CHAPTER 4

THE NSW/BLF MARGINS AND AMENITIES DISPUTES

One-out Unionism

1970-1971

Introduction

The increased height, and therefore the growth in size, of building projects during the 1960s altered the structure of the building companies undertaking the works. As Lawrence Daly of Britain’s National Union of Mineworkers observed:-

-----the growing size of economic enterprise and the centralization of decision-making is one of the main developments in economic structure.1

In the building industry, that centralisation of decision-making had undermined the position of authority that in earlier times had been vested in the site foreman.2 The site foreman’s role had become ambiguous and of lower status. The professional project manager had replaced the general foreman, and the lack of moral support provided to supervisors and foremen led to a lack of managerial authority at the work-face.3 This situation, was exacerbated by militant on-site activists (which usually included the strategically powerful ‘crane crew’); and, by the intrusive activities of ‘vigilante’ gangs which emerged during the 1970 ‘margins’ campaign by builders’ labourers.

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1 Lawrence Daly, “Protest and Disturbance in the Trade Union Movement”, in Bernard Crick and William A. Robson (Eds.), Protest and Discontent, Penguin Books, Harmondsworth, Middlesex, 1970, p.113
2 Alice Coolican (1989), “A History of Industrial Relations in the Sydney Building Trades 1870-1914”, A Thesis submitted for the Degree of Doctor of Philosophy, University of New South Wales, December 1989, p.295 (Evidence by MBA/NSW member, William Stuart, in the 1905 Carpenters’ Case before the State Commission, suggested that he delegated his absolute authority to Foremen. He made this statement in defence against a union claim for foremen to be included in the award)
The first section of this chapter describes the technological changes that made the lofty crane and its crew so important, and discusses the relationship that developed between the crane driver and the dogmen. The next section describes and analyses the ‘margins’ dispute which led to the introduction of ‘the vigilantes’ and to violence. The increases granted to the margins, in the award covering builders’ labourers, created anomalies in the relationship between the wages of labourers and some tradesmen. The third section of this chapter describes the attempts of the tradesmen’s union to rectify that position.

The poor quality of the amenities provided to on-site workers, and the reluctance of building employers to improve them, was the subject of the dispute that is described in the fourth section of this chapter.

Building employers had been unable to inhibit the intrusion of ‘vigilante’ gangs due to inadequacies in the laws relating to trespass. The introduction of the Summary Offences Act 1970, to an extent, rectified that position. The fifth section of this chapter outlines the efforts of employers to have the act introduced. It also describes various events that occurred following its introduction and, in particular, the campaign of opposition to that act conducted by NSW/BLF as well as that union’s unsuccessful efforts to rally the support of the NSW trade union movement.

The Dogmen and Cranedrivers Relationship: An example of Elitism.

The vacuum in authority on the major building sites was exacerbated by the growing militancy of its large and more concentrated homogenous workforce, and by changing technology that had increased the importance to site operations of Dogmen and Cranedrivers.

The introduction to Australia, on the Civil & Civic ‘Caltex’ project (1956-57), of the European ‘flat plate’ method of construction with reinforced concrete, the greater use of lightweight concrete, as in the construction of ‘Australia Square’

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4 May Murphy, *Challenges of Change*, Lend Lease Corporation Limited, Sydney, 1984, p.22
(1962-68), and the use of precast concrete panels, as in the construction of the MLC Centre (commenced 1972), widened the scope of work, and broadened the range of skills, required of dogmen. The increased height in buildings provided a more dramatic background to, and a more dangerous environment for, the work of riggers and dogmen. Riggers had been the subject of most of the references to Specialist and Certificated Builders’ Labourers in MBA/NSW Minutes, which is hardly surprising in light of the important position held by riggers. However, with the emergence of high-rise construction, the Dogman assumed a higher, and more glamorous, profile.

The lofty crane was the key to progress on a multi-storey project and is not only crucial to the vertical movement of heavy plant and equipment and materials, it provided the means by which concrete (the base material used in the construction of slab floors) was transported from street level to a ‘working’ floor situated at great heights above. (More compact material and gear were often transported by a hoist driven by a builders’ labourer with the appropriate competency ticket.) Dogmen connected loads to cranes by hooks or slings and then directed the crane driver when and where to lift and deposit a load.

Despite the difference in the level of skills of dogmen and crane chasers, and the difference in the wages prescribed for them by the Builders’ Labourers’ Award, the NSW\BLF insisted that all Crane Chasers be paid as Dogmen.

The speed and tempo of the crane operation had a direct effect on the flow and efficiency of site operations. The Crane Driver and the Dogman therefore occupied positions of great strategic power. Due to that fact, and to their close working relationship, the crane driver and the dogman (called ‘the crane crew’)

5 Ibid, p.97  
6 Ibid, p.133  
7 Scaffolding and Lifts Act, 1912, the definitions of `dogman' and `crane chaser' were introduced in 1948 under Section 5. The Act was amended in 1958 and the definitions appeared under Section 2(m) (vii) until the Act was replaced by the Construction Safety Act, 1912, in which the definition appears under Section 17A(6). (The basic difference was that a `crane chaser' can only service cranes on which the driver has full view of every load at all times)  
8 MBA/NSW “Report of Meeting between MBA/NSW Major Contractors and the NSW Branch of the ABLF to discuss problems concerning Dogmen on 15/6/72”, Minutes, 11 July 1972
regarded themselves as ‘rather independent’ from the rest of the workers on site. That relationship was further fostered by the friendship between, and the shared political philosophies of, Jack Mundey (NSW/BLF Secretary) and Jack Cambourne (NSW/FEDFA Secretary).

FEDFA/NSW Crane Drivers operated two basic types of cranes -mobile cranes and lofty cranes: each requiring its own particular certificate of competency. Mobile Crane Drivers were paid either in accordance with their Award, the Engine Drivers General (State) Award or under the terms of any agreement their employer may have entered with the FEDFA. All Lofty Crane Drivers employed by members of the MBA/NSW were paid under the terms of the registered Lofty Crane Drivers Agreement.

The Lofty Crane Drivers Committee was introduced as a forum for discussing issues peculiar to that group of Crane Drivers and to provide advice to the NSW/FEDFA in its negotiations with the MBA/NSW over the Lofty Crane Drivers Agreement. That Committee however soon exceeded its ‘forum’ role and became an elite, and exclusive, group within the Union.

Despite lacking any formal legal capacity, the Lofty Crane Drivers Group vigorously and successfully pursued its ‘closed-shop/Union Hall Hire’ policies. The industrial power of Lofty Cranedrivers, and their willingness to exercise that power, led to other demands on employers such as their insistence on being present

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9 A comment by Joe Owens (NSW/BLF) - MBA/NSW “Report of meeting between MBA/NSW Major Contractors and the NSW Branch of the ABLF to discuss problems concerning Dogmen on 15/6/72”, Minutes, 11 July 1972
10 “Mother would be proud of Jack”, National Times, February 1976. (Cambourne had encouraged Mundey to join the CPA in the early 1950s and they both remained with the (Aarons) CPA after the ideological split)
12 See - Decision of Sheehy J, on 6 July 1973, in the matter Evans v Federated Engine Drivers and Firemen’s Association of Australasia (NSW), NSW Industrial Arbitration Reports, Volume 73 1973. pp 387-395 “The Group is unofficial and in effect it exercises a control over its membership designed, according to the evidence, to regulate employment in the industry on an orderly basis.” (at page 393) Sheehy ruled that since the rules of the group were not part of the union rules and the group was ‘unofficial’ and had no legal means to enforce its rules on an employer, any previous Case law supporting Mr. Evans’ demand to be admitted to membership of the Group had no value, at pp.394-395
13 Ibid
(and obviously paid) whenever ‘their’ Lofty Crane was being serviced, dismantled or erected.14

Discussions, within the MBA/NSW, about Lofty Cranedrivers revealed that ‘certain cranedrivers’ were receiving payments in excess of the rates prescribed by the Industrial Agreement as well as ‘bonuses’ paid by sub-contractors who wished to have their gear, equipment and materials lifted to a ‘working’ floor level.15 A further meeting on the subject of payments to Lofty Cranedrivers revealed that one builder was paying his Lofty Cranedriver $10,000.00 per annum - virtually double the Industrial Agreement rate;16 and, another builder had offered his drivers a $4000.00 bonus.17

