POLICE UNIONS IN AUSTRALIA: A HISTORY OF THE PRESENT*

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In the fading years of the century police unions have never been more powerful and significant. The flexing of muscle in the protest meetings of Victorian police against structural changes in policing was a striking reminder this year of their power to attract notice and challenge administrations and government. Yet police unions have been a subject of little interest to Australian scholars of criminal justice, or even of industrial relations. The indifference is striking. Whatever else police unions may be, they are certainly highly successful collective labour organisations. They are relatively recent, it is true, but not more so than say nurses or teachers unions, with each of which they share a lot in common. And in any case they are now of some age - the oldest continuous ones in Australia going back to before the First World War. These are not just organisations of a few activists. They have aspired to enrol the entire police workforce and have come remarkably close in most cases to achieving that - although for many decades they usually excluded women police. Unionisation in public policing remains just about the closest thing Australia has to a closed shop, and police unions have therefore achieved much in that respect - much more successful than the doctors unions, or those of academics, or perhaps even those of builders' labourers. So why the indifference?

Reviewing the range of literature on British police unionisation (not a union of course, but a state mandated 'Federation') Robert Reiner in 1978 identified a spectrum of views, conservative, liberal and radical, on the merits and achievements of unions. Those views might not be translated directly to Australia - but they do suggest some of the relevant factors impeding research scrutiny of police unions. To conservatives, the idea of police unions has always been anathema - and the Melbourne Police Strike in 1923 proved the point. For liberals unionisation might represent an important freedom of association - but what effect might it have on the organisation of that most sensitive of state concerns, the organisation of policing To radicals the police were an enemy - but what would they be if they were unionised? These have been just some of the ambiguities faced by any of these political dispositions in addressing the issue of police unionism.

To governments however the importance of police unions has never been underestimated. Since the 1920s the annual conferences of police unions have been a standing item in the diaries of ministers responsible for police, their shadows in opposition, and occasionally even a premier (especially so of course when that person was also the minister for police).

We are entitled therefore to address the history of police unions as a subject of significant interest - to the history of criminal justice policy and administration, to the history of the labour movement, to the history of industrial relations, and the history of citizenship. The subject will justify a book, or two. Here however I want to focus on a limited concern. My reference point is the most recent excursions of police unions into the political arena, notably in Victoria and Queensland. The substance of the paper however will not dwell too long on the detail of the recent past. My questions instead will be directed to asking what might be some of the historical conditions that help explain the current disposition of police unions in Australian politics.

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Political interventions

The concern of criminologist Rob White and civil liberties lawyer Chris Richards in the early 1990s was the significant recent evidence of police union interventions in the political arena. Two case studies preoccupied them. In the late 80s Victoria's police union had embarked on a vigorous campaign in support of enhanced police powers, recruiting in their support the voluntary labour of 3000 retired police officers to letter-box 16 marginal seats. This was in spite of the Labor Government having promised to deliver substantial increases in police numbers, on condition, it is claimed, that the police union would not agitate publicly over police numbers. In Western Australia they survey police reactive protests over various kinds of supervisory and official inquiries affecting their members. Other evidence of the previous few years included police campaigns in a critical NSW by-election, as well as Tasmania and ACT election campaigns. The standpoint of the article is concern over the emergence of such campaigns, with their potential to influence the democratic process and substantially alter criminal justice policy (although it needs to be noted that the evidence of police influence on electoral outcomes in these cases is very ambiguous). The not too invisible implication is that police unions should restrict themselves to industrial matters and stay out of the political arena.

Ten years after the cases reviewed by White and Richards, the evidence of police union activity is scarcely less impressive, although ambiguity remains over assessment of police union impacts. In 1999 the Victorian police mounted a major assault on what they saw as undesirable management changes being pushed by the Commissioner Neil Comrie. Linking the changes to a more general resistance to the directions of public sector reform pursued by the Kennett government, the police union roused major support from the majority of police in mass meetings of members. A challenge was posted to both the commissioner and the government. Comrie resisted by questioning the quality and motivations of police union leaders, the "guardians of mediocrity" as he put it. We cannot be sure how influential was this major conflict between police and government in an election year - but the demise of the Kennett government is now political history.

