CHAPTER 9

EPILOGUE

1975-1986

Introduction

The contribution that the green bans made to the future of Australia’s environmental policies has been acknowledged by many who have a deep interest in the subject.\(^1\) Mundey, of course, maintained his interest in the Green Ban Movement after he left the NSW/BLF. He launched his rather unsuccessful “Friends of the Green Bans”; accepted an invitation to lecture in England on the green ban movement; and later had some legitimate power over what was to be built as an elected member of Sydney City Council. Pringle left the building industry and emerged as an activist during a strike by the Australian Workers Union (AWU) at the Chullora workshops of the New South Wales railways. Joe Owens, after a short absence, re-appeared in the mainstream of the building industry, first on the Darling Harbour project and, later, on the World Square project.

The fate of those who remained in the building industry in the aftermath of the ABLF de-registration provides an interesting source for future analysis. This epilogue does not attempt any such analysis but, rather, briefly outlines some of the events that occurred within the industrial system in the years after de-registration - events which can be related to the policies and actions of those involved in the 1970-1974 de-registration saga.

The animus created within the union movement by the ‘one-out’ 1970-1974 policies of the NSW/BLF was inherited, and exacerbated, by the ‘Gallagher’

\(^1\) For example, Roddewig, who in his analysis of Australia's environmental policies and planning procedures, related the view of one leading conservationist that the National Estate Committee and the Heritage Commission grew right out of the green ban movement: Richard J. Roddewig, *Green Bans: The Birth of Australian Environmental Politics*, Hale & Iremonger, Sydney, 1978, p.83
NSW/BLF. The unilateral responses by the MBA/NSW during the early 1970s angered many national contractors who initiated a process of national decision-making that was to have long-term and serious implications for the MBA/NSW.

This epilogue will first provide a brief historical account of the events related to the ABLF and to its NSW branch; and will then focus on developments that had such implications for the MBA/NSW.

The ABLF: A prisoner of history?!!

In summarising the events of 1975, the Master Builders Association of NSW (MBA/NSW) referred to the turmoil that had occurred during the period in which the Australian Building Construction Employees & Builders Labourers Federation (ABLF) assumed control of its NSW branch (NSW/BLF), and concluded:-

--- in recent months there has been a vast improvement in the attitudes of that union, and industrial relations within this State have been on a more reasonable basis.\(^2\)

The reference to the NSW branch is significant and important - as the leadership of the ABLF did not assume control of the NSW/BLF in regard to its identity as a state registered union. Its character as a state registered union, gave the NSW/BLF an identity which was separate to, and apart from, its integral relationship with the federally registered ABLF.\(^3\) The MBA/NSW soon encouraged the ABLF-appointed ‘caretaker’ leadership in NSW to seek state registration in its own right.\(^4\)

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\(^3\) For a detailed analysis of the legal status of a state registered union *vis-a-vis* its status as a state branch of a federally registered union; See:- Moore v Doyle, *Commonwealth Arbitration Reports*, Volume 127, pp.1397-1448 (in particular refer to p.1431)

\(^4\) The MBA/NSW wanted the ‘Gallagher’ controlled NSW/BLF to become part of the Labor Council of NSW as part of the process of encouraging that union to formally abandoning the previous ‘one-out’ approach of the previous leadership. The NSW state registration of the Owens/Mundey-led NSW/BLF was ultimately cancelled due to the fact that it had virtually ceased to exist since 24 March 1975 when its leaders capitulated and recommended to its remaining members to join the ‘Gallagher’ branch. The Gallagher controlled NSW/BLF achieved State registration in late 1978 after satisfying objecting unions as to its position in areas of overlapping coverage. The NSW/BLF then joined the Labor Council.

On 7 October 1976 the ABLF regained its Federal registration after first giving extremely detailed assurances to the Industrial Registrar, to the Master Builders Associations, and to other unions, as to their future intentions and industrial behaviour.\(^5\)

The Re-registration case itself provided sufficient drama and debate to warrant a separate thesis. In addition to answering the objections raised by thirteen separate parties, including Joe Owens and Bob Pringle,\(^6\) the ABLF had, initially, to compete for federal registration with another group which had also filed an application. Tom Domican and Vince Ashton, who had been activists during the Mundey era and for a short period worked with the Gallagher group, filed an application on 3 November 1975 and formally withdrew it on 28 July 1976.\(^7\)

Les Robinson, who was appointed by the ABLF to head the NSW/BLF, effectively steered the branch through the difficult 1975-1978 period when it was vulnerable to the policies of some vengeful employers and of some union leaders determined to recover ground previously lost during the Mundey regime. Soon after achieving State registration for the NSW/BLF in 1978, he was replaced by Steve Black as Branch Secretary.