Exposed to the industrial successes of some Lofty Cranedrivers it seemed inevitable that Dogmen would seek to exercise industrial pressure from their own positions of strategic power. All specialist builders labourers - dogmen, riggers, and scaffolders - however, naturally tended to regard themselves as separate from the general labouring force.18 Dogmen, however, occupied positions of elitism within their union through the Committee they established as a forum for discussing mutual problems and objectives, and for planning campaigns. The leading role played by the Dogmen’s Committee became evident during the latter months of 1969 when they foreshadowed (and later, abandoned) their sectional over-award payment campaign, and in 1970 during the NSW/BLF Margins campaign.19

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14 MBA/NSW “Report of meeting of major contractors to discuss problems with Lofty Cranedrivers on 27/10/72” Minutes, 14 November 1972

15 Payments by Sub-contractors, anxious to have their materials etc lifted to the floor upon which their employees were working, were more of an open secret than ‘provable’ facts until a notorious case involving a Lofty Cranedriver on the Institute of Technology (Broadway) project in 1973) See- MBA/NSW, Minutes, 12 February 1974

16 MBA/NSW “Report of a meeting of the MBA/NSW Lofty Crane Sub-committee and the FEDFA on 7/10/71”, Minutes, 12 October 1971. (That meeting concluded negotiations for a new Industrial Agreement by increasing the former wage rate by $7.00 and paying 2.9 hours per week Travelling Allowance. The wage rate under the 1970 agreement was $85.00 per week - NSW Industrial Gazette, Volume 179, pp.417-419)

17 Ibid


19 MBA/NSW, Minutes, 11 November 1969
The NSW/BLF Margins Campaign

Violence was first initiated by the NSW/BLF in support of a demand by the ABLF for an increase of $6.00 to margins. At the heart of that claim was the relationship between the award rates for building tradesmen and those of builders’ labourers, which the union believed had not kept pace with changes in technology and the increased skills required of many builders’ labourers.

When making the Builders Labourers (Construction on Site) Award 1962, Commissioner Webb of the Federal Commission emphasised the fact that there was a relationship between the margin of the carpenter and those of builders’ labourers. That relationship was maintained when the award was varied in 1968 following a Work Value Case.

In 1968, the Builders Labourers (Construction on Site) Award 1962 was consolidated to reflect variations made since its making - including the fact that the award had been divided into two parts with Part I applying to Victoria, South Australia and Tasmania; and, Part II applying to New South Wales.

The NSW/BWIU in 1969 applied to the Industrial Commission of New South Wales (the State Commission) for a new award for carpenters, joiners and bricklayers. Other building tradesmen’s unions made applications in similar terms for new awards to the State Commission, and the ABLF applied to the Federal Commission - also in similar terms. Altogether, some seventeen conferences were held between the MBA/NSW and the NSW Building Trades Group of Unions (the BTG), which included the NSW/BLF.

At the first conference between employer associations and the BTG, Pat Clancy (NSW/BWIU Secretary) had stressed the unified position of the building trade unions and that they were seeking social reform through two important

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20 Commonwealth Arbitration Reports, Volume 101 (1962-63), pp.323-326
21 Print B3364, Commonwealth Conciliation and Arbitration Commission, 12 September 1968
22 Commonwealth Arbitration Reports, Volume 125 (1968), p.775
23 Master Builders Association of NSW, Annual Report, 1969
issues, paid public holidays and Accident Pay.\textsuperscript{24} While finally agreeing to the claim for paid public holidays, the MBA/NSW advised the unions that, due to the importance of the Accident Pay claim and its potential ramifications for industry generally, the matter should be referred to the Industrial Commission for hearing in Court Session.\textsuperscript{25} The agreed matters went before Mr Justice Sheehy who, in making the \textit{Carpenters and Joiners and Bricklayers Construction (State) Award 1969}, over-ruled the objections of other employer Associations. His Honour, in his judgement of 31 October 1969, referred to the history of conciliation between the MBA/NSW and the building trades unions since 1960.\textsuperscript{26}

The ‘history of conciliation’ observed by Justice Sheehy reflected a general trend at that time. Yerbury and Isaac suggested that there had been a significant shift in the direction of collective bargaining in Australia during the 1950s and 1960s.\textsuperscript{27} Their observations, taken in an historical context, are not meant to suggest that collective bargaining was a process sought by the unions as an alternative to the arbitration system. In fact while bargaining (over claims for new awards) was pursued by the ‘actors’ in the NSW building industry, many items under negotiation were finally arbitrated. The relevance of Justice Sheehy’s reference to conciliation is that it highlights the fact that the \textit{Carpenters and Joiners and Bricklayers Construction (State) Award 1969}, was virtually a ‘consent award’. On that occasion the NSW building unions had secured the best results from conciliation - on other occasions they saw arbitration as likely to provide the better result. Building unions, as did building employers, viewed the debate, ‘Arbitration versus Collective Bargaining’, from Perlman’s opportunist angle of which was more likely to secure the best results at a given time.\textsuperscript{28} Once the \textit{Carpenters and Joiners and Bricklayers Construction (State) Award 1969} had been established in the State Commission, the ABLF applied to the Federal Commission for a

\begin{itemize}
  \item \textsuperscript{24} Ibid
  \item \textsuperscript{25} Ibid
  \item \textsuperscript{26} \textit{The Australian Law Review}, Vol XI, No. 26, November 8, 1969, pp.6-7
  \item \textsuperscript{28} M. Perlman, \textit{Judges in Industry: A Study of Labour Arbitration in Australia}, Melbourne University Press, Carlton, 1954, p.26
\end{itemize}
variation to Part II of its Award, in terms of the Sheehy Decision. The hearing of the matter was delayed however due to an industrial campaign being pursued by the NSW/BLF dogmen for their wages to be increased to $1.75 per hour. The current Carpenters’ rate was $1.71 and any agreement to the demand had obvious, and serious, consequences. The MBA/NSW warned its membership against believing ‘spurious claims by some NSW/BLF officials’ that certain builders had agreed to the demand.  

On 13 November 1969, Norm Gallagher (ABLFF Secretary) gave “guarantees that bans would be lifted and (his) members instructed by the Federation to work in accordance with the Award”. This enabled the ABLF application to proceed which the MBA/NSW supported in the face of opposition from other employer associations.

The issue of new rates of pay was not discussed at that time and leave was given to the ABLF to make an application in the future to vary the rates of pay in the award. Commissioner Watson of the federal Commission granted the application deciding that in the interest of uniformity it was desirable to continue the "identical relationship" between the Carpenters Award and the Builders Labourers Award.

The ABLF Federal Executive at a meeting in Adelaide in late November 1969 resolved to hold a “Commonwealth-wide” stoppage in March 1970 in support of a claim for a $6.00 per week across-the-board increase for all builders’ labourers, but did not publicly announce this resolution until February 1970. By then, the NSW/BLF, along with other state branches of the ABLF, had commenced industrial campaigns in support of the $6.00 claim. In NSW, the campaign included "refusals to work overtime Monday to Friday, working to

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29 E.E. Morris, President of the Master Builders Association of New South Wales, All Member Circular, No. 36/1969, 4 November, 1969
31 Ibid
32 Ibid
33 Industrial Information Bulletin, Volume 24, No 11, pp.2035-2036.
34 N.L. Gallagher, General Secretary, Australian Builders’ Labourers Federation, Circular - United Action!- Builders Labourers need to Win - Wage Increases Now, February 1970
regulations, walking out on concrete pours which were not completed by normal cessation of work, bans by dogmen, etc.\textsuperscript{35}

The MBA/NSW advised its membership to reject any claims for increased rates and, when faced with industrial action, to inform the MBA/NSW of all NSW/BLF generated industrial action and cease providing Saturday overtime.\textsuperscript{36} MBA/NSW members were requested to provide evidence ‘in the likelihood the Association may take a certain (but in the circular, unspecified) course of action.’\textsuperscript{37}

