

# How Labor and the unions imposed Australia's anti-strike laws

## Four decades: From Hawke and Keating to today

**Mike Head**  
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Throughout their determined fight against the protracted lockout by the supermarket giant Coles, the 350 workers at the company's Smeaton Grange warehouse in southwest Sydney have been confronted by the opposition of the United Workers Union (UWU) to any call for industrial action by their fellow workers at other Coles facilities, or any other workplace.

It has been the same line-up in every working-class dispute for decades: the trade unions insist that no common struggle is possible because of workplace laws that prohibit all industrial action except during legally-sanctioned "bargaining periods" for new enterprise agreements at individual workplaces. These same laws legally protect employers who lock out workers, as Coles has done.

It is essential to understand how and why these laws were imposed. Workers in Australia, together with their class brothers and sisters internationally, are coming into ever-greater struggles amid the greatest public health breakdown and economic crisis for a century. Around the world, big business and its governments are exploiting the disastrous consequences of the COVID-19 pandemic to seek to accelerate a fundamental further restructuring of working and social conditions at the expense of the working class.

The fight by the Coles workers was the longest industrial battle in Australia for years. It is part of a worldwide resurgence of the class struggle, directed against a failed economic system—that of capitalism—that threatens workers' lives, livelihoods and future. As the WSWs has documented, the lockout by Coles, the country's third-largest private employer, is a spearhead of a wider corporate offensive, driven by the demands of the global financial markets for ever-higher investment returns and share prices.

The fight by the Coles workers to defend their jobs and conditions brought them into direct conflict with the trade union movement's enforcement of laws that threaten them with massive fines, backed by the full force of the state.

This legislation features some of the most draconian anti-strike provisions in the world. It did not come from the sky, however. In fact, this industrial and political straitjacket is the product of the unions themselves, as well as the Labor Party to which they are affiliated. The origins of the laws, cynically rebadged under the title of the Fair Work Act by the last Labor government in 2009, lie in the earlier Labor governments of Bob Hawke and Paul Keating from 1983 to 1996.

Since 2013, the current Liberal-National Coalition government has retained these laws, precisely because they provide the mechanism through which the unions operate as an industrial police force over the working class. Its current industrial relations bill is designed to enhance, not replace, Labor's "Fair Work" regime.

From their birth in the 19th century, trade unions have always been

organically wedded to the system of wage labour. Their very existence is based on seeking to extract concessions from employers within that framework, and therefore they oppose any fight to abolish the capitalist exploitation of workers' labour power for private profit.

The past four decades, however, mark the transformation of Labor and the unions from organisations that once sought limited gains within a nationally-regulated economy into apparatuses for overturning the hard-won conditions of workers in an endless drive to make "their" employers "competitive" on the global market. Throughout this period, the central preoccupation of Labor and the unions has been to shackle and suppress workers' struggles.

This week marks the 38th anniversary of the formation of the Hawke government on March 11, 1983. The bitter experiences of the Coles workers, like so many others over the past four decades, make it necessary to examine this historical period and draw the political lessons for the struggles ahead.

### From Whitlam to Hawke and Keating

Prime Minister Hawke and his Treasurer Keating came to office in 1983 with the task of putting an end to the convulsive strikes and struggles of the working class that had reached new heights in the 1970s.

The previous Labor government of Gough Whitlam had been removed from office in the "Canberra Coup" executed by the governor-general in 1975 after it had failed to contain an explosive upsurge of the class struggle. Whitlam's election in 1972 after 23 years of Coalition rule sparked a rising tide of industrial struggle, as workers took the return of a Labor government as a signal to seek to regain lost living standards.

In 1972, 2 million working days were lost as a result of strikes; in 1973, 2.6 million and in 1974, almost 6.3 million—the most since the industrial and political turmoil of 1919 following World War I and the 1917 Bolshevik-led revolution in Russia. Wage claims leapfrogged as workers won first \$15 per week, then \$24 and even \$40 increases.

In December 1973, one year after taking office, Whitlam's government unsuccessfully tried to stifle this movement by introducing a referendum to legalise government controls over wages and prices. Big business insisted that industrial stability be restored. However, the penal powers that had outlawed strikes during the post-World War II period had been rendered a dead letter following a threatened general strike in 1969.

That referendum, which the Socialist Labour League (SLL), the forerunner of the Socialist Equality Party, strongly opposed, was roundly defeated, setting off the resumption of a wages' offensive by the working

class. This was part of an international movement by the working class from the May–June 1968 general strike in France 1968 to the defeat of the Heath government in Britain and the collapse of the Nixon administration in the United States in 1974, and the downfall of the dictatorships in Portugal, Greece and Spain in 1974–75.