Under Steve Black’s leadership, the NSW/BLF assumed a far more aggressive stance in its relationships with employers and with other unions. Numerous disputes erupted over NSW/BLF demands for compulsory unionism. Black introduced a policy which required NSW/BLF organisers, on discovering any non-unionist or unfinancial unionist working in any capacity or trade on a project, to immediately close down the project for periods up to two weeks in duration. The NSW/BLF also became embroiled in numerous demarcation disputes.

\(^5\) Commonwealth Arbitration Reports, Volume 178, 1976, at pp.1056-1061
(The Industrial Registrar at one stage, adjourned the Re-registration proceedings on learning from the Commissioner (who was hearing the demarcation dispute) that he had received ‘offensive’ correspondence from Gallagher warning him (the Commissioner hearing the demarcation case), that “You have lifted a rock to drop it on your own foot”: Diary Notes.)

\(^6\) Commonwealth Arbitration Reports, Volume 178, 1976, at p.1038

\(^7\) Ibid, at p.1037
At the federal level, the ABLF was also involved in various campaigns and demarcation disputes, and the Master Builders Associations generally were publicly expressing their concerns.⁸

In 1981 the Hon. Andrew Peacock, Minister for Industrial Relations in the Fraser Government, announced his intention to apply under Section 143 of the Conciliation and Arbitration Act for an order directing the cancellation of the ABLF registration. The Minister also signalled his intention to request employer associations, within the building and construction industry, to join with him in his application.

The election of the Hawke Government in 1983 saw the Fraser Government De-registration Application adjourned at the request of the new government on the grounds that it wished to explore alternative options in seeking to resolve the ABLF problem. Those options primarily centred on what became known as the ‘Vosti Conference’.⁹

The Memorandum of Understanding that resulted from those conferences addressed various award claims; provided a process for resolving disputes with the ABLF and its state branches; enabled the Hawke Government to withdraw the application to de-register the ABLF; and, introduced a Superannuation Scheme (BUSS) for the major construction sector of the building industry.¹⁰

At the time the ABLF signed the Memorandum of Understanding (on 5 October 1984 - after much delay and high drama), seven builders’ labourers on the Sydney Police Centre project were accused of intimidation and violence by tradesmen working on the site.

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⁹ Retired former Commissioner Alan Vosti was appointed to chair a series of conferences (the first meeting of which was held on 26 April 1983) involving the ABLF, the ACTU, other building unions and the Master Builders Associations (as well as the Industrial Secretariat the MBFA had established in conjunction with AFCC): Diary Notes

¹⁰ Diary Notes (27 June 1984)
The NSW/BLF refused to participate in the ACTU investigation of the allegations, and the ACTU decision banning those labourers from working on the site led to strike action.¹¹ Lightning stoppages by builders’ labourers in New South Wales, Victoria and Queensland, and bans on the placement of concrete in those three states and in South Australia, placed the jobs of all building workers in jeopardy and further isolated the ABLF.¹² In February 1985 three plumbing officials claimed they had been assaulted by builders’ labourers, and specifically identified two of those labourers as being from the industrially troubled Hoyts Theatre project.¹³ The two labourers who had been identified were suspended following a decision of a mass meeting, on the Hoyts building site, of tradesmen unionists.¹⁴

By this time the ABLF was deeply affected by the 4 years and 3 months gaol sentence imposed, by a Victorian County Court, on Norm Gallagher who it had found guilty on 20 counts of having received secret commissions.¹⁵

On 30 October 1984, the NSW Parliament passed the *NSW Industrial Arbitration (Special Provisions), 1984* which empowered the Governor of NSW, acting on the advice from the relevant Minister, to cancel the registration of the NSW/BLF as an industrial union under the NSW Industrial Arbitration Act, 1940. The Governor made that declaration on 2 January 1985, and the NSW/BLF de-registration was gazetted on 11 January 1985.¹⁶

The Victorian Government cancelled the Victorian State registration of the Victorian Branch of the ABLF with the *Builders Labourers’ Federation (Derecognition) Act, 1985* which received Royal Assent on 30 July 1985.

