced even in a community as remote as Natimuk is shown by the fact that "two of the workmen who had opposed the introduction of the eight-hours' system in the mill had been shot at and wounded by a local blacksmith, and were frightened to stir out of their houses of a night" (p. 132). It is remarkable that a unionist as chronically non-violent as Hurrell could report this without comment, let alone criticism.

Hurrell followed up his election with an organizing tour of country districts which proved very successful partly as a result of the assistance given by Spence, the A.M.A. and the shearers; while at Stawell the son of the mill proprietor became secretary of the local branch of the union. On August 31, 1889, the union adopted a log of conditions which were to be enforced in every mill in Victoria:

1. In all divisions of mill work the whole of the *employees* to be members of the union.
2. The recognition of the eight-hours' system in its entirety. Shifts—union lines. First shift: from 7 am to 5.30 pm; two hours meals, except Saturday, 6.30 am till 1 pm. Second shift: 5.30 pm till 3 am; one hour meal; Saturday, 1 pm till 7.30 pm. Three shifts: 12 midnight till 8 am, 8 am till 4 pm, 4 pm till 12 pm. Overtime only to be worked in case of emergency, not systematically.
3. Overtime rate—time and a quarter first two hours; all after, time and a half.
Holidays—Christmas Day, Boxing Day, New Year's Day and Easter Monday; if worked, overtime rate to be paid. Eight Hours' Day to be observed as a strict holiday. Sunday labour to be strenuously avoided, except in event of extreme necessity, and in all cases to be paid for at the rate of double time (pp. 53-54).

Of these demands the call for compulsory unionism met the strongest opposition and the union imposed fines on members who joined only

when forced to do so by their employers; at one mill the fines amounted to £60. More typical was a dispute at Bendigo which was reported at length in the *Bendigo Advertiser* (July 14, 1890) from which Hurrell reprinted a long account.⁷ In an open discussion between Hurrell and the owner, Webb, Hurrell declared:

If they declined until you had signed the agreement, and when, of course, they would have to join as a matter of necessity, some penalty would have to be imposed on them, as it was manifestly unfair that they should, without paying for it, reap the same benefits as other men who had fought for and endured troubles through fighting for these advantages, and had been paying into the association for years to find funds sufficient to maintain these privileges. (p. 80)

Webb's employees were fined a few shillings.

Something of the tenor of the times can be seen in another section of their discussion:

Mr. Webb—I gave way before scores of other millers, but I always refused to sign your agreement, although actually conforming to the rules, because I thought, and still think, that it is an interference with me in my business, and an infringement on the liberty of the subject to compel men to join the association whether they want to or not. It is a violation of all the fundamental principles of democracy.

Mr. Hurrell—I think it is the very spirit of democracy that the few should give in to the views of an overwhelming majority.

Mr. Webb—Democracy is that each man is free to do as he chooses.

Mr. Hurrell—We admit that each man has a right to hold his own opinion, but when it comes to him taking action that we consider prejudicial to our association, we are in duty bound in justice to the members to punish him in some way. (pp. 81-82)

Not all millers were content with the nature of the union and in 1890 a rival society was formed by an ex-secretary of the Operative Millers but it enrolled a mere seven members who were forced to rejoin Hurrell who summed it up thus:

Hence a few millers, with exalted views of their own position, were in favour of establishing an aristocracy of labour, and of opinion that they would suffer loss of dignity from mixing with humbler men a little less fortunate than themselves. But the democratic spirit and the light of the nineteenth century teach a more liberal doctrine, and are opposed to the raising of petty and artificial barriers between different sections of the workers. The exclusive principle is utterly opposed to the fundamental principles of Unionism, which recognises that all men are brethren, and combines to try to lift the worker up. (p. 70)

7. Wherever Hurrell reprinted reports from newspapers these have been checked against the originals before including quotations from them in this article. Where necessary corrections have been made to Hurrell's quotations but most of these were to matters of punctuation.

Later on an ex-president of the union tried to frustrate its endeavours so "the Society was reluctantly compelled to withdraw his portrait from the meeting-room . . . and to expel the original from its ranks" (p. 113).

