

RABBLE-ROUSER

Committee for a Revolutionary Communist Party in Australia

ISSUE, NO 33

MAY-
JUNE 2000

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Lessons of the 1969

(July 1989)
This year marks the 20th anniversary of the gaoling of militant Victorian Tramways Union secretary Clarrie O'Shea.

O'Shea's gaoling and the massive industrial action which it provoked were the culmination of Australian workers' magnificent struggle against the penal powers of the Arbitration system.

Under the penal provisions of the Arbitration law, the Arbitration Court regularly fined unions and workers for taking industrial action.

The key issue of the penal powers struggle was workers' defence of the right to strike and take other industrial action in their day-in, day-out battle with the boss. Always the employers push to outlaw all industrial struggle.

Fines were imposed on the Tramways Union. It refused to pay them and O'Shea refused to go to court to answer questions. He was gaoled for contempt of court by Judge Kerr.

A series of national strikes and other industrial action involving millions of workers demanded O'Shea's release and an end to the penal powers. In the face of this mighty united

penal powers struggle

workers' action, the fines were paid anonymously and O'Shea was released. It subsequently turned out that Australia's secret police, ASIO, paid the fines.

The workers' action took place at a time of much struggle by wide sections of the people on other issues. In particular students, workers and many others were fighting the U.S. war of aggression in Vietnam and Australia's involvement in it. There was very widespread people's support for workers' struggle in defence of O'Shea.

The penal powers fell into disuse after the victory over O'Shea's gaoling, though they were never actually taken out of the Arbitration Act.

In recent years big business has once again increasingly used penal powers against workers in struggle. They have used both the old penal provisions of bans clauses and fines and also new penal powers under Sections 45D and 45E of the Trade Practices Act.

The 1969 penal powers struggle has very many lessons for Australia's working people today. Not long after his release from gaol, Clarrie O'Shea published a statement which pointed out a number of the political implications of that struggle. It was entitled *Workers' power versus penal power!!*. Marking the anniversary, we reproduce it below to emphasise the decisive importance of united action by the workers and people themselves, independent of capitalism's institutions.

PENAL POWERS STRUGGLE

Recently I was presented as the central figure in the struggle against the penal powers in the Arbitration system. I was gaoled for contempt of court because, under instructions from my union, I had refused to go to the Industrial Court, had refused to pay fines and I had refused to answer any questions as to where the money of tramway workers was.

Although I was presented as the central figure, the truth was that it was the workers and students who were the central figures. They played the main part, they secured my release from gaol and no-one else, they led the government into abject calls for restraint.

When I speak of the workers, I wish to point out that many of them were given good leadership by their shop stewards, union organisers and officials, and, in some cases, by Trades and Labour Councils and I am grateful for the work of these people, but, without the great mass of workers such people would have had no power. There were many instances where a union did not give any direction or gave a direction to stay at work but the rank and file stopped, ignoring their officials and joined in the main struggle.

A POLITICAL STRUGGLE

I myself learned many lessons from this experience. In the first place, it showed me once again the great strength of the workers when they struggle. This particular movement spread from one end of Australia to the other. It did not have any promise of some wage rise or some improvement in conditions. It was purely a matter of whether or not the employing class was to continue to have this weapon of shackling workers' struggle. It therefore called on the workers for sacrifice for no apparent immediate benefit. We are all familiar with struggles for purely economic advantages. I have been in many and probably will be in more. There the workers can see a tangible advantage to be gained. This struggle was above that. It was concerned with a more direct class political issue. I think that is very important. Because if the workers confine themselves merely to economic questions, they confine themselves in a pretty narrow sphere. It is necessary to go further than mere immediate economic questions. For myself, I believe you must end capitalism altogether: it is that system that gives rise to the never-ending economic struggles. Everyone must realise that. The penal powers are a political attempt to stifle even that struggle let alone other more socially significant struggles. They show the nature of the state machine of the capitalists. These people set up a court to penalise workers for struggling (for striking or even working to regulations). They staffed the court with people who had been highly paid barristers (very conservative). It is merely incidental that Spicer is an ex-attorney-general in Menzies' cabinet, that Dunphy is a fanatical anti-communist, that Joske is an ex-Liberal politician, and Kerr, an ex-Labor man — whoever was on the Court, it would still be the same. Like all courts, it serves the capitalist class. The court in reality *automatically* fined the workers (in advance you could be certain they would do so). They imposed fines, they used police and police violence (I myself was followed around for weeks, my wife was threatened). They used the gaols. These were simply doing the work of the employers. The whole apparatus operated for them. It operated against you. But it was the workers and students who were shown to be stronger than all this apparatus. Their struggle brought the apparatus to a grinding stop. The employers and their representatives Bowen (attorney-general) and Bury (labour minister) were forced to call for "restraint", "patience", etc. They themselves did not use much restraint or patience in their attacks on the workers. Nor





Police attack workers protesting outside the Industrial Court which gaoled Clarrie O'Shea in 1969.

would they ever have called for "restraint" if the workers had not rebelled against it all; and in their rebellion gathered the support of hundreds of thousands.

ENEMY INTRIGUES

Now these people who have called for "restraint" are doing all they can to get out of the situation on their own terms or the best terms they can get. They are seeking to dampen down the whole struggle, to put out the fire of workers' revolt. Time, "restraint", "negotiations", they think are all on their side. They are manoeuvring to put back the shackles. They will talk about the better N.S.W. provisions, etc. But there is no acceptable system at all. There is nothing to negotiate. This system of penalties has got to go overboard. If it is necessary for me to go to gaol again on behalf of the workers against this sort of business, certainly I will go. I am sure there are many others who will do so.