Whitlam's sacking on November 11, 1975 sparked massive walkouts by workers across Australia for days. Amid these immense political tensions, the incoming Coalition government of Malcolm Fraser also proved unable to contain working class opposition. That came to a head in October 1982, when thousands of miners and steelworkers demonstrated outside parliament house, eventually bursting through the doors, in a protest against BHP's decision to sack 384 miners and more than 3,000 steelworkers. Miners at Kemira Colliery, near Wollongong, had organised an occupation of the pit in order to defend their jobs.

## The Accords with the ACTU

With the Fraser government on its knees and an election due, Hawke, a former president of the Australian Council of Trade Unions (ACTU), was installed as Labor Party leader in February 1983 for the essential purpose of cementing a partnership with the unions to subdue the working class movement and enforce the program of big business.

Hawke's three key credentials were his backing by the trade union bureaucracy, his close ties to prominent business leaders and his support in Washington, where he was regarded as a proven defender of the US military alliance and the US bases in Australia, such as the key CIA spy base at Pine Gap in Central Australia.

Just nine days after Hawke became Labor leader, on February 12, 1983, a special unions conference adopted a Prices and Incomes Accord with Labor as official policy. In a statement published on March 1, 1983, the SLL issued a clear warning. The Accord was "an agreement for the trade union bureaucracy to act as the government's policemen, as it carries out the policies of the bankers and big business" and to "do what the Liberals have been unable to do for the past seven years—break the strength of the working class."

As soon as Labor won the March 1983 election, and even before parliament met, Hawke convened a tripartite "summit" with the union leaders and employers to map out a supposed "consensus" policy that amounted to subordinating workers to the interests of business. The Accord was the linchpin of this united stand.

Hawke and Keating took office at a critical turning point internationally, marked by a worldwide slump and the increasing globalisation of production by transnational corporations. By the end of the year, the Labor leaders had floated the Australian dollar, and begun to deregulate financial markets and reduce tariffs, seeking to satisfy the requirements of investors.

As it had done in every earlier period of economic turmoil or war, the ruling class turned to Labor to carry through what the Coalition proved incapable of delivering. Like the Reagan and Thatcher governments in the US and UK, Labor imposed "deregulation" and "free market" policies, together with the privatisation of key infrastructure, such as the Commonwealth Bank and Qantas, and set about crushing the resistance of the working class to the resulting wholesale destruction of jobs and conditions.

The initial primary role of the Accords, which were renewed by Labor and the unions in seven versions by 1991, was to make cuts to real wages that were unprecedented in the post-war period. Wages began to fall as a share of national income for the first time since the Great Depression of the 1930s.

The Accords also created a material base of corporate wealth for the unions themselves. Supposedly in return for lower real wages, the Accords promised a "social wage" that featured the diversion of wages into the establishment of joint union-employer controlled superannuation funds. Today, these funds manage about \$3 trillion, making them some of Australia's largest investors and employers. This gives the union bureaucrats a direct interest in driving up the extraction of profits from the labour power of workers.

The Accords performed another, even more significant function. They became the mechanism for the destruction of all independent forms of workers' organisation in factories and workplaces, and for the "restructuring" of working conditions and practices in line with employer demands for greater competitiveness in the international market.

The ACTU Congress of 1987 adopted a program committing the unions to boost profits and productivity, at the expense of workers' conditions and basic rights. Outlining this perspective in the document *Australia Reconstructed*, adopted at the congress, Bill Kelty, the ACTU secretary from 1983 to 1999, wrote: "Structural change and the promotion of a productive culture are necessary to enhance our international competitiveness. We are about nothing less than the reconstruction of Australia. These are historic times... Understanding and responding to the international pressures is a national requirement—a requirement to which the unions must contribute."

Labor and the unions could not impose this program without the help of the various Stalinist parties, both in devising and implementing the Accord and *Australia Reconstructed*. The key documents were drafted by leading members of the Communist Party of Australia (CPA), such as Laurie Carmichael, and carried into the union movement by CPA officials, together with the Maoist and pro-Moscow parties, whose leading members held senior positions in some of the largest unions.

Throughout the working class, the SLL, as opposed to every other political tendency, fought to expose the Accord, the role of the Hawke government and its Stalinist accomplices. At the 1987 ACTU Congress, the "left" leadership of the NSW Public Service Association removed one of its delegates, Mary Kerr, a SLL member, who was the only delegate to speak against *Australia Reconstructed*. An Open Letter to the Congress from Kerr warned that her removal was "an indication of what is being prepared for the whole working class" as the ACTU bureaucracy sought to "silence, intimidate or suppress all opposition in the working class to the demands of the international money markets and the Hawke-Keating government."

