

Policing the 'Bastard Boys': Reality and Significance of the Police-Union 'Accord' during the National Waterfront Dispute

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ABC Channel 2's compelling and controversial dramatisation of the bitter and protracted 1998 national waterfront dispute, 'Bastard Boys', contained fleeting glimpses of friendly police accommodation of the sacked wharfies. One scene, depicting operational police dancing the macarena with the picketing wharfies, trivialised both the significance of the police peacekeeping strategy and the intricacies of the tense police-union relationship. This paper argues that police around Australia generally adopted a negotiated, conciliatory, non-confrontational approach with the Maritime Union of Australia picketers and supporters. This strategy was based on protocols and procedures that had been developing between the police and the union movement for a decade. Police, however, maintained the capacity to use force at any stage of the conflict. The paper contends that the police strategy rejected pressure and criticism from a New Right agenda that clamoured for violent police intervention.

Introduction

Locally produced dramas about Australian politics, especially focusing on industrial relations events, are rare. The ABC's brilliant, entertaining and timely dramatisation of the bitter and protracted 1998 national waterfront dispute raises compelling questions about arguably Australia's biggest and most significant industrial dispute since the pitched battles between police and stevedores on the Australian wharves in the late 1920s (Baker 2005, pp. 38-42).

The title, 'Bastard Boys', originates from a phrase of Chris Corrigan's former Hungarian boss who used to extol his young workers 'freezing our balls off' at 3am in the market gardens around Mittagaoong to 'work harder, bastard boys' (Blundell 2007). Who are the 'bastard boys' of the 1998 conflict? If the answer is the Maritime Union of Australia (MUA) members, who were sacked in the middle of the night by their employer and who subsequently established 'community assemblies' to defy Patrick stevedoring activity, they needed to be monitored and controlled. Hence, police played an important role in the processes that took place on the wharves, unfortunately one that received minimal attention in the mini-series.

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The ABC classified 'Bastard Boys' as a drama, not a documentary, although some debate has focused on whether the two part series formed a hybrid, a docudrama (Adams 2007). The mini-series, which attracted 972,000 viewers for Part One and 915,000 for Part Two, was based on the book by *Sydney Morning Herald* journalists, Helen Trinca and Anne Davies (2000) entitled *Waterfront: the battle that changed Australia*. Trinca described the television program as 'a ripper story but it's a complex one' (Trinca 2007). The mini-series was fictionalised but real people's names and events were depicted. Patrick's chairman, Chris Corrigan, dismissed the program as having 'an occasional acquaintance with actual events' (*Australian*, 17 May 2007). By contrast, the ACTU's Greg Combet claimed that the 'events were much as shown on the TV show, but the characters and the script are dramatised' (Kermond 2007).

It is necessary to provide a brief explanation of the industrial context that necessitated police involvement in the waterfront dispute. The Federal Government, headstrong for waterfront reform, repeatedly expressed support for any employer or port authority enterprises that sought waterfront reforms. The attempt by the US shipping company, International Purveyors, in September 1997 to sack unionised wharfies and replace them with non-union labour on the Cairns waterfront proved abortive. The chairman of Patrick Stevedoring, Chris Corrigan, admitted direct involvement in a futile and clandestine attempt to train non-union labour in Dubai (mostly former SAS commandos and army members). Patrick, encouraged by the Howard Government, determined to replace its fully unionised workforce with non-unionists trained by a National Farmers' Federation directed company. Clandestinely, the MUA workforce was transferred to the employment of a shelf company with no assets (Petz 1999, p. 4). On 7 April 1998, Patrick Stevedoring sacked its entire 1,400 permanent workforce and 600 casual workers, all MUA members, who were locked out of their workplaces. The waterfront dispute had connotations of being 'manufactured' and based on 'trickery'. The Opposition and unions argued that if stevedores could be summarily sacked, so could anyone (McGregor 1998).