Another of the union's activities was the establishment of a board of examination of twelve practical members to issue certificates of competence. A 5/- fee was charged for the exam and an additional 5/- for the certificate which could be first, second or third class. The whole procedure produced dissension:

Millers, for instance, holding good references were dissatisfied at receiving second-class certificates, and contended that favouritism was shown in the examination. The Board recognised the advisability of having a proportion of master millers as members, but as scarcely any of the metropolitan employers have been practical operative millers, there was a great difficulty in the way of securing this. The ability of certain of the examiners was also called into question, the millers, for instance, undergoing an examination contending in some cases that they were better qualified to judge than several millers on the Board. (pp. 67-68)

The only reference to political activity occurs early in 1890 when the union agreed

That the Secretary write to Mr. Thomas Brunton, President of the Master Millers' Association of Victoria, expressing the satisfaction of this Association at his allowing himself to be nominated as a candidate for a seat in the Legislative Council for the Southern Province; and, further, that every member of this Association pledge himself to use every effort in his power to secure Mr. Brunton's return. (p. 78)

Brunton⁸ was successful at the polls. The union may well have regretted its support when Brunton headed a campaign for freedom of contract, but if they did Hurrell never complains.

Untypical only because of its protracted nature was the dispute with D. Stratton's mill in Echuca. Shortly after Hurrell's election Stratton was written to and asked to establish the eight-hour system. He replied by complaining that the union's letter had been abusive. The union then decided to send its president, J. F. Allan, and Hurrell to Echuca and to put all its funds at their disposal; the president of the Bakers' Society, Robert Moffat, agreed to accompany them. A meeting was held in the Echuca Temperance Hall on August 6, 1888, and according to the *Riverine Herald* (August 7, 1888) motions attacking Stratton were carried unanimously. On the following night a counter-demonstration was held in the Temperance Hall but it broke up in uproar and its two organizers were greeted with boos and hisses. "Both gentlemen then became very excited, one attempting to speak at one end of the platform, and one at the other. . . . An animated discussion ensued, during which [one of the speakers] was forcibly thrown off the back of the platform. . . . Several

8. See J. Ann Howe, "Thomas Brunton", *Aust. Dict. of Biog.*, Vol. 3, p. 280.

blows were exchanged . . . and the piano and chairs . . . fared very badly" (pp. 39-40). Stratton made a series of minor concessions but was finally brought to heel in August 1890 through a black ban by wharf labourers. In appreciation the Operative Millers gave the wharf labourers' secretary, J. B. Tucker, an English lever watch, while the president and vigilance officer each received £5 (pp. 84-85).

In 1889 Hurrell extended the union's activities into N.S.W. because he found "that some Victorian millers, who also had mills in New South Wales, and who championed the eight-hours' system in Victoria, were working twelve in New South Wales. In these mills it was said that the English language was hardly spoken." On venturing into Albury Hurrell encountered one employer, Mr. Joseph Hayes, who "requested him to leave the office and return over the border, remarking that agitators were not wanted in New South Wales" (p. 72). It was decided to form an Australian Millers Union with its head office in Melbourne and Hurrell went to Sydney to organize matters there. From Sydney Hurrell travelled with a Sydney miller to organize country mills at the expense of the Victorian union. Initial success was gained at Bathurst where the employer locked his men out for joining the union but had to reinstate them after a boycott by the Trades and Labour Council and shearers' union (pp. 73-74). The Bathurst branch then applied to Melbourne for two weeks' strike pay and for assistance for two of their members who had not been taken back. Melbourne refused because "the Bathurst members had forfeited any claim to strike pay by their action in sacrificing two of their mates and returning to work independently without consulting the Union" (p. 75). Bathurst thereupon declared its intention of severing its connection with Melbourne. Trouble also developed with the Sydney branch who on April 13, 1890, demanded help to secure the eight-hour day. Melbourne arranged for this to be granted from January 1, 1891, but this was not soon enough for the Sydney men and they too withdrew their affiliation. The remaining faithful branch at Goulburn was advised to join up with Bathurst and Sydney and to continue the fight from there. Despite these setbacks Hurrell concluded his account of this episode by affirming his belief "that the time is not far distant when the trade in the whole of the Australasian colonies will recognise [the need to federate] and establish an inter-colonial Association to guard their interests" (p. 76). A group of New Zealand millers was accepted as members.

