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The Journal of the Industrial Relations Society

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R. M. MARTIN

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THE 1961 biennial Congress received a great deal of prior publicity owing to the controversy over the levy imposed by the A.C.T.U. Interstate Executive to finance visits by trade union leaders from Communist as well as non-Communist countries. When Congress opened on September 4th, 18 right-wing affiliated unions were unfinancial under the A.C.T.U.'s rules, and therefore ineligible to attend Congress, because they either expressly refused to pay the levy or had simply failed to do so. The 18 unions, none of which has so far formally disaffiliated, are affiliated on the basis of 143,000 members out of the A.C.T.U.'s total affiliated membership of 881,000, though the effective membership in each case is somewhat higher than this. Of the 18 unions' total affiliated membership, 112,000 are accounted for by three major unions, the Clerks, the Ironworkers and the Society of Engineers.

The levy dispute was the first business before Congress. The A.C.T.U. president, A. E. Monk, secured a unanimous vote for his executive's refusal to compromise with the 18 unions in order to enable them to attend Congress. Had they been present, the 18 unions would have been entitled to at least 70 voting delegates. In their absence the total number of credentialled delegates was 413. It was widely expected that the exclusion of this many right-wing votes would give the left-wing, and specifically the unions under Communist influence, effective control of Congress in opposition to the moderate majority on the Interstate Executive. In the event, however, the left-wing's voting strength was insufficient to enable them to force through the kind of political resolutions which are the test of such control in this context.

Only four divisions were held during the 5-day Congress. The Executive's recommendations were carried on the votes on all other occasions, except in the case of one minor constitutional amendment concerning the method of electing vice-presidents. The second of these divisions provided the critical test of the political balance of power.

The first division was taken on a proposal, moved by a Communist but seconded by a moderate, seeking to expand the role within the A.C.T.U. structure of the six Industry Groups, which were originally introduced in 1957 with the sole function of electing members of the Interstate Executive. The proposal was adopted by 211 votes to 164, a number of moderate unions voting with the left-wing to give a majority against the Executive.

The second and third divisions both related to the Executive's recommendation that a further 1d. per member should be levied on affiliated unions in order to finance an increase in the A.C.T.U.'s affiliation fee to the International Confederation of Free Trade Unions. This drew an amendment, moved by E. V. Elliott of the Seamen's Union, which was supported in the subsequent debate only by Communist and left-wing speakers. The first part of the amendment struck directly at the Executive's recommendation by proposing that the A.C.T.U.'s affiliation payments to the I.C.F.T.U. remain unchanged. But the second part was of wider significance with its proposal that the A.C.T.U. should campaign for "common action" between the I.C.F.T.U. and the Communist World Federation of Trade Unions.

It was on the Seamen's amendment that the crucial division was taken. The amendment was defeated by 181 votes to 172. The political cleavage within Congress was unmistakable in this division: not a single moderate or right-wing union was to be seen among the "Ayes", and there were no left-wing or Communist-controlled unions among the "Noes". The fact that Congress had deliberately divided on the second part of the Seamen's amendment, with its political implications, was confirmed when the subsequent move for a division on the Executive's recommendation itself was initiated, not by the left-wing, but by the moderate Printing Industry Employees' delegation, whose leader, C. Colborne, had earlier spoken against the Executive's proposal. This was the third division. The Executive was defeated by 183 to 165 when the P.I.E.U. and part of the Miscellaneous Workers' delegation (which split on the question) switched sides, Congress in effect adopting the first part of the Seamen's amendment concerned with the financial issue.

The significance of the majority against the second, "political" part of the Seamen's amendment lies less in the fact that it was a mere nine votes, than that the majority was obtained despite the absence from Congress of well over 100 right-wing and moderate votes. Not only were there the missing 70 or so votes that would have been cast by the unrepresented right-wing unions, but moderates and right-wingers made up the great bulk of the 60 credentialled delegates who were absent from the hall at the time the crucial division was taken. The majority against the left-wing on this kind of issue was confirmed and strengthened when 14 of the absent delegates returned to take part in the fourth division held soon afterwards on a left-wing amendment to the Executive's proposition concerning the A.C.T.U.'s Western Australian branch. Eleven of these 14 votes were cast in support of the Executive, and the majority against the left-wing in this division was increased to 17, the amendment being defeated by 192 to 175.

The containment of the left-wing on the floor of Congress, as signified in the division of the Seamen's amendment, was reflected in the results of the elections conducted at Congress for the two vice-presidents and the six Industry Group representatives on the Interstate Executive. The nominations of the sitting vice-presidents, J. D. Kenny of the New South Wales Labour Council, and W. P. Evans of the Engine Drivers' and Firemen's Association, were unopposed, and they were confirmed as senior and junior vice-president, respectively. Three of the sitting Industry Group representatives were re-elected: T. C. Winter, of the Municipal Employees, whose nomination for the Services Group was unopposed; G. Dawson, of the Building Workers, who was returned with a majority of one vote for the Building Group; and J. Petrie, of the Storemen and Packers, who again defeated G. Seelaf, of the Meat Industry Employees, for the Food and Distributive Services position. The three new Industry Group members of the Interstate Executive are M. O'Brien, of the Australian Railways Union, representing the Transport Group in place of the late J. Healy; R. Wilson, of the Vehicle Builders, replacing G. Hayes, who did not seek re-election as the Manufacturing Group representative; and T. Wright, of the Sheet Metal Workers, who was elected unopposed to represent the Metal Group on the retirement of A. McNulty.