The 'Bastard Boys' drama presented the basic narrative of the 1998 Australian maritime dispute, heralded as the 'War on the Wharves'. On 9 April 1998, the *Age* banner read 'Dock Wars' while the *Australian* proclaimed 'War on the Waterfront'. A definitive Prime Ministerial quote declared it 'A defining moment in Australia's industrial history' (Oakham and Baker 1999, pp. 127-149). An *Age* review of 'Bastard Boys' (Enker 2007) labelled the dispute as one of 'such violent confrontation'. This was the very possibility that the police-union negotiations succeeded in preventing and this is why re-visiting the policing of the 1998 MUA dispute is significant in

terms of the policing of public order. Despite the employment of security guards in balaclavas, guard dogs and clandestine efforts to replace union members on the wharves, this predicted 'war' failed to culminate in a full-scale, pitched battle between union picketers and police.

Although re-creating the tense and turbulent atmosphere on the wharves, 'Bastard Boys' trivialised the nature and significance of the relationship between police and the union movement. 'Bastard Boys' contained fleeting glimpses of friendly police accommodation of the sacked union members and police passivity towards the firebrands. One scene depicting operational police dancing the macarena with the picketing wharfies trivialised both the significance of the police peacekeeping strategy and the intricacies of the tense police-union relationship. Journalist Andrew Bolt seized on this scene to reinforce the New Right credence of police failure to perform their duty. Bolt's words of 'police doing the Macarena with the nice wharfies on the picket line' (Bolt 2007) is a sarcastic indictment of police professionalism. Robert Fidgeon, in the *Herald-Sun* (14 May 2007), directed viewers of Part Two to look for 'the sympathy that police have for the union members fearful of their future'. These are the only two reports or commentaries of the TV miniseries, viewed from eighty newspaper reports, which make any reference to the police-union relationship.

One critic alleged that the drama 'never feels as dangerous as it should' (Belleman 2007). The five months of the waterfront dispute were bitter, volatile, explosive and emotionally charged. The extent of the danger and unpredictable nature of the national dispute was perhaps best presented by the Chief Commissioner of the Victoria Police, Neil Comrie, who feared 'serious injury and even loss of life to a number of people' if full-scale pitched battle between picketers and police had erupted (3LO Terry Laidler program 17 March 1999).

The Emergence of Modern Policing of Industrial Disputation

Historically, in periods of bitter industrial strife in Australia, police usually did not stand in the middle as neutral arbiters of the law but served employer and government demands for decisive action. Employers have customarily relied on the apparatus of the state in the form of the police to make their plants accessible, to protect staff and strikebreakers and to safeguard business productivity. Police, with batons, escorting strikebreakers to the workplace was the catalyst that inflamed violent confrontation between unionists and police. Though not consistent

throughout history, police actions at specific times and during specific conflicts attempted to suppress picket activities, left-wing agitation and unemployment dissent (Baker 2001).

As the coercive arm and guardian of the state, aggressive police historically quelled hostile industrial unrest. Police played an essential, but ruthless and partisan, role in the course of some protracted disputes such as the Great Strikes of the 1890s, 1917 general strikes, 1928 waterfront strikes, 1937 Korumburra lockout and 1964-5 Mt Isa lock-out (Baker 2005, pp. 50-81). When political and ideological clashes between capital and labour were rife amidst the communist hysteria of the 1920s, police saw themselves as defenders of freedom and enforcers of legitimate power against waterside workers (Baker 2001). As both employers and unionists have realised, the one rapid method of demolishing a picket line was for police to smash through it (Trinca and Davies 2000, p. 198).