Relations with other unions were generally less troublesome. The success of the boycott tactic depended in great measure upon the support of the shearers and miners in country towns and of the bakers and lorry drivers in Melbourne and Geelong. At the 1891 Intercolonial Trade Union Congress at Ballarat, Hurrell had pressure put on one of the town's coffee palaces to cease using non-union flour (pp. 110-111). This was not a one-way process and Hurrell claimed that the millers gave almost £1000 to other unions between 1883 and 1893. After a strike in Geelong some chaff cutters formed a co-operative which gained the support of the millers who believed that

the co-operative principle is the correct one, that it injures none and benefits all, and prevents the possibility of strikes and lock-outs occurring, we cordially wish [the co-operative] every success and hope ere long to see the principle introduced into the milling trade. (p. 112)

Some years earlier the millers had agreed to support the Victorian Farmers' Protection Association in its call for increased protection (p. 54).

Hurrell's response to the maritime strike of 1890 was predictable and he described it as "ill-timed, ill-advised, and ill-engineered on the labour side, and that all the money they possessed could not postpone for a single day its inevitable collapse" (p. 87). So instead of giving its funds to the strike committees the Millers' Society kept its money to itself and paid 25s. relief to unemployed married men and 18s. to single men.

The immediate impact of the collapse of the strike was an offensive in October 1890 by the employers to establish "freedom of contract"; Hurrell is careful to stress that only "a small minority of the master millers wanted this" (p. 88). On December 19 the employers announced that a new agreement would take effect from January 5, 1891. The unions issued a manifesto at once to which the secretary of the Victorian Flour Millers' and Agents' Association, Frederick Humphries, replied:

. . . will permit me to point out that the agreement was forced upon the millowners? It was never intended to sign it as holding good in perpetuity. The millowners were threatened by all kinds of penalties, backed by intimations that the various labour Unions would decline to handle flour, and that the seamen would not work the steamers carrying it. Under these circumstances the employers had no alternative but to accept the unreasonable terms of your Association or close their mills. Since the conference held in Sydney in September last, when it was agreed that for the future employers should manage their own business, my Association has decided to follow out the policy then initiated, and accordingly gave you a very liberal and extended notice. (p. 92)

However the owners did not proceed with their new rules because they were not united and none was prepared to give the lead. For as one of them was quoted in the *Herald* (January 5, 1891):

During the great shipping strike we could manufacture flour right enough, but we could not get it away. Consequently we lost a good part of our Queensland business, and that is just coming back. If I thought the mills were unanimous, I would post the rules, but they are not, and I cannot afford to be made a martyr of. I do not think there will be any strike at all. (p. 94)

The *Age* (January 13, 1891) editorially supported Hurrell's contention that the employers were tactically at fault because "both sides should be consulted, and have a voice in forming them" (p. 97).

The owners made another attack on compulsory unionism in the second quarter of 1892. A non-unionist, P. Moroney, refused to join because the Bible told him not to federate. Union pressure resulted in his dismissal. The employers organized a subscription for him and called a meeting to chastise their ex-president, Brunton, from whose mill Moroney had been

sacked. An *Argus* (July 6, 1892) report indicates that Brunton explained that the dismissal had occurred in his absence and was executed by his son who had "graduated with the men in the business, went through the mill dressing with them, and always sympathised with them, and during the strike it took him [the speaker] a lot of his time to restrain him from expressing too much sympathy with the strikers" (p. 121). Brunton agreed to reinstate Moroney but wanted the other employers to back him up by endorsing this resolution:

That the Master Millers' Union, while pledging themselves to maintain the eight-hours system, affirm the principle of freedom of contract, and bind themselves individually and collectively loyally to support any one or more of their number who may have to submit to any strike or boycott in upholding the foregoing principle, and in the event of any such strike or boycott, they further legally bind themselves under a penalty of £500, to be forfeited absolutely to the association, to shut down their mill or mills immediately upon receiving intimation from the Master Millers' Union of any such strike or boycott being carried into effect. (p. 123)

In obvious fear of this proposal the other employers backed away and Brunton had to make do with their verbal assurances of support. No dispute arose as Moroney had conveniently taken ship to God's Own Country.