In 1995 the Queensland Police Union was involved in a more notorious and multi-faceted campaign of opposition to the Labor government of Wayne Goss. Bringing together the perennials of police numbers and the unhappiness of many police with the management and discipline changes effected in the wake of the Fitzgerald Inquiry - above all the establishment of the Criminal Justice Commission with its wide powers of investigation - this campaign was pursued aggressively in the lead-up to a crucial by-election at Mundingburra in February 1996. The seat was lost by Labor and the government changed hands. In the wake of the campaign and the change of government it was subsequently revealed that the police union campaign was not limited to local shopping centre and street campaigning. In anticipation of a change of government the union sought and obtained a secret agreement with the opposition leaders. The deal involved police union support for a National-Liberal

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government in return for the police minister addressing a variety of police issues. The issues included again not only the perennials of numbers, resources and powers - but attacks on the CJC, and demands for the replacement of specific police department managers. The deal was breathtaking in its scope - and probably unprecedented. Whether it can ever be repeated might be doubted. As an issue which bedevilled the incoming government it was probably highly counter-productive. As a symptom of the extraordinary power of a police union however it was noteworthy.

These actions of the late 90s are of some moment, coming as they do at a time of generally declining union influence in Australia. They point on the one hand to the continuing potential of an industrial union to become an active player in the political as well as other environments of its members' work. The industrial-political activism of the Australian police unions is well established in police union circles elsewhere, evidently being a model to New Zealand Police Association leaders in the mid-80s, as they geared up to new strategies in the political arena.

On the other hand the very fact of the unions exercising power in this way raises questions about the environment in which they now find themselves. Are these simply the signs of a sturdy but doomed resistance to a changing work environment? Or do they signify a shift of power within policing of a kind which threatens democratic control of criminal justice policy? To answer such questions will require an assessment of where the police unions have come from, as well as a speculation about where they might be going. In what follows I want to focus largely on understanding the conditions which have made it possible for the police unions to exercise the kinds of interventions they pursue today. This requires us to remember also those larger contexts within which they work - the industrial environment and bureaucratic culture of police work, the political and economic frameworks which constrain their possible influence, the social perceptions about policing and order which they play on, influence and of which they may also be a victim.

Sources of power

We do not have to resort to too subtle argument about power to specify how distinctive the police exercise of it may be. Historically the police unions may look like unlikely candidates for the exercise of political power. As recently as September this year the Canadian Supreme Court has ruled that the Mounties do not have a right to unionise like other public sectors workers. Let us recall some of the early barriers to the political voice of police and to unionisation.

In the first place police like other public servants, and longer than most of them, were explicitly banned from exercising rights of citizenship. Extraordinary levels of control over private lives of police (as late as 1957 police in Western Australia complained of being charged with conduct prejudicial to the good order of the police, if involved in divorce proceeding) were matched in the public sphere with restrictions on political rights. In Australia police got the vote some time

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6 Globe and Daily Mail, (Toronto), September 3, 1999: "Freedom of association does not include the right to establish a particular type of association defined in a particular statute," Judge Bastarache said. There is "no violation of . . . the Charter when certain groups of workers are excluded from a specific trade-union regime." The case involved the right of RCMP members organising to be included in public-sector bargaining arrangements.
7 The Police News (WA), Mar 1957 - 'Our Private (?) Lives : The Department and its Pound of Flesh': an appeal on the case raised here was successful, see The Police News (WA) May 1957.
after it was extended to women. Once they had the franchise they were for a further period restricted in the exercise of their political voice. Police statutes banned police from collective political activity and individuals from membership of political organisations. Only slowly were these important constraints eased. At each point of liberalisation, each stage of expansion of police political rights, the matter was usually contested. The right of police to stand for election to a parliament was still being sought in NSW in 1962, a matter of grievance to police unionists who had looked across the border to see Queensland Constable Bill Hayden elected as the member for Ipswich in 1961 - a possibility he could contemplate without first resigning from the police.

The extension of political rights to police was only one aspect of a change with profound implications for the organisation of policing. The other matter was the extension of industrial rights. Inevitably the two matters, political and industrial, were closely tied - and they remained that way for the remainder of the century. The concern over the potential abuse of police power was especially the focus of resistance from the ranks of commissioner to the idea that police might form unions. Not surprisingly some of the earlier legal judgments (eg the Australian judgment of Ryder v Foley) affirming the powers of commissioners over constables arose from the former contesting the right of the latter to combine with their fellows. Combinations were to be resisted because they tended to subvert the authority of the commissioner. Admitting the right of police to unionise and to be active in the political arena was also a challenge to governments that might be unsure of the effects of these new freedoms.