Throughout the 1980s workers repeatedly entered into struggles to defend their wages and conditions, only to be isolated and betrayed by their union leaderships. A series of pivotal defeats followed—from the mass sacking of the SEQEB workers in Queensland in 1985 and the imposition of massive fines and legal costs against the meat workers union in the 1985 Mudginberri abattoir dispute, to the Hawke government's deregistration and dismantling of the builders labourers' union in 1986 and the sellout of the Robe River mining dispute in 1986.

This offensive culminated in the Labor government's use of the armed forces to break the pilots' strike in 1989. Backed by the ACTU and the entire trade union bureaucracy, Labor demonstrated its readiness to mobilise the full force of the state against workers to enforce the Accords. It was the first time military forces had been deployed to break an industrial dispute since Hawke's predecessor, Labor Prime Minister Ben Chifley, called in the army against striking coal miners in 1949.

To silence all opposition, Labor and the unions implemented a deliberate policy of breaking up workplaces and shutting down factories that employed large numbers of workers with a history of militant struggle. In those that remained open, shop committees and other forms of organisation were either destroyed or turned into pliant instruments of management. Any semblance of democracy inside the unions was

abolished and militant workers victimised.

Delegates in the metal trade unions, who continued to believe they were elected to defend the members who had voted for them, were victimised by the union apparatus and summarily removed. In the building industry, where on-the-job organisation was required to meet the changing and often dangerous character of the work, workers' safety committees were disbanded.

### Keating and enterprise bargaining

Once this wrecking operation had succeeded in undercutting workers' resistance to the deepening corporate offensive, a new phase began—that of atomising the working class into individual workplaces and outlawing all industrial action outside that framework.

Enterprise Bargaining Agreements (EBAs) were first introduced under the Accord Mark 7 in October 1991. EBAs were championed by Kelty on behalf of the ACTU and Keating, who replaced Hawke in December 1991 taking Labor's assault on workers to a new level. EBAs became the centrepiece of the industrial relations system when the Accord was next revised in 1993, ending nearly a century of industry-wide struggles and centralised wage-fixing.

EBAs were the logical extension of the unions' *Australia Reconstructed* program. Workers' struggles were not only separated into individual workplaces. Their wages and conditions were tied to the production and profits of "their" employers. This required a never-ending process of cutting workers' conditions to match the lowest-cost employers around the world, constantly pitting workers in Australia against their fellow workers globally in a never-ending race to the bottom.

Enterprise bargaining met the demand of the Business Council of Australia, representing the largest companies operating in the country, for full "labour market flexibility." Kelty spelt out the rationale for EBAs in an industrial relations journal article he wrote in 2012, by which time he had long quit the ACTU for greener pastures as a director of Linfox, a major trucking company, and the Bank of Queensland. "Businesses need profits," he wrote, "and for productivity growth we need to open up the economy and make rapid adjustments."

Cynically, under the banner of enshrining a legal right to strike, workers were restricted to taking "protected" industrial action during union-run bargaining periods every three years or so, always subject to the sanction of the Industrial Relations Commission. All other industrial action became "unprotected," that is, unions and workers could be fined thousands of dollars for any such breakout of the EBA.

More broadly, any industry-wide or nationwide industrial action or stoppages in solidarity with other workers, or over underlying economic, social or political issues, as workers had developed for decades, was prohibited. Sympathy strikes in support of workers under attack were illegalised. There could be no walkouts against budget cuts, mass sackings, privatisations, war-related operations or police attacks on workers.

Within this regime, the unions isolated and betrayed further key struggles by workers, including the two-month 1992 APPM paper workers' struggle in Tasmania and the 1998 waterfront dispute, which resulted in the halving of the workforce on the docks nationally.

By 1997, the widespread working-class hostility produced by the betrayals of Labor and the unions opened the way for the landslide defeat of the Keating government and the return of the Coalition under Prime Minister John Howard, a previously discredited figure.

In 2006–07, the Howard government sought to step up the offensive against workers by adopting "Work Choices" laws that allowed similar

enterprise agreements to be struck without the involvement of the unions. This threatened the monopoly that the unions had over the dismantling of workers' conditions, driving them to launch an all-out campaign against the Work Choices legislation.

At the same time, the nakedness of the Howard government's drive to tear up basic conditions, such as penalty pay rates, triggered widespread opposition. By falsely claiming to oppose the intensified attack on workers, the unions were able to channel this movement behind the election of another Labor government, that of Prime Minister Kevin Rudd and his deputy Julia Gillard, who became Labor's workplace relations minister.

### The Rudd-Gillard "Fair Work Act"

After initially retaining the Work Choices laws to prevent an eruption of workers' demands in response to its election victory, Labor drafted, in close collaboration with the unions, its Fair Work legislation. Once again, as with the Accords, the overriding aim was to suppress all industrial action and tie workers to the ever-intensifying profit and productivity requirements of employers.