The defeat in the 1890 strike does not appear to have dampened the ardour of the millers who in 1891 decided to extend their ranks to include lorrymen not only because "Union is strength" but because the lorrymen's "assistance would have been invaluable in tracing the destination of non-union brands of flour . . ." (p. 114). Oatmeal, rice, spice and barley millers were also to be included (p. 112). Nor did Hurrell intend to rest on his laurels as this catalogue of further demands indicates:

Indenturing of apprentices, restriction of boy labour, prevention of men who have not had sufficient knowledge of milling being put in charge of a shift, the adoption of a minimum wage, insistence upon all enginedrivers in charge of a mill engine holding a certificate of competency, the proper observance of the Shops and Factories Act, the placing of dust collectors in all mills, and the initiation by the Union of a sick and funeral fund to members of over two years' standing. (p. 135)

Hurrell was not backward in presenting the success that had been achieved under his stewardship and he concluded his history by pointing out that:

Since the formation of the Union the Victorian millers work from two to four hours per day less than previously for the same remuneration, and have succeeded in making employment for hundreds of additional men on the third shift, and, in fact, had the old rules prevailed after the introduction of the roller system of milling⁹ there would have now been very few millers indeed able to obtain employment in the trade, and apart from all this, the

9. See T. G. Parsons, "Technological Change in the Melbourne Flour-milling and Brewing Industries, 1870-1890", *Australian Economic History Review*, September 1971, Vol. XI, No. 2, pp. 133-146.

operative millers through their Union are possessed of the great privilege of being in a position to make their voice heard publicly, and to ventilate any grievance they may suffer under—this alone being no mean privilege indeed. In this book I have shown that Unionism was proved to be absolutely necessary after the privileges referred to were won to hold them intact. (pp. 134-135)

Moreover, Hurrell hoped sincerely that

Capital and Labour will agree better in the future than in the past, and that both sides will attempt to bring them together, and pause before unnecessarily adopting any action calculated to estrange and widen the breach between them. Both sides should act in a conciliatory and common-sense way. Capital should recognise the rights of Labour for a fuller participation in the profits accruing from that which it produces, and moderate its demands, and the workers should recognise that, properly organised, they would be in a position to obtain, in a peaceful and constitutional way, redress of just grievances and recognition of their moderate demands, as the sympathies of all right-thinking men would go with them in the struggle undertaken in the interests of down-trodden and suffering humanity, and moderately and properly urged, their claims should require no boycott to enforce their recognition. (pp. 130-131)

Legislation and Decisions Affecting Industrial Relations

C. P. MILLS

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MANAGEMENT RIGHTS

AUSTRALIAN ARBITRATION laws and the principles which the tribunals have developed have in general respected the line which demarks the traditional "rights of management" from matters more commonly recognized as being legitimate objects of industrial dispute. For example there is the obvious reluctance of the tribunals to involve themselves in disputes over an employer's decision to have work done by outside contract rather than by his own employees.¹

However, the cases in which such issues are being canvassed are becoming more frequent. Two recent decisions of the High Court are further illustrations. In the first case, a union was challenging the decision of Qantas Airways Ltd to retrench a number of pilots and trainee pilots.² The Flight Crew Officers Industrial Tribunal had decided that the notification of the dispute had not raised any industrial question for determination: "It could only involve an industrial matter if, having found that Qantas could not be justified in taking the action to terminate, I were to qualify the present terms and conditions of employment so as to make some provision for the effects of the company's decision. But where is my authority to inquire into the company's decision? I am really being asked to assume that authority quite gratuitously without any foundation for so doing, and then to manufacture, as it were, an industrial matter from the result of my inquiry. This is quite insupportable."

On application for mandamus requiring the tribunal to consider and determine the industrial question submitted to it, the High Court held that the tribunal had rightly concluded that the dispute did not relate to an industrial matter, and it had not declined jurisdiction but had decided that there was no occasion for the exercise of its jurisdiction. The basic approach of the High Court is seen in several general statements appearing in several of the judgments: while an award settling an industrial dispute may legitimately impinge on management or the exercise of managerial discretion, "management or managerial policy as such is not in my opinion a proper subject for

1. E.g., *Federated Municipal and Shire Council Employees' Union v. Canterbury Municipal Council* (Sheehy J., 2/9/71), 1971 A.I.L.R. Rep. 613.

2. *Ex parte Australian Federation of Air Pilots; Re Flight Crew Officers Industrial Tribunal* (1971), 45 A.L.J.R. 659.