The disputes were wide-spread and took many forms. The King Street Parking Station Project of K.F. Chilman, for example, lost a total of 1805 hours of work due to stoppages by builders’ labourers between 20 January and 27 February 1970.\textsuperscript{38} Dogmen on Mainline Construction’s Carrington Street, Sydney project, inhibited or prevented work on site and wasted many metres of concrete by refusing to complete concrete pours on 12 February, 20 February and 27 February 1970.\textsuperscript{39} When, in early February 1970, Joe Owens, a NSW/BLF organiser, himself a certificated rigger and dogman,\textsuperscript{40} discovered the dogman on the Sydney Trades Hall project of James Wallace Constructions completing a concrete pour after the normal finishing time he “screamed” at the dogman to get off the hook and threatened "to have him before the Union if he so much as pulled the bell rope".\textsuperscript{41} When asked about the trucks of concrete waiting to be unloaded, Owens replied "F--- the concrete, you can send it to the Tempe Tip for all I care".\textsuperscript{42}

\textsuperscript{35} Master Builders Association of NSW, “Report of the Industrial Relations Committee” Minutes, 10 March 1970
\textsuperscript{36} Master Builders Association of NSW, \textit{All Member Circular No 4}, 26 February 1970
\textsuperscript{37} Ibid - (This circular arose out of a special meeting of Major Contractors on 26 February 1970, which on advice from Mr T.J. Ludeke QC, first considered the avenue of deregistration but delayed any final decision until after a hearing before Commissioner Watson on 2 March 1970)
\textsuperscript{38} \textit{Transcript of hearing} before Commission Watson in the Matters of: Master Builders Association of NSW (C No.130 of 1970); of Master Builders Association of Victoria (C No. 936 of 1970); of Fricker Bros Pty Ltd, South Australia (C No. 609 of 1970); and the Australian Builders Labourers Federation - 2 March 1970, p.4
\textsuperscript{39} Ibid
\textsuperscript{40} Evidence, of J.J. Owens, \textit{Op Cit}
\textsuperscript{41} L.R. Ball, MBA Senior Industrial Officer, “Addendum”, \textit{Report to Chairman Industrial Relations Committee}, 3 March 1970
\textsuperscript{42} Ibid
On 23 February 1970, all dogmen in Sydney went on a twenty-four hour strike in support of the demand for increased wages.43

A hearing before the federal Commission on 2 March 1970, proved abortive. However the Master Builders Association of Victoria (MBAV) received some respite from industrial pressure due to its representatives agreeing to enter negotiations.44

The industrial pressure in New South Wales however continued unabated and, while most of the activities were in the form of ‘hit and run’ tactics by dogmen,45 “there was little doubt that the general claim for $6.00 margins increase was not confined to dogmen but was a demand on behalf of all grades of builders’ labourers”.46 Les Ball (MBA/NSW Senior Industrial Officer) prepared a paper outlining the avenues available to the MBA/NSW and they ranged from:

An application to cancel the registration of the Australian Builders’ Labourers Federation to An application in its own right for ‘stand down’ provisions in other Building Trades Awards.47

The seriousness of the situation led the MBA/NSW to suggest that the Labor Council of NSW take over the dispute. The building tradesmen’s unions however, rejected that approach despite the real possibility of an industry closedown.48

On 24 March 1970 the MBA/NSW asked Commissioner Watson not to proceed with the ABLF application for a margins increase until all industrial action had ceased.49 The union, in reply, accused the MBA/NSW of aggressive behaviour in threatening to close jobs down, and accused the MBAV of the provocative behaviour in threatening to withdraw the benefits of the Victorian Building

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43 Ibid
44 Master Builders Association of New South Wales, Industrial Relations Committee, 4 March 1970
45 Diary Notes, Discussions with dogmen and NSW/BLF organisers confirmed the ‘open secret’ that the strike activities of dogmen were orchestrated by the union’s ‘Dogmen Coordinator’, Joe Owens.
46 Master Builders Association of New South Wales, “Report of Meeting of Major Contractors held 17 March 1970”, Minutes, 14 April 1970
49 Ibid
Industry Agreement (VBIA). The employers and the ABLF exchanged assurances before Commissioner Watson and an ‘armistice’ (Les Ball’s description) was declared.

The Master Builders Associations involved in the dispute were divided on how the dispute should be processed. MBAV was not opposed to negotiating on the issue of margins; MBA/NSW wanted any movement in margins to be determined by the Commission; and, the Master Builders Associations of South Australia and Western Australia were opposed to any increase in margins whether established by negotiation or by arbitration.

A recommendation that the MBA/NSW align itself with the stance adopted by MBAV was rejected by its Council of Management (the MBA/NSW Council) on 14 April 1970, thereby precluding MBA/NSW officers from negotiating with the union. The MBA/NSW therefore had only ‘observer status’ at a conference the following day (15 April 1970) at which Gallagher, to the dismay of Les Ball, produced copies of every MBA/NSW circular sent out to MBA/NSW members since the dispute with the ABLF had deteriorated. Les Ball was also "appalled" to learn that the Assistant Secretary of the NSW/BLF, Bud Cook, had been aware of everything that had transpired at a Special Meeting the MBA/NSW had convened to discuss a completely separate industrial issue (Portability of Long Service) the previous day, 14 April 1970. Mr Ball, in a letter to the Chairman of the MBA/NSW Industrial Relations Committee (the MBA/NSW IRC), concluded:

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50 Ibid (The VBIA commenced in 1956. It contained a dispute settling procedure which featured a seven (7) day cooling-off period with reference to a Joint Conciliation Committee for decision.
J.S. Luckman, “Industrial Relations and the Building Industry”, ANZAAS Conference, Melbourne, 1977

51 Ibid

MBAV had traditionally negotiated ‘wages’ and had ‘conditions’ arbitrated. MBA/NSW usually adopted the reverse approach. Thus, Victorian building award wages were the highest and NSW building award conditions were the most generous. The MBAs in SA and WA were bound by policies of local (generic) peak associations who feared a wage drift to other industries should the ABLF claim be met.

53 MBA/NSW “Minutes of meeting of the Industrial Relations Committee on 7/4/70”, Minutes, 14 April 1970
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54 Master Builders Association of NSW, Minutes, 14 April 1970

55 L.R. Ball, Senior Industrial Officer, Master Builders Association of New South Wales, Letter to Chairman of the MBA/NSW Industrial Relations Committee, 16 April 1970
--- this is treacherous conduct --- If we cannot be assured of some loyalty on the part of our members then there is just no hope for us.\textsuperscript{56}

A Special Meeting of MBA/NSW members, called to discuss the Builders’ Labourers situation, considered the ‘Agenda Motion’ which authorised MBA/NSW representatives to resume negotiations with the ABLF -

--- within the framework of the Conciliation and Arbitration system in respect to current claims for wage increases and other conditions.\textsuperscript{57}

The motion failed to attract support from the necessary 75\% of those at the meeting and was therefore defeated.\textsuperscript{58} This highlights the dilemma facing the MBA/NSW membership. Major contractors facing industrial campaigns were often prevented from achieving a settlement, ultimately through the Commission, (the costs of which they would have recovered through the provisions of Rise and Fall Clauses) because they were outnumbered by those MBA/NSW members who neither faced such industrial pressures nor enjoyed escalation (Rise and Fall) benefits in their building contracts. The MBA/NSW was advised by John Luckman (MBAV Industrial Relations Manager) following the meeting on 26 April 1970 from which the MBA/NSW had been excluded, that further conferences were arranged and the truce in the Southern States had been extended.\textsuperscript{59}

In New South Wales, however, the refusal of the MBA/NSW to negotiate - due to the decision of its Special Meeting on 23 April 1970 - led to a general stoppage of builders’ labourers on 4 May 1970 which, ultimately, continued on for five (5) weeks. Many jobs were unable to continue and building tradesmen were stood down. The MBA/NSW made an application to the Apprenticeship Council of New South Wales to suspend apprenticeships due to the closing down of jobs.

\begin{footnotesize}
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\item \textsuperscript{56} Ibid
\item \textsuperscript{57} Master Builders Association of NSW, \textit{Minutes of Special Meeting}, 23 April 1970
\item \textsuperscript{58} Ibid
\item \textsuperscript{59} Les Ball, \textit{Memorandum to the Executive Committee}, 26 April 1970
\end{itemize}
\end{footnotesize}
The BTG raised its ‘grave’ concerns with the MBA/NSW Executive Committee on Monday, 11 May 1970, and due to the “reasonable approach” adopted by the BTG, the MBA/NSW Council resolved that a Special Meeting of members be called for 19 May 1970 to review the Association’s position in the dispute. This decision was immediately communicated to the NSW/BLF. Mr Ball took great pains to point out to Commissioner Watson that the recommendation was in no way influenced by the NSW/BLF campaign but, rather, was in response to the concerns and approaches of the BTG. Mr Ball described various acts of violence carried out by builders labourers during the margins dispute and offered to provide sworn evidence to support his submissions:

-- in Wollongong builders labourers emptied concrete from a ready mixed concrete truck into the gutter and those who chose to continue their employment on this particular job were accused of being scabs.---
At a very large (commercial project) in North Sydney some 30 builders’ labourers, led by an organiser who is well known to us, threatened sub-contract formworkers that if they transported material from one job to another some trouble could be expected.---- On another job on the North Shore, the foreman in charge of the job was physically assaulted, a concrete mixer was overturned and a compressor was wrecked.