Like the Keating government's laws, industrial action—which includes partial stoppages, go-slows, overtime bans and work-to-rules campaigns—was banned except during limited bargaining periods for enterprise agreements. What was new were provisions to try to reinforce the grip of the unions and simultaneously bolster the repressive role of the industrial tribunal, now renamed Fair Work Australia (FWA).

The straitjacket was further tightened. Workers could not take any action unless they first prove to FWA that they had participated in "good faith bargaining." This requirement outlawed independent (so-called "wildcat") action by workers and entrenched the positions of the unions, the only official FWA bargaining agents.

Among other things, workers or unions must participate in bargaining meetings with management and refrain from "capricious or unfair conduct." Then they must give the employer notice of an application for an industrial action postal ballot, a complex process that may take several weeks.

To get a ballot, workers must prove that they are seeking an industrial agreement covering only "permitted matters" relating directly to their employment. They cannot pursue rights in a new ("greenfields") workplace or engage in "pattern bargaining" across multiple workplaces.

All enterprise agreements must contain an "individual flexibility arrangements" clause that offers employers the kind of "flexibility" they were promised by "Work Choices"—the power to deal with workers individually to scrap basic conditions.

If no agreement is struck, FWA can issue "bargaining orders" to force workers to negotiate further, or make binding "workplace determinations"—a form of compulsory arbitration.

FWA has extensive powers to ban industrial action, including if it could cause "significant economic harm to the employer" or "significant damage to the Australian economy or part of it." The workplace relations minister can exercise the same powers via a Ministerial Declaration.

For breaking any of these rules, workers and unions can be fined thousands of dollars, and so can organisations or political parties that advocate industrial action. It is an offence to "advise, encourage, incite or coerce" or "aid, abet, counsel, procure, induce, conspire" or be "knowingly concerned with" breaches of the Act.

The union leaders all voted at Labor Party and ACTU congresses for this legislation, and enforce it ruthlessly. The union bureaucrats welcome the fact that the laws boosted their policing role, backed by a partial return

to compulsory arbitration, a system that was used in Australia throughout most of the 20th century to try to suppress independent working-class struggle.

## Conclusion

Workers need to study the lessons of this history. It is clear that no matter how militant the struggles of the working class—as seen in the repeated eruptions in the 1970s and 1980s—the offensive of the ruling class cannot be defeated without developing a clear-sighted political perspective.

As the experience of the Coles lockout demonstrates once again, the defence of the most elementary rights of the working class for jobs, decent working conditions and living standards brings workers immediately into a collision course with the full force of the state apparatus, backed and enforced by Labor and the unions.

This very fact raises basic political issues. Any struggle by workers at Coles or other supermarket chains, or in any industry, against closures and restructuring means a fight against the basis of the anti-strike laws—the profit-driven demands of the financial elite and its Labor and union servants.

Capitalism internationally is today in the midst of its worst crisis economic and politically, accelerated by the COVID-19 pandemic. Australia is no exception as the Liberal-National government, backed by the Labor opposition, strives to meet the demands of big business to re-open and restructure the economy regardless of its impact on the lives of working people. The incompatibility of the basic needs and rights of workers with the endless profit demands of the financial oligarchy is driving a radicalisation of workers and youth that has led to a resurgence of the class struggle around the world.

The essential lesson of the past four decades is the necessity for the working class to establish its political independence from all the agencies that defend the profit system—above all, the Labor Party, the trade unions and all their apologists. To prepare for the struggles ahead, the starting point is the creation of genuine working class organisations, such as rank-and-file committees, totally independent of the unions.

These action committees will have the task of leading the fight against the employers' assault, establishing networks across industries and unifying workers' struggles nationally and internationally.

Such struggles can develop and succeed only to the extent that they are based on a political program opposed to that of Labor and the unions—the reorganisation of society to meet the needs of the working people, not capitalist profits.

That is bound up with the fight for workers' governments to expropriate the accumulated wealth of the billionaires and place the banks and basic industries, including the supermarket chains and logistics empires, under public ownership and democratic working-class control.

As it has shown throughout the Coles lockout, and its long history of opposition to the betrayals of the Labor and union apparatus, the Socialist Equality Party is committed to assisting workers in linking up and developing this struggle against the employers, the unions and capitalism as a whole.

We urge workers at Coles and everywhere to prepare for these battles by contacting the SEP to discuss these issues.

To take forward this discussion, we invite all workers, young people and defenders of social and democratic rights to take part in our online public meeting this Sunday at 2 p.m. (AEDT) on “The Coles Smeaton Grange struggle: The next stage for the working class.”



To contact the WSWS and the  
Socialist Equality Party visit:

**[wsws.org/contact](https://wsws.org/contact)**