On 14 April 1986, Royal Assent was received to the Federal Act of Parliament, *Builders Labourers’ Federation (Cancellation of Registration) Act*.

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¹² *Ibid* (and *Diary Notes*)
¹³ *Diary Notes*
¹⁴ *Ibid*
¹⁵ *Ibid* (Gallagher successfully appealed that conviction to the extent that he obtained a retrial but was finally convicted on 17 counts of receiving secret commissions and was sentenced to 18 months gaol and fined $60,000)
¹⁶ The NSW/BLF unsuccessfully challenged the validity of the legislation in the NSW Supreme Court, and was again unsuccessful when it appealed that decision.
1986. The Federal Government also successfully introduced the *Builders Labourers’ Federation (Cancellation of Registration - Consequential Provisions) Act, 1986* which allocated the work formerly covered by the ABLF to The Building Workers’ Industrial Union of Australia (BWIU), the Federated Engine Drivers & Firemen’s Association of Australia (FEDFA), and to the Plumbers and Gasfitters Employees Union of Australia (PGEU).

The ABLF in retaliation filed an application (which failed) for the de-registration of the MBA/NSW and of the Master Builders Association of Victoria (MBAV). Among the grounds in support of the application against the MBA/NSW was the claim that MBA/NSW members breached the awards by failing to provide proper amenities.

**The MBA/NSW also suffers a loss**

In being created a national organisation, The Australian Federation of Civil Engineering Contractors (AFCEC) provided its membership with a single, and authoritative, decision making forum. Very early in its history, the AFCEC had broadened its focus from mere lobbying, on behalf of the Civil Engineering area, to considering industrial relations issues across the broad spectrum of the building and civil engineering construction industry. AFCEC had commenced its “broad industry” approach in 1960 when it established a Joint Committee with the Australian Institute of Building (AIB) and MBFA with the objective of advising Master Builders and Civil Engineering Contractors how to lower costs and improve productivity. The Industrial Committee of AFCEC was formed in 1962 with officers of The Australian Council of Employer Federations (ACEF) providing assistance on a consultancy basis.

17 On 15 May 1986 the High Court dismissed the application by the ABLF challenging the validity of the Federal Government's actions.
18 The ABLF continues to act as a State registered union in the states of Western Australia, South Australia, Tasmania, and Queensland.
19 *Australian Federation of Civil Engineering Contractors, Minutes of Council, 4 October 1960*
20 *Australian Federation of Civil Engineering Contractors, Minutes of Council, 28 February 1962*
AFCEC had maintained a watching role during the 1962 Carpenters and Joiners Award case and resolved to nominate one of its members to provide evidence in the 1962 Builders’ Labourers Award hearings.\textsuperscript{21} The AFCEC, represented by the Employers Federation of NSW, had opposed the stance adopted by the MBA/NSW in the 1969 Carpenters & Joiners Award case. The failure of the MBA/NSW to answer the AFCEC’s letter of protest, and its failure to honour its previous agreement to consult (made between the respective Presidents), led the AFCEC to write to MBFA over its concerns.\textsuperscript{22} MBFA replied by informing AFCEC of the newly created MBFA Industrial Relations Committee which was to consider, among other matters, effective liaison with AFCEC on industrial relations issues of national concern.\textsuperscript{23}

AFCEC’s interest in pursuing a more dominant role in national coordination of industrial relations appears to have first surfaced in 1964 when it made overtures to MBFA to jointly form an “organisation or co-ordinating committee for the construction and building industry as a whole”.\textsuperscript{24} 1964 was for AFCEC a time of growth, for in that year it established its branches in South Australia\textsuperscript{25} and Western Australia.\textsuperscript{26}

The Civil Engineering Contractors Association of Queensland had been reluctant to cede its independence to AFCEC and had objected to the three grades of AFCEC Membership: (“Member”, “Associate Member” and “Affiliate”) preferring their own single membership structure which did not differentiate between Civil Engineering Contractors, Specialist Contractors and Suppliers.\textsuperscript{27} After a number of false starts and negotiation, the Queensland Association was, from 1 January 1967,
affiliated with AFCEC for a two year trial period.\textsuperscript{28} AFCEC resolved to form a Sub-Branch in Tasmania in 1968.\textsuperscript{29}