Mr. Ball concluded: “--- this is disgraceful conduct. It is reminiscent of the worst possible aspects of stand-over tactics which were a feature years ago of American Unionism. It means that gangsterism is being allowed to take over in the Australian industrial relations scene and there is just no place for it”. In his general response, Jack Mundey referred to the problems caused by the MBA/NSW’s refusal to negotiate and commenced his submission with the words:

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60 Master Builders Association of New South Wales, “Executive Director's Report to the Council of Management”, Minutes, 12 May 1970
61 Master Builders Association of New South Wales, Minutes, 12 May 1970
63 Ibid, p.3
64 Ibid, p.6
65 Ibid
I don’t think the picture is quite as grim as painted in the colourful language of Mr Ball.\(^66\)

This attracted the following question from the Commissioner:

> You do not condone violence, do you?

Mr Mundey replied:

> No, I am surprised you even suggest I would. Of course I do not condone violence and I reject any accusations that our members have engaged in violence.\(^67\)

Mr Ball referred to the difficulty in his Association reaching agreement to enter negotiations and again pointed out that another Special Meeting of MBA/NSW members was to be held on 19 May 1970 which led the Commissioner to comment to Mr Ball:-

> I must say I think it is a great pity that the MBA/NSW did not negotiate at an earlier date,

and then turning to Mr Mundey he added:-

> -- but what worries me is that whilst the original stoppage presumably had a tactical objective it does seem to me now that you have almost got them to the negotiating table, that the extension of it is more of a punitive nature, putting in the industrial boot.\(^68\)

Mr Ball suggested to Mr Mundey that a resumption of work could convince those at the forthcoming Special Meeting who were against negotiation that the union was "worth talking to."\(^69\)

The Special Meeting of MBA/NSW members on 19 May 1970 rescinded the earlier decision not to negotiate,\(^70\) which enabled MBA/NSW officers to participate in the negotiations that had been proceeding the Melbourne since early April 1970. The MBA/NSW entered those negotiations despite the NSW strike

\(^{66}\) Ibid, p.7

\(^{67}\) Ibid, p.9A

\(^{68}\) Ibid, pp.11-12

\(^{69}\) Ibid, p.11

\(^{70}\) MBA/NSW “Report of Proceedings of Special Meeting of Members on 19/5/70”, Minutes, 9 June 1970
An offer was made to the union for interim increases to the four classifications under the Builders Labourers Award, for a Work Value Case and an offer to assess the 3rd classification at 90% of whatever amount was finally awarded to the Rigger (the highest classification). The ABLF rejected the offer "out of hand" and, before walking out of the meeting, "advised Employees that the truce which until that time had existed in the Southern States could now be regarded as terminated."

In New South Wales this was followed by an outbreak of further violence on a number of building sites which John Martin (MBA/NSW Executive Director) and John Twyford (MBA/NSW Legal Officer) discussed with NSW Police Commissioner Norman Allen. Mr Allen, a former Police Prosecutor, referred to difficulties in bringing charges against builders’ labourers who invaded building sites, suggesting that the only avenue available was through the Enclosed Lands Protection Act, 1901. The results of that meeting were relayed to members of the Industrial Relations Committee when they were invited to a meeting of the Executive Committee on 25 May 1970. The views expressed by the Police Commissioner appeared to have been standard Departmental policy for when Ray Rocher, the manager of Plunkett Construction Pty Ltd, advised police that he would sign any charges they laid against builders labourers who had invaded his Wollstonecraft site the police replied that: - -- because two panels of our hoarding had been removed to enable material’s (sic) entrance, charges could not be laid by the Police. These events occurred on Tuesday, May 26th 1970, after Rocher had received advice that his site was to be ‘visited’ by a group of NSW/BLF activists (vigilantes) whom Rocher referred to as ‘Mundey’s Raiders’.

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71 Mr Ball referred to amendments to the Conciliation and Arbitration Act ‘allowed for, and in fact demanded, negotiations whilst employees were on strike’ - He also emphasised that any negotiations would be with the ABLF and not the NSW/BLF
73 Ibid
74 Interview: Mr John Twyford, MBA/NSW Executive Officer - Legal and Contracts, 10 June 1992
75 Master Builders Association of NSW, Executive Minutes, 25 May 1970
77 The term ‘vigilantes’ was mainly used by the officers of the NSW/BLF. One publication published by the union stated: “The scattered and fragmented nature of the building industry has made it vulnerable to
A mob numbering about 50 to 60 subsequently arrived and invaded the site at about 9:00 am and prevented bricklayers, plasterers, plumbers and electricians, as well as Plunkett’s own staff, from continuing their work.” The invaders spent their time between 9:00 am and 10:00 am intimidating two builders labourers employed by the company and four or five builders labourers employed on site by sub-contractors. The arguments and threats were interspersed with the invaders singing and calling out: “This is Radio Station Scab broadcasting”.

The Union Organiser who led the Vigilantes stated that either Mr Rocher provide a signed statement in which he agreed that his company would pay $6.00 per week over the award rate, or no work would proceed on any of the Company’s projects for the currency of the state-wide strike called by the NSW/BLF - Rocher refused. Builders’ labourers employed on the project (Home Units) left the site at 1:00 pm and some fifteen minutes later the mob left the site and as they left some men pushed over newly-erected brick walls. Arrangements were made for the removed panels of the hoarding to be replaced and for a private security company to patrol the site from 5:00 pm that day until 7:00 am on Thursday, 28 May 1970.

On the same day of the invasion of the Plunkett site, Tuesday, 26 May 1970, a conference took place in Melbourne at which the Employers increased their previous offer by 25% - again the offer was rejected by the ABLF. That conference had ironically been convened at the request of the MBA/NSW in an attempt “to stave off the increasing amount of violence”.

The following day, Wednesday 27 May 1970, no work was carried out on Plunkett’s Wollstonecraft site. However, prior to leaving his office that evening,
Ray Rocher received an anonymous telephone call warning him that builders’ labourers intended to occupy the site the following morning. The Police were advised of the anonymous phone call and of the security precautions taken, and requested to regularly patrol the site that night.  

On the Thursday morning Ray Rocher drove to the site at around 6:50 am and saw about ten Police Officers near the site and approximately 50-60 men (many of whom had been there on the previous Tuesday) on the site. Two NSW/BLF officials approached Ray Rocher and advised him that the vigilantes had taken possession of the site. Ray Rocher requested a Senior Police Officer to remove the men from the site and lay charges against them and was told that arrangements would be made to ‘bring re-enforcements’.

Mr Rocher waited on the footpath with the Police Officers and noticed that the vigilantes had climbed the scaffolding and had occupied all floors of the building. Suddenly two wheelbarrows were thrown out of the top floor of the building and Ray Rocher immediately advised the Police Officer that he wanted the culprits ‘charged’ and was advised that more police would have to come to the site. The time was then shortly after 7.00 am.

At about 8:00 am the site was still occupied by the vigilantes and echoes came from the site which led Ray Rocher to believe that pipes were being hit with an iron bar. The noise continued and then water started to flow off the decks of the floors onto the balconies and stream out from all sections of the building.