Once the right to combine was conceded there remained other impediments to the success of a union. Comparative history of police unions suggests the costs of early militancy in unfriendly political climates. In Britain police strikes in London and then Liverpool in 1918-9 saw the demise of the police union and its replacement by a form of representation in a statutory body, the Police Federation. In the United States and in New Zealand the adventurous police union organisers of the early post-war (ie c. 1919-1920) era were met with hostile receptions by governments and a lengthy delay in the formation of legitimate and well-supported unions. In New Zealand indeed the government followed British example, mandating a statutory form of representation in the shape of the NZ Police Association from 1935. In the longer term associations and unions converged - but the difference was for some decades more than symbolic.

Such variations were also known in Australia. But a favourable political climate combined with state-wide jurisdictions for police saw more success than failure in early unionisation. Labor governments in Queensland and NSW made a significant difference to the reception of the early unions. In Queensland the union formed in 1915 was strongly opposed by Police Commissioner Cahill. But the election of the Ryan Labor government led to immediate official recognition of the union by the government, and indirectly to Cahill’s demise. Even where political conditions were not as sympathetic the process of recognition of police unions was relatively untroubled, compared to the trials faced by police combinations in some other countries.

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8 See Victorian Police Journal, Dec 1929 for parliamentary debate over the continued ban on police joining political organisations.
9 New South Wales Police News, June 1962, p. 10
10 Ryder v Foley [1906] 4 CLR 622.
A consequence was rapid legitimacy for the police unions, encouraging them even to overreach themselves in a premature attempt to establish an Australia-wide police federation. In February 1922 an interstate conference of police associations in Sydney prepared a draft constitution for a 'Federal Council of Australian Police Associations' - a form of Federation was not established until 1947. The 1922 conference itself was opened in friendly terms by the Inspector General James Mitchell. More important, and indicative of the future, was that it was addressed by both the Premier and the Chief Secretary. Thus was established an early pattern of regular attendance at police union meetings by leading political figures.

Political recognition of the rights of police to organise was more than token. Vital to the early success of at least one union in Australia was its early right of access to the industrial relations regime - in Queensland police as early as 1917 were given access to the industrial court to argue their case for better pay and conditions. The Queensland reception was somewhat exceptional, the product of the most interventionist and radical of Australian Labor governments in this period. Yet Labor in government was generally sympathetic, even where follow through was tardy. Responding to the support of the Labor Minister for Police, the Western Australian Police Association changed its name to the WA Police Union of Workers in 1926 and registered as an industrial union under the Arbitration Act.

In other states, governments less sympathetic to the labour movement were responding in the 1920s to police agitation over rights of appeal in promotion and discipline processes, as well as enhanced access to pension schemes. Even in Victoria where the 1923 police strike left a legacy of embittered dismissed police, the government was responsive to the police case for better conditions. In fact the strike was a revolt of those less likely to be organised into the Police Association, reminding us that police unions were also restraining and marshalling influences.

These two sources of rights won in the first third of the century were fundamental to the later expansion of police union activities. The freedom to engage in the political arena would become more useful as time went on. But even in the 1920s there were signs that police were conscious of its potential as a lever with which to pressure government. The enhancement of industrial rights, won only after prolonged pressure in many cases, was equally significant. Not surprisingly the two arenas would be played in tandem in some struggles. The genesis of more recent exercises of police union power may be traced in the histories of the different unions over many decades. In what follows I want to highlight some of the political and industrial strategies over time, and their implications for the organisation of policing in Australia.

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15 See The Police News (WA), March 1926.
Campaigns, alliances, tactics

Reiner’s study in the 1970s highlighted what he saw as an emerging involvement of police unionism in social and penal policy questions. It was a development he regarded as a greater concern than ‘economically motivated unionism’\textsuperscript{17}. Later, mainly leftist, critiques of police unions in Australia, have generally followed this line, with its implication that the police union’s political role is of relatively recent origin. A deeper reading of the unions’ histories however does suggest that political and industrial concerns have played a continuing role in the development of a police union perspective on the world. Arguably they interact - with political interventions a dimension of tactics in pursuit of what are fundamentally industrial objectives. Such an argument will need to consider however whether a counter-thesis might be proved - that is, have industrial tactics sometimes been exercised with a view to achieving what are fundamentally political objectives? Without expanding at great length here on the question it will be worthwhile surveying some of the major concerns of police unions over time to discern the pattern of these interactions.