In July 1970, the Council of AFCEC called for a report on the advantages and otherwise of Industrial registration,\textsuperscript{30} and in September of that year it decided to seek legal advice on the subject of registration.\textsuperscript{31}

This was not the first occasion on which AFCEC had considered the issue of industrial registration for a Report prepared by an ACEF officer, Alan Clarkson (later to be a federal commissioner), was considered by the AFCEC Council in 1964.\textsuperscript{32} Mr Clarkson had earlier suggested to the AFCEC Council the formation of an industrially registered organisation separate to but controlled by AFCEC.\textsuperscript{33} This was a strategy that had been pursued, and shortly thereafter abandoned, by MBA/NSW when Industrial Relations legislation was first introduced into N.S.W. There is no evidence that AFCEC ever seriously considered that proposal.

The AFCEC was renamed the Australian Federation of Construction Contractors (AFCC) on 12 July 1971.\textsuperscript{34} While the traditional core membership of the AFCC were national civil construction contractors, the building arm of those companies were members of the MBA/NSW, and of other MBAs. Despite (or because of) that joint membership, the AFCC and the MBAs were vigorous competitors or opponents.

The unilateral decisions pursued by the MBA/NSW during the 1969 Carpenters & Joiners Award Case before the State Commission stretched the patience of many national contractors - a situation exacerbated by the 1973 MBA/NSW decision to de-register the ABLF. Many national contractors had suffered from the industrial

\textsuperscript{28} Australian Federation of Civil Engineering Contractors, \textit{Minutes of Council}, 13 December 1966 - See also \textit{Minutes of Council}, 2 December 1965, 26 April 1966, 9 August 1966 and 14 October 1966
\textsuperscript{29} Australian Federation of Civil Engineering Contractors, \textit{Minutes of Council}, 20 August 1968
\textsuperscript{30} Australian Federation of Civil Engineering Contractors, \textit{Minutes of Council}, 9 July 1970
\textsuperscript{31} Australian Federation of Civil Engineering Contractors, \textit{Minutes of Council}, 22 September 1970
\textsuperscript{32} Alan Clarkson, Undated Report as attachment to “Industrial Relations Committee Report No. 16”, Australian Federation of Civil Engineering Contractors, \textit{Minutes of Council}, 6 November 1964
\textsuperscript{33} Australian Federation of Civil Engineering Contractors, \textit{Minutes of Council}, 10 August 1964
\textsuperscript{34} Australian Federation of Civil Engineering Contractors, \textit{Minutes of Extraordinary General Meeting}, 12 July 1971
reprisals initiated by Gallagher due to the MBA/NSW threat to his union’s registration.

In an attempt to gain control of the national industrial decision making, a role which they regarded as beyond the MBAs (due to their diverse views and the lack of authority of the MBFA over those MBAs), 35 national contractors (who had joint membership of AFCC and the state MBAs) were successful in encouraging MBFA and AFCC to establish a joint Industrial Secretariat. That secretariat, The National Industrial Executive of the Building and Construction Industry (NIE), exercised great influence from the time it was formed in 1974. The Industrial Relations staff of the individual MBAs provided the majority of the manpower behind NIE, however the structure of the NIE Council favoured the interests of the AFCC membership. 36

In 1976, the AFCC (despite determined opposition from the MBAs) was granted registration under the federal Conciliation and Arbitration Act, 1904-1976. 37

The NIE operated successfully for a number of years despite the animosity between the MBAs and AFCC. However, the Director of NIE resigned in 1984 to accept a position with AFCC. The MBFA angrily signalled its intention to end its association with AFCC and NIE was wound up. 38

The national contractors retained their joint memberships with the AFCC and the MBAs, but regularly expressed their dissatisfaction with the conflicting industrial relations advice they received from AFCC and the Master Builder movement.