ACTU AND LABOUR COUNCILS IN ACTION

For many years the ACTU and the labour councils have condemned the penal powers. They have promised that they would get something done about these penal powers. But it never happened. On the contrary, these bodies have opposed any action against this shackling of the workers. Even now they do not welcome the struggle against them. Again, on the contrary, they join with the government in calling for "restraint". They join in negotiations. They condemn action outside "the official trade union movement".

NO MAGIC IN OFFICIALDOM

We must ask what is meant by the "official trade union movement". There is no magic in a set of words. What the workers want and need is action. If this "official trade union movement" has shown that it is opposed to action, then it is no good, no good to the workers. The fact is that it has always shown just that. This is a body which collaborates with the employers and never leads struggle against them. It is part and parcel of the apparatus of courts, arbitration, penal powers, police and gaols.

REBEL

It is necessary to rebel against all its inactivity, its paralysis of struggle, its conformism to capitalism. Tramway workers in a ballot decided to disaffiliate from the labour council. Tramway workers, contrary to the decisions of the "official trade union movement" rebelled against the penal powers. All the workers responded. Who then was correct, the official

trade union movement or the workers in struggle? There is only one answer — it was the workers in struggle. These workers refused to be intimidated or mesmerised by this official trade union movement.

This official trade union movement said (and it is still saying) we must work for the return of a Labor government to repeal these laws. They do not tell you it was a Labor government that first put them there and first introduced the secret police. In office, far from repealing, it introduced, strengthened and accepted. It gaoled many workers' leaders. Labor governments have shown that they serve the boss just as this official trade union movement does. Again, it is only the workers' own action that gets anywhere. The trade union movement and the Labor government are only things to deceive and mislead.

ON UNITY

There are some people who say there should be unity with the official trade union movement, we must do nothing to offend the official trade union movement, we must do everything through the official trade union movement. But why should there be unity with people who serve the boss so well, why must we do everything through such people? Of course it is all nonsense. Unity with them means unity with the boss, doing everything through them means doing everything the bosses don't disapprove of. Unity is a very important thing. Unity of workers is very dear to me. Unity of workers and all working people and students is very important. But it must be unity against the real enemy — the boss, the employer and his stooges. That means unity against these official trade union movements. In the course of this struggle I was asked to comment on Jordan's condemnation of the action we had taken. I said he was like a little island surrounded by surging flood waters. Is it correct to have unity with such a person? Where would such unity get?

I do not think it is right to do so. I do think it is right to rebel against such people, to break right away from them, to repudiate them. Indeed I think that is the only way you can have real unity.

Then another variant of all this is you must do everything through the union. That all depends. Is the union right or wrong? Is it for or against struggle? Just as the "official trade union movement" has become part of the establishment, so its components in the individual unions have done so. There is no magic or mesmerism in the trade unions. It is the workers who count. In 1834 the Tolpuddle Martyrs were transported to Australia. Their

offence was that they had organised an illegal secret agricultural labourers' union. It had no office and no assets. But it was seen as a great threat to the employers — seven years' transportation to the Australian penal colony.

TAME UNIONS OR NOT?

Since then the employers have adapted unions to fit into society, to serve them. Now because capitalism is disintegrating, we must recapture the spirit of rebellion and free ourselves from the fetters of all these legalisms, of trade unions with their elaborate offices, buildings, assets. With these things dominant, then the employers must win. In 1854 the Eureka diggers rebelled against reactionaries. In 1891 the maritime workers rebelled against reactionaries. So in 1969 workers must rebel against reactionaries whether they be Menzies, Gorton, industrial courts, official trade union movements or trade unions or anything else. You are the important people. If your union is not conducting the struggle and its officials are nothing but office bureaucrats, what is the use of worshipping the union? What is the use of worshipping its arbitration activities? For so long this has been the rule it is quite a mental effort to escape from it. But escape from it we must. If I am not doing my job as a workers' representative, I hope you will rebel against me. If our union paralyses your activity, I hope you will rebel against it.

AM I A COMMUNIST?

It has been said to me in various interviews that I am a Communist (Peking line Communist they call it). Yes, I am a Communist. Certainly that influences my attitude to all questions including that of this struggle and of trade unions. As a Communist for 35 years I have striven to serve the people in struggle. Yes, I believe in socialism, I believe the employers, the boss, will fight with force and violence, courts, police, gaols, to prevent socialism. They do not want to give up their power, their wealth, their exploitation, their privilege. They fight desperately against the workers even on comparatively small economic questions let alone on the bigger questions. Even in my particular case their own High Court had said we were right about one man buses (we said the buses required two men). Yet they fined and used contempt of court. Certainly they will fight. And I believe that the workers must fight back, must learn to fight back. I do not believe that the boss will peacefully fade away or that you should obediently turn the other cheek when beaten up by police. It is all coming to a great fight. And I believe the workers and working people must prepare for this.

SERVICE TO THE PEOPLE

Everything I have done or tried to do I have done with the idea of service to the people in struggle. I do not believe I can just arbitrarily impose my ideas on people. But I do believe that the breakdown of capitalist society is impelling thousands into struggle and I believe they are learning in struggle that capitalism must be ended. I will try to do my best to bring that end nearer.

REAL UNITY OF WORKERS AND STUDENTS

During this struggle, workers and students came closer together. I have greatly admired the revolt of students, their daring, their resource. Their struggle against the aggressive war in Vietnam and against conscription has stirred many. It is merging with workers' struggle. Together the workers and students are an invincible force. Together we must continue to fight. My imprisonment and the struggle against the penal powers are part of the far wider struggle against the boss class, against capitalism.