Rocher requested the Police to get the vigilantes off the site within 20 minutes or ‘they will do a hell of a lot of damage’ and was again told of the need for police re-enforcements. However, on this occasion the Officer went to the Patrol Car and appeared to make a radio call.

Over the next two hours the vigilantes smashed plant and equipment, aluminium frames and doors which had been installed were torn away and thrown out of the building. During this period Rocher received a telephone call from

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82 R.L. Rocher, (Affidavit), Op Cit  
83 Ibid  
84 Ibid
Mundey suggesting that he sign an agreement. Rocher refused. By about 10:15 am the site was strewn with wreckage and the vigilantes made a mass exodus from the site - about ten minutes later the Police re-enforcements commenced arriving. It cost the company in the vicinity of $13,000 to rectify the damage. However, the cost in overheads, increased costs through delays, and interest incurred could probably double the figure quoted.85

The events at the Plunkett/Wollstonecraft project exposed the NSW/BLF Vigilantes’ contempt for authority, ownership rights and property. The activities of the vigilantes were graphically displayed on television thus raising the awareness of the Government, the police leadership, and the general public, to the state of affairs that had emerged in the NSW building industry. Some MBA/NSW members broke ranks and breached the Association’s policy precluding individual agreements with Unions, and were dealt with in accordance with MBA/NSW Rules. On Monday 27 July 1970 four member companies were fined by the MBA/NSW Council for "signing an agreement for over award payments and that these actions were regarded as inimical to the interest of this Association."86

A conference of Employers and the Union held in Melbourne on Tuesday 2 June 1970 developed into a series of conferences with the end result that, apart from an increase in the rate offered to the ‘Unskilled’ Group’,87 the ABLF (and the NSW/BLF) decided to accept the Employers’ previous offer on an interim basis, and apply for a Work Value Case to be conducted before Commissioner Watson. The builders’ labourers ‘Margins’ strike in New South Wales ended on 8 June 1970. On the same day a meeting of Major Contractors at the offices of the

85 Ibid
86 Master Builders Association of NSW, Minutes of Special Council Meeting, 27 July 1970 (The fines were paid and members appeared to close ranks on the issue of ‘over-award’ deals - there is no available evidence, however, to indicate whether the over-award payments, that led to the fines, were withdrawn)
87 In hindsight, there was significant irony in the ‘win’ by the builders’ labourers in achieving an increase to the ‘Unskilled Group’ rate for the grounds for the ABLF deregistration included the boycotting of that wage category by the NSW/BLF. Mundey had advised all employers in November 1970 on the grounds that “we resolutely reject the suggestion that any builders labourer has no skills whatsoever” Jack Mundey, Letter to J.D. Martin (MBA/NSW), 17 November 1970

Until 1969, the ABLF Award had classified builders labourers only as ‘skilled’ and ‘ordinary’ and following the introduction of the two specialist categories, Rigger/Drainer/Dogman and Scaffolder/Powder Monkey/Hoist Driver, a practice developed of loosely referring to the third and fourth categories of the award as ‘skilled’ and ‘unskilled’.
MBA/NSW urged the Association to lobby the State and Federal Governments to introduce laws which would discourage the NSW/BLF from ever again pursuing "the disgraceful behaviour" that had been exhibited during the previous four months. On 18 June 1970 representations were made to the NSW Government on the inadequacies of the existing law of trespass.

Following a detailed Work Value Case, Commissioner Watson in his Decision on 13 August 1970 significantly narrowed the gap between Building Tradesmen and Builders Labourers by awarding the first and second classifications of builders labourers 99% and 90%, respectively, of the Carpenter’s Margin. The third classification rate he established by awarding 90% of the increase granted to Classification 1; and, awarding 50% of the Classification 1 increase to the fourth Classification. Those standard percentages became known as the “Watson formula”. Whether the decision of the Commissioner to provide greater recognition for the work of builders labourers, in comparison with the work of tradesmen, was unduly influenced by the industrial turmoil created by the NSW/BLF and by other branches of the ABLF has been the subject of some debate. Those who subscribed to the theory, which suggested that the Commissioner would be influenced by the turmoil generated by the ABLF and the NSW/BLF, were somewhat supported by the following extract from the Commissioner’s Decision:-

In the background, unmentioned but acutely sensed by the major employers of Builder’s Labourers, is the present overall industrial situation with its complex political and economic undertone, the improved bargaining position of all Building Trades Unions in a climate of full employment and expanding growth and, not least, the turbulent weeks of industrial action earlier this year.

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89 Master Builders Association of NSW, Executive Committee Minutes, 22 June 1970
90 Commissioner Watson, Decision in the Matter of: the Australian Builders Labourers Federation and the Master Builders Association of NSW and Others (C No. 1366 of 1969); and, the Employees Federation of NSW and Others (C No. 1169 of 1969), 13 August 1970, p.12
91 Ibid, p.4
Certainly Jack Mundey regarded the industrial turbulence as being a decisive factor in the exercise. However, he focused more on its effect "on the employing class, who incurred a loss of over $60 million during the dispute" than on its effect on the Federal Commission.92 The Commission was however, aware of the various events, and sensitive to the nuances, within the industry, and recognised the need to retain the Award superiority of the Tradesmen.

The dispute exposed the continued dependence of the ABLF on the Federal Commission to provide benefits to its membership through the Award system. This dependence - and the recognition of its dependence - on the award system by the ABLF (and, for that matter, by the NSW/BWIU) epitomised the basic difference between the operational approaches of those two unions and that of the NSW/BLF. Both the ABLF and the NSW/BWIU pursued industrial campaigns at times of wage claims, those campaigns were, to quote Gallagher, ‘tenderising’93 exercises designed to achieve compliance to the Unions’ award ambitions, thus demonstrating their commitment to a ‘common rule’.94 The ABLF maintained its status within the union movement through its federal award which, after the roping-in of Queensland employers in 1971, assumed a ‘national’ character. The NSW/BWIU, of course, maintained its pre-eminent position in NSW through the test case/benchmark character of its Carpenters and Joiners and Bricklayers Award.

Mundey, whose membership relied on "Gallagher’s" Federal Award, achieved no enhanced status through the award system particularly in light of the dependence of Part II of the ABLF award on movements to the NSW Carpenters (etc.) award. Mundey therefore would have seen more kudos in achieving gains outside the Industrial Tribunals and, since his power base was the activists

93 This became a famous, and often used, description used by Gallagher during the 1970s and up to the final de-registration of the ABLF in 1986.
working within the Sydney Central Business District, he had positive benefits in pursuing the CPA confrontationist policies.

The ABLF Margins dispute drew attention to the lack of national cohesion between the Master Builders Associations. This fact emerged very early in the dispute and was identified by one MBA/NSW member who urged:

"-- a more cohesive effort is required, if not by all employers then certainly between the MBAs in various states."

Les Ball of MBA/NSW had since 1962 called for federal industrial relations coordination by MBFA. Ball complained that some MBAs were bound to “policies not necessarily attuned to the pressures facing the building industry”, due their dependence on the industrial relations services of the local Employers’ Federation or Chamber of Manufactures. His further representations in 1970 led MBFA to form its Industrial Matters Committee.

The ABLF Margins dispute also exposed an emerging rift between the NSW/BLF and many of the Tradesmen’s Unions, a fact which the NSW/BLF seemed to ignore in claiming to be strong advocates of amalgamation of building unions. The Newcastle Branch of the NSW/BWIU revealed its reluctance to be closely associated with the NSW/BLF by suggesting it had no room to accommodate the newly appointed Newcastle Organiser of the NSW/BLF, a development may also have been influenced by the then recent resignation of Pat Clancy from the CPA due to his disagreement with the shift in policy line introduced by the new CPA leadership.