More sophisticated policing of industrial strife has emerged in recent decades. The advent of the mobile camera in the 1970s, a boon for accountability, had a sanguine effect on both the policing of work-sites and union protests. Better-educated, management-trained and media-savvy police leaders and union organisers with greater knowledge of civil rights have fostered communication, liaison and cooperation. When large numbers are gathered in protest or blockade, police are unable to move and arrest all people who are technically breaking a law and whose conviction is problematic in the courts. The prudent police approach, evidenced in the 1992 Associated Pulp and Paper Mill dispute at Burnie, is often to forego arrests (or pursue a minimum arrest policy) and to preserve the peace (Baker 2005, pp. 82-137). Worker violence, even for a valid cause, erodes public sympathy and support just as police coercion can do. Unions may be generally accepted for safeguarding employees' economic and working conditions but they are vilified if industrial action turns violent (Grant and Wallace 1991, p. 1,119). The legitimacy of policing is questioned if police adopt unnecessarily paramilitary tactics against strikers.

Despite 'setbacks' of the Richmond Secondary College baton-attack type (Perry 1994), the primary source of improved public order policing, especially the handling of industrial disputation, is to advance formal cooperation and flexibility between the parties. Formalised negotiated management between police leaders and union organisers has lessened the extent of coercive policing intervention through an emphasis on peacekeeping and prevention rather than rigid law enforcement. Contemporary policing of public disorder, including industrial disputes, is generally

characterised by under-enforcement of the law, complex procedures of negotiation and large-scale gathering of prevention-oriented information and intelligence (Kratcoski et al. 2001; Waddington 2001).

Police facing picket-line confrontation cannot afford to lose; police believe they must 'win' the initial battle in order to hold the day and future industrial encounters. As industrial disputes are eventually settled, the uncertainty relates to the timing of the settlement. The police attitude, therefore, has evolved to one of 'hastening slowly' so that the parties to the industrial dispute have time to negotiate (Winther interviews 1998 and 2001). For unionists, contemporary violent confrontation with police is generally a no-win situation because police can utilise their resources, mobility and riot technology if they envisage the situation as demanding it. Despite considerable militaristic capabilities, it is pertinent to note that in Australia riot personnel and technology have only been deployed on a limited basis to date. Yet such paramilitary weaponry exists, it is available if required and union organisers know this.

As a result of violent clashes between police and the Builders Labourers Federation in the 1980s, Victoria Police and the Victorian Trades Hall Council (VTHC) established professional protocol arrangements to deal with potentially volatile situations. (Previously, Victoria Police had relied on a call to Russell Street Headquarters and then randomly allocated an available sergeant to the industrial duties.) Victoria Police established the position of Industrial Disputation Officer to liaise with employer, unions and government in order to provide practical and pragmatic advice to operational police about industrial law and 'desirable procedures for the policing of picket lines' in terms of available numbers, location, timing, acceptable behaviour and control contingencies. In accord with policing philosophy, the Australian Council of Trade Unions (ACTU) executive developed a reciprocal union policy in relation to authorised strikes and pickets to avoid confrontation by contact being established 'at the earliest opportunity, between union officials and local police to establish the nature of the dispute, the role of police and to identify representatives from the union(s) with whom the police can liaise' (ACTU/VTHC memorandum May 1994). The policing of the 1998 industrial conflict was not a spontaneous happening; the seeds of the police and union 'accord', based on communication and negotiated management of potential conflict scenarios, had been nurturing for about a decade as both police and unionists sought to avoid violence, adverse publicity and litigation.

Police and Trades Hall Councils co-operate in relation to notification of rallies, boundaries, routes and acceptable picketing practices. If police are called to a dispute, either major or minor, they 'take control of it' (Winther interview 2001). Police prefer an identifiable group to constrain and contain because unknown picketers, outsiders, can elicit an unexpected police response (Kahn et al. 1983, pp. 86-91). Although there are no laws specifically prohibiting picketing, 'they are subject to the laws necessary for the maintenance of public order' such as traffic violations, assault, obstruction, trespass, besetting, harassment, intimidation or failing to obey a lawful police order (*Police Gazette* 28 April 1997, paragraphs 42 and 23). The employer can opt to pursue civil litigation to restrain unions from any unlawful and disruptive action. Interference with contractual relations, nuisance, intimidation, trespass and harm to business can constitute industrial torts and possible claims for damages (Douglas 2004, pp. 93-101). Judicial statements can override a policing strategy and even set precedents, as occurred with Justice Wright during the 1992 APPM dispute (Wright 1992).