The political composition of the Interstate Executive is thus unaltered. Three of the 16 Executive seats are now, as before, held by Communists, Wright, Dawson and A. McDonald, who is the standing representative of the Queensland Trades and Labour Council, one of the A.C.T.U.'s State branches. And, as a left-winger, O'Brien may be regarded as a replacement for McNulty. It is worth noting in this connection that G. Seelaf, a Communist, failed in his attempt to regain the seat which he held in 1957-59, when there were four Communists on the Executive.

What is perhaps more significant, in view of the dispute on the reciprocal visits levy, is the fact that one of the present Communist members of the Executive, T. Wright, could not have obtained election as representative of the Metal Group if the Ironworkers and the Society of Engineers had attended Congress. Whatever may be thought of the stand taken by the 18 right-wing unions on what they regard as an issue involving Communism, the fact remains that their tactics cost them the opportunity of reducing Communist representation on the Interstate Executive from three to two, its pre-1957 level.

The levy controversy and its consequences gave a special interest to the 1961 Congress. But it was a notable Congress for less spectacular reasons also, quite apart from the policy decisions on such standard matters as wages, social services and economic conditions in general. The A.C.T.U.'s constitution, for the first time since its adoption, was systematically overhauled and re-organised. The functions of the six Industry Groups were extended in a way that significantly increases their importance. Congress approved Executive action which should at last lead to a solution of the 15-year-old dispute on the status and character of the A.C.T.U.'s State branch in Western Australia. It also endorsed the constitution of a standing Transport Co-ordination Committee to operate within the A.C.T.U. structure, and adopted a model constitution for trade union shop committees. Not least noteworthy, in the circumstances, was the general agreement of seasoned delegates that it was many years since a Congress had been either as free from bitter exchanges or as productive—only four items on a lengthy order of business paper were left to the Executive, despite the expenditure of over a day on the single item of constitutional changes. To those interested in personalities, the question of the late J. Healy's successor as the leading Communist spokesman ranked high in interest. While the veteran T. Wright was elevated to the Interstate Executive, it was P. Clancy, New South Wales State Secretary of the Building Workers, who emerged as the likely leader on the floor of Congress, with a debating style that had a touch of the Healy skill.

THE NEW ARBITRATION ACT IN QUEENSLAND

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THE most striking feature of the new *Industrial Conciliation and Arbitration Act* 1961, which repeals previous legislation, is undoubtedly the vesting of arbitral and judicial functions in separate tribunals. Though the cleavage is not as complete as in the Federal sphere, the Federal system has undoubtedly been copied, even in the matter of nomenclature. This breaks completely with the previous State pattern which vested both types of function in one Industrial Court.

The arbitral powers, by which we mean the functions of dispute settlement, award-making for specific industries and the determination of the State basic wage and general standard hours, are vested by the new Act in an Industrial Conciliation and Arbitration Commission which is to be composed of not more than five members. No qualification is prescribed for membership and in point of fact the members of the tribunal are the three lay members of the previous Industrial Court. In accord with Queensland tradition, no attempt has been made to set up the tribunal on the basis of representation of the two sides of industry. Apart from the matters of general fixation of the State basic wage and the standard hours which are reserved to the Full Bench, disputes and industrial matters are dealt with by a single member. The single member at his option may refer a case for determination by the Full Bench of the Commission. There is an appeal on a question of law to the Industrial Court (mentioned later) and the Full Bench or a Commissioner may also state a case on a question of law for the Industrial Court.

In the main, the wide jurisdiction in arbitral matters of the old Industrial Court has been transferred to the Commission. The almost ludicrously wide definition of "industrial matters" has been retained but the new Act no longer gives to the Commission all the powers and jurisdiction of the Supreme Court. There are, moreover, two notable changes. The Commission is specifically prohibited from including in an award a provision as to bonus payments. In other words compulsory profit-sharing is to be left to collective bargaining. This has provoked considerable criticism from the trade unions. Secondly, all determinations as to the basic wage must now be made only after affording interested parties a hearing if they wish it. The significance of this lies in the question of variation of the basic wage to accord with changes in the official price index figures. The Queensland tribunal has never been under any legislative compulsion either to adopt or reject the price index variations. It has proceeded on an *ad hoc* basis and has at times made only a partial increase. Previously, however, it could simply announce its decision after informal consultation between the members. Now it at least has to afford to interested parties the opportunity of being heard. The new Act specifically confers power to regulate shop trading hours, thus reversing the effect of prior decisions of the Supreme Court.

As appears later, the Commission is also given some powers which are really penal in character.