Jack Mundey began to advocate "real industrial unionism free from craft hangovers and with the labourers being accepted as a real force in the building

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96 Master Builders Association of NSW, Minutes, 9 October 1962.
97 L.R. Ball, Letter to President of Master Builders Association of NSW, 1 April 1970
98 Master Builders Federation of Australia, Minutes, 28 May 1970
99 “No Room at the Top”, The N.S.W. Builder's Labourer, Volume 4, No. 22, July 1970, p.9
100 Ibid
industry, not just as assistants". Whether, at that point in history, such a situation could have been achieved in the face of the Tradesmen’s traditional attitude towards labourers is doubtful. Coolican suggested that tradesmen of the pre-federation era did not share any class consciousness with tradesmen of different occupations - that they focused on craft consciousness. Despite the fact that many trades shared membership of, or association with, the NSW/BWIU and their consciousness became more generic than occupational, some degree of craft consciousness persisted.

Occupational consciousness was very strong among plumbers. Their federal union, the Plumbers and Gasfitters Employees Union of Australia (PGEU) had a socialist leadership, and, despite the right-wing leadership of its NSW state branch, (NSW/PGEU), there were many activists within the NSW/PGEU who were either CPA members or sympathisers.

The fact that there were sectional committees (such as the Dogmen’s Committee) within the NSW/BLF also revealed some occupational consciousness in Mundey’s camp. While the animosity that emerged between the leaderships of the NSW/BWIU and NSW/BLF could in part be explained by ‘occupational competitiveness’, there had emerged a clear element of ‘union competitiveness’. For example Mundey had declared:

The gains [achieved] also strikes a blow for all lowly paid workers who have fared badly in recent years. Our strike will probably encourage more workers to take strong and direct action despite opposition from right-wing leaders.
This competitiveness could also be regarded as ‘defensive’ strategy due to the NSW/BLF’s fear of NSW/BWIU domination given the 1969 extension of the BWIU rules to include slaters, tilers, shinglers and roof fixers. There was, however, resentment displayed at site level by tradesmen who saw their numerical strength and status on site reduced by changes in technology, and regularly found their employment jeopardised by the activities of the NSW/BLF membership.

The NSW Building Tradesmen’s ‘Catch-up’ Claim.

The 1970 NSW/BLF Margins Decision concerned the BTG tradesmen unions’ leadership who complained that the Rigger classification of the Builders Labourers Award now "enjoyed the same skill margin" as that of bricklayers, and the riggers’ “take-home” pay exceeded that of Painters by 40 cents. Pat Clancy stated that the claims for Accident Pay and Long Service Leave were being pursued in other forums and remained high on the unions’ list of priorities. However, the immediate problem was related to relativities which they (the leaderships of tradesmen’s unions) saw as overcome by a BTG claim for $10.00 per week, provided it included an increase to Tradesmen’s Margins. Bud Cook (NSW/BLF Assistant Secretary) pointed out that his union would seek to protect the relativities introduced by the new ABLF award should any increases be granted to the Tradesmen’s Awards. The MBA/NSW representative advised the unions that the situation that existed between them placed employers in an impossible position, and that the unions should resolve the matter between them.

109 Interview: Ernest E.E. Morris, Op Cit
111 The NSW/BWIU, NSW/PGEU, the NSW branch of the Operative Painters, Decorators and Signwriters (OPDU), and of other tradesmen's unions affiliated with the NSW/BWIU - such as the Operative Plasters and Plaster Workers' Union (OPPWU).
The unions agreed to attempt to resolve the matter through inter-union discussions.\(^{112}\)

Those discussions apparently proved fruitless for during September and October 1970 the BTG pursued an industrial campaign in support of its $10.00 claim. That campaign took the form of bans, limitations and state wide stoppages by building tradesmen.\(^{113}\) The 1970 BTG Margins claim was finally resolved by a Decision of Sheehy J. which increased the Carpenters’ margin and brought the margins of Bricklayers, Painters and Plasterers to equal that of the Carpenter. That Case is important in that it clearly demonstrated the emerging division between the NSW/BLF and the NSW Building Tradesmen’s Unions and, it produced equality between the margins of Carpenters and other building tradesmen and redressed anomalies created by the Watson formula:

\[\text{TABLE 4.1} \]

<table>
<thead>
<tr>
<th><strong>Carpenter</strong></th>
<th><strong>Bricklayer</strong></th>
<th><strong>Painter</strong></th>
<th><strong>Plasterer</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec ‘69</td>
<td>Nov 70</td>
<td>Dec 69</td>
<td>Nov 70</td>
</tr>
<tr>
<td>Public Holidays</td>
<td>1.1437</td>
<td>1.2851</td>
<td>1.203</td>
</tr>
<tr>
<td>Sick Leave</td>
<td>1.1437</td>
<td>1.2851</td>
<td>1.203</td>
</tr>
<tr>
<td>Lost Time</td>
<td>1.8301</td>
<td>2.0573</td>
<td>1.926</td>
</tr>
<tr>
<td>Tool Allowance</td>
<td>1.50</td>
<td>1.50</td>
<td>.70</td>
</tr>
<tr>
<td>Weekly Rate</td>
<td>70.00</td>
<td>74.80</td>
<td>69.20</td>
</tr>
<tr>
<td>Basic Wage</td>
<td>39.60</td>
<td>39.60</td>
<td>39.60</td>
</tr>
<tr>
<td>Weekly Wage</td>
<td>109.60</td>
<td>114.40</td>
<td>108.80</td>
</tr>
</tbody>
</table>

**SOURCE:** MBA/NSW, Building Workers Wages Analysis Register 1950-1981, 19 December 1969 and 1 November 1970

The NSW/BLF Amenities Campaign

\(^{112}\) Ibid

\(^{113}\) MBA/NSW, “Report of meeting between the Building Trades Group and Employer Associations on 26 October 1970”, *Minutes*, 10 November 1970
The Scaffolding and Lifts Act, 1912 governed operations, on building sites, associated with safety and with the provision of amenities for workers. The generic term ‘amenities’ covers change rooms, dining rooms, washing and toilet facilities, facilities for tea-making and food storage. The Act also requires the provision of hot water and clean cool water, as well as clothing and (in the case of tradesmen) secure tools storage.

Many builders required their sub-contractors to provide their own amenity sheds and, in addition to this requirement rarely being monitored by the head contractor, space restrictions on inner-city projects usually precluded such an approach. For those reasons, the amenities provided on the majority of building sites were insufficient to meet the needs of its workforce. Those amenities that were provided were often not maintained in terms of serviceability and cleanliness. The NSW/BLF, during the latter months of 1970, embarked on an ‘amenities’ campaign, and the MBA/NSW expressed its serious concern at ‘the wilful destruction of property’ associated with that campaign. Examples given by the MBA/NSW of destructive behaviour included the pushing of an amenities shed into the excavation hole on the Kings Cross project of Summit Engineers Pty. Limited and the pushing over of a block of toilets at the North Sydney office block project of A.V. Jennings Industries (Australia) Limited.

The ABLF had applied for a flow-on, to Part II of the Builders’ Labourers’ Award, of the increase to margins granted to Tradesmen’s Awards by the State Commission in November 1970. Following adjournment of the hearing of that ABLF application, W.K.(Bill) Fisher QC, who represented the ABLF, referred to the lack of reference to ‘amenities’ in the award, suggesting that a specific clause which addressed the subject be inserted in the award, and that a joint NSW/BLF-MBA/NSW approach to the NSW Minister for Labour and Industry. The MBA/NSW ignored the ‘joint approach’ suggestion and met the NSW Minister for

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114 J.D. Martin, MBA/NSW, Letter to N.L. Gallagher - ABLF, 19 November 1970
115 Ibid
116 L.R. Ball - MBA/NSW, “Report to Chairman Industrial Relations Committee - 22/1/71”, Minutes, 9 February 1971
Labour and Industry as a single delegation. The MBA/NSW delegation did however convey the NSW/BLF proposals:-

That the Minister consider legislating to provide the NSW/BLF, on behalf of its members respondent to a Federal Award, with the power to pursue prosecutions under the Scaffolding and Lifts Act. That the Act be amended to make Head (Main) Contractors responsible for the provision of amenities for all employees on building sites. That the Institute of Architects be requested to make it a contractual requirement that the Head (Main) Contractor be responsible for providing site amenities for all employees.