It may be premature to establish patterns of industrial and political campaigns since 1920, but the following suggestions are probably general enough to withstand historical scrutiny. The primary objectives of police union campaigns over the last eight decades are as follows.

1. Direct benefits - above all pay, but attached to this are matters such as leave, overtime, uniform allowances, transport and car allowances and so on.
2. Delayed benefits - these include pensions, superannuation, sick leave, workers’ compensation
3. Workplace relations - above all these cover disciplinary matters, punishment, dismissal, and in general the powers of the Commissioner and supervising officers over the lower ranks
4. Policing environment - here we can discern a whole range of concerns covering legal reform; penal and social policy.

I leave to another place a detailed analysis of these complex and often protracted campaigns. Here it suffices to notice that no decade since 1920 has seen the unions inactive under any of these headings. That is not to say that some have not been pre-eminent in particular periods. It would be surprising to see pay take a low profile at any period, and supervisory issues are a concern in most workplaces. But if there has been any shift in balance over the years it has been from the first two areas to the last two. Arguably this might arise from the nature of the police industrial relations environment as well as the broader political contexts. For the first few decades were ones in which the unions, having established their right to be heard in political and industrial arenas, sought to address basic areas of socio-economic concern for working police. By the 1960s major achievements could be counted in most of the working conditions areas - improved pay, shorter hours, better pension and superannuation and sick leave provisions and so on. These concerns have not evaporated since that time - but the preoccupation has become a defence of substantially improved conditions, rather than an advocacy of equal rights for police as workers. Conversely, since the 1960s there has been an enhanced interest in the issues concerning workplace relations and the policing environment. A confidence in the strength and rightness of the police unions has enabled them to become significant players in matters that are fundamental to the organisation of policing. I will return to this later.

If these areas have been of major concern, what have been the tactical means by which such objectives have been pursued? Again we can distinguish a number of tactics whose deployment has varied over time.

Affiliation with external political or industrial bodies has been an important but controversial tactic. Historically there is little doubting the generally labourist leanings of police unions. The prominent role of police in One Nation (two of the 11 victorious Qld MPs in the 1998 election were former police, while the secretary of the police union worked on the campaign of one of them) may be seen as a variation on such tendencies - police activists have tended to stress the identity between police and others who work for a living. A lively question from the early days of Australian police unions has been whether the union should be affiliated to the labour movement's main institutions. For the most part this has been a question solely of industrial affiliation. In the post-war era police unions in a number of states were affiliated with local trades hall councils, while the Police Federation affiliated with the ACTU during its halcyon days under Albert Monk and then Bob Hawke.

Less common was direct affiliation to the Labor Party itself. But this has happened, notably in Western Australia in the 1940s. From a heartland of labour activism, the docklands of Fremantle, a police union branch proposed affiliation with the state Labor Party in 1943. The arguments were industrial - by not being linked to the major labour movement institutions police were isolated. The Police Union could only get the backing it needed through affiliation with the ALP 'where we shall lose our exclusiveness, and become one with fellow unionists, all striving for the same ends'. Unless the Police Union affiliated with the ALP and undertook a policy of cooperation with other unions they would continue to be seen as 'the plaything of governmental and departmental chicanery'.

A ballot on the issue resulted in overwhelming support for affiliation, 390 votes to 54 against. The 1944 Annual Conference approved affiliation, repealing the Association rule regarding the nonpolitical status of the union. There was some grumbling from what the union journal described as 'unprogressive members who are recalcitrant about the recent affiliation for industrial purposes and progress of the Union in industrial matters with the A.L.P'. But for the majority, affiliation with the labour movement made sense during these decades of Labor hegemony in the west..