The Reality of Policing the 1998 National Waterfront Dispute

The 1998 maritime dispute centred on the courts, the political arena and the media, but the wharves remained a symbolic theatre of the struggle and the core of the grassroots campaign. Mass picketing, disciplined and resolute, on the wharves prevented a quick, decisive victory by Patrick Stevedores and the Howard Government. The peaceful, non-criminal pickets were the visible centre-piece of the union's campaign, the focus of national and international media coverage and the platform of civil disobedience. The 'consensual' tactics of the police complemented the tight discipline and control imposed by picket captains and marshals on thousands of protesters. Tensions at docks such as East Swanson, Fremantle, Botany, Brisbane and Newcastle were acute at various stages. The almost surreal uncertainty of the course and outcome of the dispute was exemplified in a newspaper account, entitled 'A divided nation united only by sheer anxiety', which was accompanied by photographs of wharfies and supporters, with arms linked, facing rows upon rows of police (*Sunday Australian*, 19 April 1998). Close physical contact between police and picketers demands self-control and discipline from both parties. Certain newspapers and politicians predicted future bloodshed, but such prophecies were not self-fulfilling (Carney 1998).

The large-scale 1998 Australian waterfront dispute revealed the effectiveness of community union protest and the desirability of negotiation, compromise and formal protocol between the union movement and state police in order to maintain peaceful protest (Baker 2005, pp.163-203). Despite sackings by Patrick Stevedoring company on 7 April 1998 and the stationing of security guards and rottweilers to protect Patrick terminals, the union movement refrained from unlawful responses and from calling a national strike (Lee 1998, p.111). The broad reinstatement order of Justice North (21 April), which directed Patrick Stevedoring to re-employ its MUA workers and which was upheld by the full bench of the Federal Court (23 April) and the High Court (4 May), determined the legal and industrial course of events. The public opinion 'battle' for support, a telling factor in the dispute, gradually moved from the company to the sacked unionists (Oakham and Baker 1999).

Throughout the dispute, the MUA and various union movement officials advocated and generally maintained a peaceful, disciplined and law-abiding protest determined to gain significant sections of community support. In response, police normally adhered to a peace-keeping and non-interventionist philosophy as opposed to the rigid law enforcement of arraigining summary offences that are basically minor charges (Winther interview 1998). The Victoria Police Chief Commissioner's instructions (*Police Gazette* 28 April 1997, paragraph 30) state that minor offences (those common to picketing) should be 'ignored in the interests of containing the overall situation' in public order situations and not deplete police personnel numbers by conducting arrests.

As police philosophy is to foster relations with both parties, regular conferences were conducted with the employer, including security personnel. At the beginning of the picketing, the Victoria Police Industrial Disputation Officer explained to the union negotiating team the legal requirements as they pertained to the state, indicated standards of acceptable behaviour, and identified police responsibilities (Nation interview 1998). Daily meetings between police, MUA and VTHC negotiators (not seen on 'Bastard Boys') were conducted at Police Headquarters in order to prevent surprises or a spark such as 'the headline in a newspaper or a piece of gossip' inflaming the situation around the Australian seaports (Boyd interview 1998). Close consultations between the police and union negotiating teams took place on days of great industrial volatility. The intensity of the police-union arrangements is evidenced by the high ranking police officers and key union negotiators assigned to the meetings. The Victoria Police negotiating team included Assistant Commissioner (General Policing), Allan Roberts, Operations Commander, Noel Perry, Industrial Disputation Officer, Chief Inspector

John Winther and Acting Superintendent (Forward Command), Daryl Nation, while their union counterparts were MUA Deputy Secretary, John Higgins, National Organiser of the MUA, Mick O'Leary, CFMEU Secretary and VTHC Vice-President, Martin Kingham, VTHC Industrial Campaign Officer including police liaison, Brian Boyd and VTHC Assistant Secretary, Natalie Sykes.