The Minister rejected the proposals on a number of legal and philosophical grounds. There is no evidence that the MBA/NSW suggested any alternative to the NSW/BLF proposal. At a meeting to consider the NSW/BLF formal complaint concerning the poor standard of amenities, and the disputes that had occurred over the issue the MBA/NSW’s Barrister, T.J. Ludeke QC pointed to some justification in the amenities complaints of the NSW/BLF.

The MBA/NSW policy was that its members observe the provisions of all legislation, regulation and award. However, this was complicated by the fact that, despite their expressed interest in the NSW Scaffolding and Lifts Act, NSW/BLF officials claims for improved amenities included conditions far in excess of those provided by the Act and by the State Tradesmen’s Awards. That however, did not excuse what Les Ball described as “the apparent disinterest of MBA/NSW members in the issues of Amenities and Safety”.

Ball complained that the situation appeared to support NSW/BLF claims that "while the MBA talks a lot, it doesn’t do much about it". A number of MBA/NSW members argued that in cases where they had up-graded the amenities

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117 MBA/NSW “Report of a Meeting with the Minister for Labour and Industry, Mr E.A. Willis 4/2/71”, Minutes, 9 February 1971
118 Ibid
119 Ibid
120 Jack Mundey, Letter to Master Builders Association of New South Wales, 17 November 1970
121 MBA/NSW, “Report of Meeting of Major Contractors on 27/1/71”, Minutes, 9 February 1971
122 The NSW/BLF demands included: showers, lockers, pie warmers, refrigerators, immediate connection of toilets to the sewer, and air-conditioned amenities and/or positioned at particular locations on site.
123 MBA/NSW, “Report of Meeting of Industrial Relations Committee on 3/3/71”, Minutes, 9 March 1971
provided on their sites the workers continued their practice of either sitting outside in the sun during ‘smokos’ or ‘going to the pub’, and ‘the whole exercise had been costly and rather pointless’.\textsuperscript{124} While there is no record of such a view being expressed, it is reasonable to assume that the inability to recover the costs of up-grading amenities from their clients was a factor in the disinterested response to MBA/NSW urging.

By 1973 it appeared to those in the MBA/NSW Industrial Relations department,\textsuperscript{125} that many NSW/BLF officials used the amenities issue as a weapon with which to impose their will on some Contractors. For example, on 16 February 1973 a NSW/BLF organiser demanded the relocation of amenities that had been in place for some eighteen (18) months on the AMP Centre project in North Sydney. The Builder, Mainline Constructions Pty. Ltd., alleged the cost involved would be in excess of $20,000.00 and following discussion with the workers on site decided, rather than relocate the amenities, to provide additional lighting and exhaust fans in the existing area.\textsuperscript{126} On 28 February 1973 the organiser returned and approached the Company representative saying:--

I understand that you are not going to shift the amenities.\textsuperscript{127}

The Company representative agreed that was so, but pointed out that the workers had agreed with the alternative proposal. The NSW/BLF organiser stated:--

I intend to have the sheds and amenities shifted. I will not have them in their present area regardless of what the men have agreed to.\textsuperscript{128}

Despite threats from the NSW/BLF organiser, the Company continued the work of installing additional lighting and ventilation to the amenities. A week later, at a meeting on site, the same NSW/BLF organiser observed to the Company representative that he had not stopped a concrete pour on a Mainline project, that

\begin{itemize}
  \item\textsuperscript{124} Ibid
  \item\textsuperscript{125} Diary Notes
  \item\textsuperscript{126} Affidavit of B.R. Moyes, Exhibit AT (See Transcript of Proceedings, in matters B.No.40 of 1972 and B.No.73 of 1973, Australian Industrial Court, pp.242-244; and, Oral evidence in the same matters pp.438-444
  \item\textsuperscript{127} Ibid
  \item\textsuperscript{128} Ibid
\end{itemize}
he was beginning to lose his reputation and would have to do something about it. He then repeated his demand for the relocation of the amenities. Later in the same day, an important concrete pour on the site was interrupted, and further disputes and strikes occurred on the site until the Company finally agreed to relocate the amenities. The costs associated with that relocation exercise were in the vicinity of $30,000.00 and the losses suffered by the Company from the related disputes and strikes would have added thousands more dollars to that figure.

The standard of amenities in the building industry improved during the early 1970s, and continued to be of a more acceptable standard in the years following the 1975 demise of the NSW/BLF leadership. Whether such a change could have been effected by a more moderate approach is, of course, doubtful considering the disinterest of building employers in the issue.

Despite its failure to encourage its membership to respond more appropriately to the need to improve the standard of amenities, the MBA/NSW resolved to gather affidavits to support an application for the cancellation of the Builders’ Labourers Federal Award and/or cancellation of the industrial registration of the ABLF. MBA/NSW members were asked to encourage their site management to utilise the immediate legal service established by the Association’s solicitors and, when appropriate, to lay charges against any officers or members of the NSW/BLF who committed acts of violence or damage to property. The continued invasion of building sites by NSW/BLF members and Vigilantes, and other unrelated areas of concern, had influenced the NSW Government to introduce the Summary Offences Act, 1970 which clarified the legal position of trespass in the building industry.

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129 Ibid
130 Ibid
131 Master Builders Association of NSW, Executive Committee Minutes, 30 November 1970
132 Master Builders Association of NSW, “Report of Meeting of Major Contractors on 7/12/71”, Minutes, 8 December 1970
133 Summary Offences Act, 1970, act No. 96 1970, Assented to 9 December 1970 - “Section 50(1): A person who enters or remains in or upon any part of a building or structure, or any land occupied or used in connection therewith, and has no reasonable cause for so doing is guilty of an offence. Penalty: Two hundred dollars or imprisonment for three months. - S.50(3): Without limiting the generality of the expression ‘reasonable cause’ in subsection one and two of this section, it is not a
NSW/BLF Opposition to the Summary Offences Act

In their violent industrial activities during the margins dispute the NSW/BLF vigilantes were somewhat protected by the uncertainty of the police as to the legal restraints on such invasions of property. It is not unreasonable to suggest that the police may have been reluctant to move against unionists with the furore of the O’Shea Case still fresh in everyone’s memory.

The introduction of the *Summary Offences Act, 1970* provided a simple vehicle against which charges could be laid. On 21 December 1970, Tom Hogan, NSW/BLF Organiser, had the dubious distinction of being the first person in the building industry to be arrested under the provisions of the Summary Offences Act.134 Prior to that however, on 30 November 1970, a senior NSW/BLF official had, with nine other NSW/BLF vigilantes, appeared before the Parramatta Court of Petty Sessions to face charges that, on Friday 27 November at the building site where the new Baulkham Hills High School was under construction, they caused malicious injury to a motor driven concrete mixer and to four brick walls.135

Those events commenced when a group of ‘vigilantes’ walked on to the site and, ignoring the Project Manager, walked towards a flight of stairs pushing aside a builder’s labourer and knocking over a wheelbarrow full of bricks which he was wheeling. The Project Manager followed the group calling on them to stop. However, the group dispersed to various sections of the construction site and the Project Manager could hear the sound of falling bricks. The Project Manager saw a number of men push over a hoist and shortly after a number of police arrived. Within half an hour order had been restored on site - on the following Monday the NSW/BLF had declared the job “black”.136 At their trial on 30 November 1970 the NSW/BLF Official and two of the other defendants, reading from prepared

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135 *Sydney Morning Herald*, 1 December 1970, pp.1-8
statements, questioned the right of a civil court to hear what they considered to be an industrial matter.137

The intrusive activities of the NSW/BLF were being emulated by the ABLF and its Branch in Victoria and Mundey of the NSW/BLF reported the arrest of the ABLF General Secretary:-- Norm Gallagher was arrested in late November [1970] for the ‘crime’ of defending a Children’s playground in Carlton -- the Carlton citizens were so appreciative of the 26 unions action they voted to call the area the ‘Norm Gallagher Park.’138 This highlights the difference in status, within their respective local trade union movement, enjoyed by Gallagher and Mundey. Gallagher was very much a leading part of the Victorian union movement. The fact that he was able to gain the support of some twenty five other unions highlights the vast difference in its approach to that of the fairly isolated position adopted, or at least occupied, by Mundey and the NSW/BLF in their relationships with other NSW unions, except with the FEDFA. Gallagher, however, was not faced with a powerful branch of the BWIU in Victoria headed by a person of the calibre of Pat Clancy. The BWIU had a fairly minor presence in that state (its membership restricted to Carpenters and Joiners), and while the ASC&J had a significant membership its leadership possessed no greater status than the leadership of the many other smaller, some also right-wing, tradesmen’s unions. George Crawford (PGEU Secretary), a member of the Socialist Left of the Labor Party, occupied a leading position in the Victorian trade union movement. However, his union had generally remained aloof from the other building trades - preferring to conduct its Award negotiations separate to the other unions. Further, Gallagher’s status within the Victorian unions was reflected in his regular nomination against Pat Clancy for the Executive of the ACTU, a nomination supported by the leadership of the ASC&J and of other smaller unions who feared the ambitious BWIU.