Western Australia was not isolated in its attachment to the labour movement. By 1954 when the Police Federation affiliated to the ACTU, South Australia and NSW were already affiliated of their local Trades Halls - Victoria was unable to join the push owing to the Association's limitations under the Police Act. The relationship between the police unions and the labour movement was always going to be a difficult one however. By 1970 it had soured - even Western Australia, which opposed the national body's proposed disaffiliation from the ACTU in 1969, turned against Trades Hall in these years of growing conflict with militant unionists and political activists. Perhaps it is a sign of the times that the Victorian Commissioner could attribute Victorian Police Association militancy in 1999 to its more recent affiliation with Trades Hall. Undoubtedly political affiliation with labour was a pragmatic issue - a useful tactic in getting profile and attention to the union's case on fundamental matters of hours, appeals, promotions. It was also, inevitably, a reflection of the

18 *The Police News* (WA), Dec 1943, pp. 1-3. 'What is a Policeman?
19 *The Police News* (WA), Jan 1944.
20 *The Police News* (WA), Oct 1944, p. 1, referring to a protest from the Geraldton branch of the union.
23 *The Age*, 19 July 1999
style and sympathies of some police union leaders: long serving union secretaries, like Hugh Talty in Queensland, Frank Laut in NSW, Ralph Tremethick in South Australia, and Joe Pereira in WA, were also strong advocates of the labour cause. Secretary of the WA Police Association from 1956 to 1970, Joe Pereira was also a state executive member of the ALP and chair of the ALP Metropolitan Council. 24 Tremethick was elected President of the SA Trades Hall Council in 1974. 25

Making themselves into labour men was just one option for the police unions. Another, debated from the earliest days, was national federation. First contemplated in 1922 the matter was not brought to a head until 1946 when the unions meeting in Melbourne agreed to push ahead to form a Federation of all the Police Unions in Australia. 26 In spite of the hopes of those who looked to national awards and conditions, the Federation however was always facing a battle with its constituents over matters of jurisdiction and support. Tactics that made sense at a national level, or in some states - especially affiliation with the ACTU and Labor Party - did not in others. Policing in Australia is above all a state matter - and the Federation in its various guises has always existed in some tension with this fundamental jurisdictional issue 27.

If these were institutional tactics designed for the longer term advocacy and influence of the police union cause, there were other kinds of approach that were more direct. The Melbourne police strike, and occasional reminders in other places like Montreal in 1943, was always there as the symbol of last resort. The Victorian results of course had been mixed - probably of real advantage to those who didn't go on strike and of real harm to those who did 28. In police union branch meetings and annual conferences there were always a few hotheads who might talk wildly of strike action. Yet the mood was generally hostile to this - to some police there was not only the problem of legislation which prohibited their use of the strike, but a reluctance to being identified as leftist 29.

Institutional and cultural reasons against use of the strike have been persuasive when the option has been considered. But other kinds of industrial and political tactics relying on the potential of a large union membership have not been eschewed. These include go slows, work to rule campaigns, public meetings, votes of no confidence in the administration, advertising and letter writing campaigns, and open political campaigns in favour of particular candidates or parties, or highlighting the distinctive policies of particular political parties. If these have been more noticeable in the last decade or two that does not diminish the significance of the fact that at least some of these tactics have been deployed by police unions in Australia over much longer periods of time.

The tactics discussed above are threatening to governments, precisely because of their potential to affect public confidence in policing, or in government support of policing. They are also tactics that run the danger of dividing the union itself - when the causes on which they are built are not of very general interest. And so the police unions have also won much through less confrontationist approaches. Industrial relations is a two-way process - and if its

26 For the 1920s see eg Victorian Police Journal, Vol 10 No 9, March 14th, 1928
27 B. Swanton. 1983. Protecting the Protectors. Phillip, ACT: AIC., ch. 9 is a valuable discussion of the history of the Federation to the early 1980s.
29 Tasmania Police Journal, Dec 1980, p. 4
essence is the bargain then the achievers are often those best able to bargain. Cultivating the sympathetic Commissioner, or Minister, has been the favoured tactic of many a police union secretary - but a tactic nevertheless which itself is conditional on institutional as well as personal relations. Some Ministers are approachable - others resist the potential of the unions to divide Ministers from Commissioners whenever one will not give what the other might.

Campaigns, strategies and tactics make up the core of police unions' way of being in the world of policing. Historically they have changed, affected by and in turn shaping the structures and organisation of policing. But can we define more exactly what kind of impact they have had on policing? The question demands attention.