The ABLF leadership perceived the AFCC (due to its strong civil construction focus) as favouring the AWU and therefore preferred to negotiate with the MBA movement. This led to a notorious occasion on which Gallagher ignored a meeting convened by the ACTU in Melbourne during October 1984 which was attended by employers, building tradesmen’s unions and representatives of State and Federal Governments. The purpose of that meeting was to enable Gallagher to sign the 1984

35 The diverse views held by the various MBAs and the inability of MBFA to impose a ‘national’ decision on those MBAs, frustrated many national contractors who wanted decisions to be made quickly and then imposed from the top. Naturally they saw their joint role as providing that ‘from the top’ direction.

36 Diary Notes

37 Commonwealth Arbitration Reports, Volume 181, 1976, pp.1050-1063
Memorandum of Understanding, or for him to be advised of the options available to the other parties should he maintain his refusal to sign. Rather, Gallagher went to Canberra and signed a “Minute of Further Understanding” with the MBFA as an ‘interim expression of good faith’, pending his stated intention of signing ‘the Memorandum’ the following day.\textsuperscript{39} The national contractors viewed this as an exercise in ‘one-upmanship’ by MBFA and relations between the MBAs and its national contractors deteriorated. In an attempt to restore the previously good relations between the MBAs and their national contractor members, and to seek ways to provide the MBFA Industrial Relations Council with greater authority, a meeting of senior MBA staff from around Australia was held in Sydney on 23 May 1986.

In February 1987, the ACTU served a log on behalf of building unions for various wage increases, and for Severance Pay. The agreement reached in Victoria to introduce a Severance Pay Scheme breached a decision of the MBFA Industrial Relations Council. That action, which was pursued without the knowledge of national contractors in Victoria, and the failure of MBFA to adequately respond to the actions of MBAV, seriously undermined the (already strained) relations between the MBAs and their national contractor members.\textsuperscript{40} The AFCC moved quickly to obtain an agreement over severance pay with the unions, and a special meeting of major contractors at the MBA/NSW led to acrimonious debate between some state-based major contractors and some national contractors.\textsuperscript{41} The MBA/NSW maintained its opposition to the AFCC severance pay proposal. By late 1987 MBA/NSW staff were hearing rumours that national contractors, at a meeting of AFCC in the latter part of 1987, had resolved to resign from the various MBAs and retain AFCC as their sole representative.\textsuperscript{42} During 1988, the MBA/NSW witnessed its national contractor membership decline, then virtually disappear.\textsuperscript{43}

\textbf{Conclusion}

\textsuperscript{38} Diary Notes
\textsuperscript{39} Master Builders Association of NSW, \textit{Annual Report}, 1984
\textsuperscript{40} Diary Notes
\textsuperscript{41} Ibid
\textsuperscript{42} Ibid
The militant independence that Mundey had adopted during the years 1970-1974 was influenced by CPA policies of the and pursued as political competitiveness with the BWIU dominated Socialist Party of Australia and the Marxist-Leninist policies of the communist party supported by Gallagher. Following the defeat of the Mundey/Owens/Pringle leadership of the NSW/BLF, Gallagher maintained that political competitiveness approach against the BWIU. The differences in ideology, and Gallagher’s use of the “decline in skilled work as a pretext for expanding (his) membership”,44 as well as Gallagher’s fear of the growing influence of the BWIU, each contributed to his aggressive policies. It is also reasonable to suggest that the objectives of the ACTU in relation to amalgamation/industry unions may have contributed to the final push against the individualist Gallagher.

With conflict over job territory and pay differentials, it is unlikely that the unskilled and skilled workers’ unions can co-operate effectively. This is made more improbable by ideological differences.45

The MBA/NSW and the other MBAs suffered from a broad based membership with diverse objectives and attitudes, a situation that often frustrated the more pragmatic approach preferred by national contractors in addressing industrial relations. The MBAs were also prisoners of their own state based character and history of preserving their individual autonomy. The 1974 de-registration case did not create that situation, but it did highlight its existence. Once national contractors were moved to create their ‘national industry forum’ (the NIE), the locus of power and the relationships between the national contractors and the MBAs were dramatically altered. The inability of the MBAs to come to terms with those changes, and their constant opposition to AFCC, virtually placed them in a relationship, with the national contractors that bore some similarity to the relationship that developed between the ACTU and the ABLF.

43 Ibid
44 Stephen J. Frenkel and Alice Coolican, Op Cit, p.51