In line with a national stoppage called by the ABLF, principally to formulate its ‘Wages campaigns in 1971’, the NSW/BLF held mass meetings in the

--- “Rowdy scene by labourers: Court closed”, Sydney Morning Herald, 1 December 1970., p.8

Australian Capital Territory (which was regarded as part of the NSW Branch), at Newcastle and Wollongong, and at Sydney Trades Hall.\textsuperscript{139} Those mass meetings adopted a ‘Recommendation’ calling for the restoration of the ‘Watson formula’ following the wage increases granted in the State Commission to the awards of Building Tradesmen in the previous November.

The recommendation, claiming that agreement had been reached with three employers over ‘Accident Pay’, demanded that all employers in the industry agree to full Accident Pay and that ‘Amenities and safety’, be ‘given a higher priority by builders, engineers, and architects at all stages of planning and erecting buildings’. Under the heading ‘Independence of Unions’ the Resolution demanded that:-- charges against General Secretary, Norm Gallagher, the 10 Builders Labourers arrested at Baulkham Hills, and Tom Hogan, be dropped. In N.S.W. we call upon the Labour Council to launch a campaign for the repeal of the obnoxious Summary Offences Act under which Tom Hogan was charged. If the charges are not withdrawn (and the ‘Watson formula’ restored) by the 26th February we call upon the Labour Council to hold a State-wide strike of all workers in N.S.W. on that day.\textsuperscript{140}

The Labor Council of NSW called no State-wide strike in NSW on 26 February 1971 despite the refusal by employers to withdraw the charges against Tom Hogan,\textsuperscript{141} and despite the fact that the ‘Watson formula’ had not been ‘restored’. Four days prior to the hearing of the charges against Tom Hogan, Mundey wrote to all trade unions affiliated with the Labor Council asking them to send a telegram of protest over this ‘anti-union’ legislation, and to encourage their members to attend the Court hearing. The apparent disinterest of the rest of the building trade unions in Mundey’s campaign of opposition to the Summary Offences Act was more an indication of the isolated position of the NSW/BLF than of any acquiescence to the Act. Further, there appears no evidence that the provisions of the Act were ever used against any union other than the NSW/BLF, despite the occurrence of some torrid disputes between members of the MBA/NSW and tradesmen’s unions.

\textsuperscript{139} Ibid
\textsuperscript{140} NSW/BLF, Recommendation - Mass Meeting 4th February - Sydney, Wollongong, Newcastle, Canberra, 4.2.71
\textsuperscript{141} 26 February 1971 was the date on which Tom Hogan was to answer the charges under the Summary Offences Act.
In calling its mass meetings on 26 February, the NSW/BLF made reference to no subject other than the Summary Offences Act calling in its members to “Unite! To Smash This Anti-Union Attack”. There is no evidence of any groundswell of support for that campaign from builders’ labourers generally. Certainly, there is no mention of the 26 February mass meetings in the records of the MBA/NSW.

The NSW/BLF continued its apparently lonely, and unsuccessful, campaign against the Summary Offences Act throughout the period 1971-1974 and other NSW/BLF organisers were arrested under its provisions. For example: NSW/BLF officials, Bob Pringle and Tony Hadfield, were arrested under the provisions of the Summary Offences Act in August 1973 on a Kell & Rigby Pty. Ltd. project at Darling Point, and NSW/BLF Organiser, Vires Perez, was arrested under the same provisions on another Kell & Rigby site later the same day.

Conclusion

The Australian industrial relations system experienced dramatic change in 1969-1970 due to the sudden diminution in power of its formerly authoritative tribunals, and the turmoil within its supra-system, the general community.

The structure of the NSW building industry was affected by enormous technological change due to the increased height of buildings under construction the introduction of new building methods and materials. The changes - and the introduction of more efficient tower cranes - placed dogmen and crane drivers (crane crews) in a position of strategic power. The relationship between members of the crane crews was encouraged by the leadership of their respective and politically compatible unions, the NSW/BLF and the NSW/FEDFA.

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142 NSW/BLF, *Defeat Anti-Union Law*, Quality Press, Sydney, Roneoed, Undated
Violence emerged in the NSW building industry in 1970 during a NSW/BLF campaign for increased margins. The NSW/BLF claimed that the relationship between the award rates for builders’ labourers and those of building tradesmen were no longer appropriate due to changes in technology which required a broader range of skills from builders’ labourers. During this campaign, the NSW building industry was introduced to a new kind of industrial pressure by ‘NSW/BLF vigilantes’ who invaded building sites and often caused damage to property, and who intimidated those whom they described as ‘scabs’. Building employers were critical of what they perceived to be police inactivity against the intrusive activities of the vigilantes. The *Enclosed Lands Protection Act, 1901*, however, only applied to properties that were wholly enclosed. Building sites were rarely completely enclosed due to the need to provide access for building materials and machinery.

The builders’ labourers ‘margins’ dispute was resolved by a decision of Commissioner Watson of the federal commission, who narrowed the gap between the rates of pay building tradesmen and labourers. This was achieved by providing the wage rates of the various classifications of builders’ labourers with percentages of the carpenters’ rate. This process became known as ‘the Watson formula’. The Watson formula initially created anomalies in the relationship between some builders’ labourers and those tradesmen who received lower margins of pay than carpenters. This led to a ‘catch-up’ claim by NSW building tradesmen, a claim resolved by Justice Sheehy by a decision which provided the four trades of carpentry, bricklaying, painting and plastering with equal margins.

Events which occurred and the attitudes expressed during the Builders’ Labourers Margins dispute, and during the building tradesmen’s ‘catch-up claim’, strained relationships between the leadership of the various tradesmen’s unions and the leadership of the NSW/BLF. This situation was exacerbated by Jack Mundey announcing that the aim of his union was to achieve equality between builders’ labourers and building tradesmen. Mundey, with some justification, pointed to the fact that technological change had altered the role of builders’
labourers to such degree that they could no longer be regarded as merely “tradesmen’s assistants”.

Despite the advances in technology and the structural changes that occurred on building sites during the 1960s, the standard of amenities provided on most of those sites remained well below the standards required by the *Scaffolding and Lifts Act, 1912* (the Scaffolding and Lifts Act). The NSW/BLF campaigned for improvements in the amenities provided on site and, despite the urging of the MBA/NSW and the advice of Terry Ludeke QC to introduce such improvements, builders resisted these demands. This led to NSW/BLF demands for facilities in excess of those required under the Scaffolding and Lifts Act (such as showers, refrigerators, and air-conditioned sheds). It also led to the resurgence of violence due to the activities of NSW/BLF officials and of NSW/BLF vigilantes. The MBA/NSW, despite the fact that many within its own membership (through failing to meet their obligations under the Scaffolding and Lifts Act) had contributed to the dispute, regarded the intrusive activities of the NSW/BLF officials and vigilantes as constituting grounds for the de-registration of the NSW/BLF, and gathered evidence for such an application. The intrusive activities of NSW/BLF officials and vigilantes during the ‘Margins’ and ‘Amenities’ disputes, and other events unrelated to the building industry, encouraged the NSW Government to introduce the *Summary Offences Act, 1970*. That Act clarified the legal position of trespass on building sites and many NSW/BLF officials were arrested under its provisions. Jack Mundey, NSW/BLF secretary, appealed in vain to the Labor Council and to building tradesmen’s unions for support in fighting that Act. The NSW/BLF, through its activities, had isolated itself from the most of the trade union movement.