The police unions and the organisation of policing

Have the unions been as effective as they aspired to be - and what impact have they had on the organisation of policing? The question requires addressing through a number of dimensions of union activity, as outlined above. Police unions have had perhaps the greatest impact and success in transforming workplace relations. At the turn of the century Commissioners of Police had enormous power to terminate the employment of police, or to foster the careers of those they regarded highly. Beneath the Commissioner the often arbitrary authority exercised by Inspectors and other senior officers over their subordinates was a potent source of grievance - the overbearing or intrusive inspector was an issue in the 1899 Queensland Royal Commission into Police Administration as it was in the 1923 Melbourne Police Strike.

By the middle of the century the unions had succeeded in restricting such untramelled authority. The campaigns of the 1920s-1940s for Appeal Boards on discipline and promotion issues were recognised by Commissioners as posing important challenges to their authority. Resisted by strong Commissioners like Blamey in Victoria, Connell in Western Australia and MacKay in NSW, the unions nevertheless generally won these battles. The significance of these episodes was not overlooked by contemporary commentators. A serious conflict in 1930 between Blamey and the Victorian Police Association over promotion regulations was regarded by the conservative Melbourne Argus as a poor sign of the times.

The Labor regime has been marked, too, by the increased boldness of the Victorian Police Association in seeking to interfere with the Chief Commissioner's control of the force. This organisation has not scrupled to attempt to exercise political influence, even to the point of direct disobedience of the law. Its efforts to overawe candidates at the State election in November last on the question of police promotion were continued in face of the Chief Commissioner's warning. This was but one episode in the association's sustained campaign to subvert discipline in the force.

By the 1950s police could appeal the promotions of those junior to them, and could appeal discipline decisions handed down by Commissioners and other supervising officers. The unions were not always successful of course, in particular cases. A High Court judgment in 1932 helped set limits on court scrutiny of internal administrative processes by excluding the


possibility of libel actions over adverse personnel reports. But generally the unions had transformed a fundamental aspect of the police workplace. The implications I suggest were enormous. The capacity of police commissioners to allocate resources, and deal with inefficiency or corruption, was significantly impaired. A rights regime addressed the individual needs of police officers - but arguably its downside was a weakening of the structural supports for effective policing. Hence the criticisms of Comrie in Victoria in 1999, or Fitzgerald in Queensland in 1989, or Wood in NSW in 1997.

Inevitably there were limits on what police unions could achieve in this transformed world. The Queensland union over-reached itself in 1996 by seeking to exact political intervention to achieve administrative outcomes in return for partisan political support to the then Opposition parties.

In other areas of vital interest to their members the unions had perhaps less success. It seems likely that the unions’ capacity to influence pay and conditions is largely constrained by the economic circumstances of the country. Relativities at particular periods may be significantly influenced by local industrial campaigns and the political dispositions of governments, but also by the state of the economy and job opportunities available elsewhere. The dependence of governments on police for social order maintenance did not protect the police from sharing in pay cuts during the 1930s depression. To find the impact of police unions we need to look beyond pay and conditions.

What about the external political environment? How successful have police unions been in achieving their objectives in the policy and legal environment? A number of dimensions might be assessed. One is the area of resource allocation within the public sector generally. Another is the exercise of police operational discretion. A third is the achievement of policy change, especially through legal reform.

On the first matter we can not be sure that police union pressure has always been effective in achieving a global increase in budget support to the police domain. But the evidence in recent years suggests it might have been important. Certainly the results of the Productivity Commission's national comparison of police expenditure per capita during the 1990s might suggest that in an era of attrition police departments have been remarkably successful in avoiding cutbacks. How far police unions have been responsible is a moot point - and the historical inquiry into the longer-term picture is still to be done.

In the area of police operations the police unions became vocal players from at least the 1950s. As in Britain by the 1970s when Reiner noted that they were established as spokesmen for the police viewpoint, the police unions in Australia developed in the post-war period as a profitable source of information and opinion to the media. Indeed the larger unions, as in NSW, were very conscious of the potential uses of the media, and fostered contacts purposefully. Unions were quick to respond to what they saw as press misrepresentation of the police, following in this line some of their American comrades - in 1945 the Los Angeles Police Employees' Union protest at the ridiculing of police in the movies attracted the interest of the NSW Police News.

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32 Gibbons v. Duffell (1932) 47 CLR 520.
34 New South Wales Police News, Feb 1 1945, p. 19
departments themselves. In the 1960s NSW Commissioner Norman Allan for example banned officers from speaking to the press - such a policy was only likely to encourage the press to seek other sources, enhancing the opportunities for the police union to become a quotable source.\footnote{D. Chappell, and P. R. Wilson. 1969. \textit{The Police and the Public in Australia and New Zealand.} St Lucia: University of Queensland Press., 1970}

The strongest evidence we have of the exercise of police union power in operational areas was the experience in NSW during the years of the Wran Labor government. Detailed study of the policing of public order offences during these years suggested that police enacted selective discretion practices in particular regions, as part of a campaign against the enactment of a summary offences repeal statute.\footnote{S. Egger, and M. Findlay. 1988. The politics of police discretion. In \textit{Understanding Crime and Criminal Justice}, edited by M. Findlay and R. Hogg. Sydney: Law Book Company.} This followed not long after the Victorian Police Association had conducted an extraordinary protest campaign involving work to rule and other protests against the prosecution of officers resulting from the Beach Inquiry.\footnote{R. Haldane. 1986. \textit{The people's force: a history of the Victoria Police.} Carlton: Melbourne University Press. ; \textit{Victorian Police Journal}, esp Nov. 1976.} In large part I suggest such actions were conditional on the transformation of supervisory relations and enhancement of political and industrial rights achieved in the half-century before. But we do need to fill in the detail of the long-term impact of unions on operational matters, and of the emergence of the unions as de facto spokesmen for the police.

The capacity of police unions to engage in law reform campaigns however has been among the most controversial areas of police action in the last two decades. Reiner's research in Britain showed that there were police who felt that police should not engage in the making of laws - but it was a minority feeling. Police union leadership in Australia has had a long tradition of engagement in the making of laws. There were striking examples in both Queensland and Western Australia in the inter-war period - in the former with respect to vagrancy legislation, in the latter regarding the stricter licensing of firearms.\footnote{J. Fleming. 1997. \textit{Power and Persuasion: Police Unionism and Law Reform in Queensland.} \textit{Queensland Review} 4 (2):59-74.; \textit{The Police News (WA)} June 25, 193, p. 1.} In retrospect such activity may be regarded as of only minor importance to the police unions' central concerns - pay, conditions, promotion, discipline. To the wider society of course the unions' interventions are of greater significance - affecting the framework of laws under which people are policed. Hence the sensitivity with which such interventions are greeted.

\textbf{Conclusion}

In sum the police unions at the end of nearly a century have become major players in the organisation of criminal justice in Australia. The questions raised by this development remain unresolved. Perhaps the best way to focus them is to recall how the question of police rights once looked.

As I have stressed the police struggle for industrial and political rights was long and in some places difficult. That struggle was for the most part one which was supported by liberal and radical political opinion and institutions. Police themselves were often uncertain about the implications of their unionisation, and affiliation to union alliances like the ACTU has been a contentious matter over many decades. But the labour movement was a vigorous advocate of equal rights for police, as 'Australian citizens', as the President of the NSW Teachers' Federation put the case in 1945.
Radical and civil liberties opinion too supported the case for enhanced political and industrial rights. In an optimistic post-war world Brian Fitzpatrick, leading labour historian and pioneering civil libertarian, developed the argument for full political rights for police in 1947. Fitzpatrick agreed with a NSW detective who had complained that a denial of political rights to NSW police meant that the police were kept apart from the people. The British police tradition, Fitzgerald agreed, was that of a 'peace Force'. The alternative tradition was that in Europe where the police was a bureaucracy set apart from the community, with a record of repression and administering of punishment. Hence the role of police in Germany, Spain and Pétain's France. If police had full political rights, Fitzpatrick concluded, it might also make it harder for them to be used in the service of political repression as they had been during the 1930s.  

The propositions might be contested - and indeed in 1969 Berkley argued that the European policing tradition was characterised by greater democratic sympathies, which he linked to the degree of police unionisation. The main point of interest however is Fitzpatrick's strong defence of police unionism and full political rights as entirely consistent with the advancement of democracy and good government.

Could such a case be made today? Having conceded full political and industrial rights it is scarcely conceivable in a country like Australia that these should be retracted. The focus of attention needs therefore to be on how power is exercised by the unions, what kind of institutional arenas they play on, and how other 'stakeholders' in the criminal justice arena are represented. Some of the conditions that have made it possible for police unions to exercise power in the political arena are in themselves of course conditions of constraint on that power.

A couple of examples will illustrate. The privilege of industrial rights extended to police by governments agreeing to the formation of police unions was a vital one at a time when a highly institutionalised industrial relations regime was being established. Whether or not the arbitration regime was the umbrella for building the strength of Australian unions in general, it certainly exercised a powerful influence in building police unions. For the last decade or more that institutional framework has been collapsing in Australia. At senior levels contract employment has become widespread. In the ranks of very many workplaces, enterprise bargaining is replacing arbitration of wages claims and working conditions. Police unions are powerfully placed to resist these changes - but for how long? I would predict that this change alone will in time diminish the strength of the police unions. They will be forced more and more into a rear-guard action to protect their core functions, which have been to advance pay claims, and handle disciplinary charges brought against their members. The latter will remain for the immediate present an important reason for membership of a police union. But in turn as workplace relations change and a culture of self-governance replaces the exercise of bureaucratic discipline, the vital role played in the past by unions in defending their members may come to be redundant.

The industrial relations regime was a key condition for the establishment of powerful police unions in Australia. But police unions have been influential in quite different institutional contexts, as eg in North America. The strength of police unions has also derived certainly from their peculiar position as 'company unions', in which workers can one day become bosses (indeed in which many bosses were previously head of the union), and to which

39 New South Wales Police News, Mar 1947, p. 6
virtually all police must belong. In spite of the absence of compulsory unionism, or even of preferential unionism (both of which the police unions early fought for\(^{41}\)), police unions in Australia have been remarkably successful in coverage of their potential membership - the closest thing to a closed shop that one might get. Eventually they even admitted women members. Yet the fabled 'police culture' which has encouraged a 'one-in-all-in' mentality is today under challenge. The slow but continuing spread of merit based promotion, the diffusion of new management strategies, the expansion of contract employment, the almost perpetual revolution in communications which is transforming all workplaces is also affecting policing. Such changes I suggest are likely to lead to a diminishing support for police unions, or perhaps in a different way a dispersion of energies among those still involved in unions. The possibility of claiming to speak as one police voice will diminish as police work diversifies and bureaucratic unities disperse.

From the perspective of those who are unhappy with police union political interventions these are perhaps too optimistic predictions. From the perspective of those who defend strong police unions they may be unduly pessimistic. It is difficult however to see that the transformation of work and workplace relations in the broader society will leave police unions untouched as agents of political power.

But what of some of those other conditions for police power - the media, the relative strength of other civil society institutions and organisations? With regard to the first I have suggested that the media became at some point a captive of police union viewpoints - at what point and to what degree awaits further research. Of course here as elsewhere in civil society, the role of diverse and critical media with a sceptical and inquiring eye is vital. In this respect, and in spite of the increasing concentration of the commercial media, Australia remains reasonably well placed. When secret deals like those sought between the police union and the then Queensland Opposition can be so readily exposed we have some reason to remain optimistic about the capacity of media to exercise some countervailing influence against abusive processes.

Similarly the civil society context in which police unions operate today is characterised by a wide variety of institutional players in Australia. At the time of their establishment the policy-making context for policing was relatively uncluttered. The institutional context certainly was. A strong centralised state, a judiciary, and a slim bureaucracy - these were the main players in a policing arena that only occasionally saw significant interventions from non-state organisations, such as the trades unions or the political parties. It is true that there were political lobbies such as feminist groups, or church and social reform organisations that occasionally would intrude on the policing domain, usually to call for more policing of particular kinds of behaviours, though sometimes for different kinds of policing (hence the movement for women police).

By contrast the recent past has seen a proliferation of both state and non-state bodies concerned with the characteristics and directions of policing per se. Police unions now play in a field occupied by many others - civilian oversight bodies, other state inspection and monitoring agencies like ICAC or the CJC. Internally, and externally, the police unions face a changing world, just as have other parts of the labour movement. So far it might be said they have been resilient in the face of environmental adversity. Whether the new century is as kind to them as this one was remains to be seen.

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