The VTHC and the MUA welcomed the police briefings and presence because they sought neither confrontation with police nor the stigma of violence. A special mobile telephone listing of key personnel was kept by both police and union negotiators (Winther interview 1998). Victoria Police viewed the consultation as an extension of its Project Beacon training, seeking non-violent strategies to control potentially dangerous situations and emphasising 'safety first' rather than a police culture of 'risk-taking' (Victoria Police 1997, pp. 4 and 59-60). In a reciprocal arrangement, MUA officials pledged that they would maintain control of the 'peaceful assembly'. (Higgins interview 28 May 1998) Specific, unwritten guarantees on trust were given by both police and union negotiators. In Victoria, MUA officials made commitments of no violence, only routine yelling at change-overs of non-union labour while police agreed not to employ shields, batons and horses to intimidate protesters. In most states, union leaders imposed bans on swearing, racial abuse and alcohol (*West Australian*, 13 April 1998, p. 4). According to Chief Inspector Winther (interview 22 May 2001), MUA marshals were 'completely successful' in organising and sustaining 'a peaceful community protest'. The MUA's John Higgins (interview 1998) had 'no criticism whatsoever' of the police role. From a police perspective, there was little law to enforce and insufficient criminal activity to warrant a violent affray.

Policing the docks, however, was far from macarena and cricket! The initial police forays to break MUA pickets in New South Wales and Western Australia had proven abortive and influenced police thinking and strategy in all states about the futility of attempting to break large-scale community pickets that out-numbered police. In Sydney, police detained, then released, twenty-two protesters at Port Botany (Kennedy et al. 1998). Queensland Police, on 21 April, arrested 184 passive protesters for disobeying police direction and trespass but MUA official, Mick Carr, proclaimed: 'The relationship between rank and file police officers and the MUA has been very, very good indeed' (*7.30 Report* 22 April 1998). The Queensland Police boasted of their ability peacefully to remove protesters due to the specialist training of their dedicated Public Safety and Response Team.

In Western Australia police played a more aggressive, interventionist and legalistic role, although violence was still largely avoided. In accord with traditional police acquiescence to employer requests to remove pickets, 120 police, including the tactical response group and the independent patrol group attired in riot gear, used batons to disperse a union protest at Fremantle on 16 April (*West Australian* 17 April 1998, pp.1 and 7). The sortie of the Western Australia riot police was a 'tactical blunder' which tarnished the police image at a time when policing rhetoric extolled the importance of developing community links (Cooke interview 1998).

The potential for violent confrontation was most pronounced at East Swanson Dock, Melbourne, which became the focus of mass picketing and the litmus test of the industrial dispute. The MUA's civil disobedience attracted numerous celebrity figures. Railway tracks, welded together as a 'community arts project', crossed the road to the quay and concrete blocks were erected on the entrance road. The 'community assembly', with its soup kitchens, toilet facilities, BBQs and even entertainment and celebrities, became a semi-permanent and symbolic form of civil disobedience. Although the MUA's 'community assembly' was technically an obstruction, senior Victoria Police acted upon operational police discretion to avoid bloodshed on the streets.

On 17 April, Victoria Police notified the union negotiators that they would be removing the picket line because it was blocking vehicle access to the port. They informed the negotiators that there would be no riot shields, no truncheons, no excessive physical force and that horses would not lead the operation. In return, the unions agreed to safeguard women and children; there would be no violence, only passive resistance (Higgins interview 1998). Near dawn on Saturday, 18 April, 1,000 police confronted a determined opposition from 4,000 MUA members and supporters, later augmented by 2,000 construction workers. The police were effectively encircled and forced to retreat with the aid of union officials who led the police safely through the crowd (Trinca and Davies 2000, p. 218). According to Bramble (1998, p. 16), the police 'had to beg to be let out!' This scenario had posed the greatest potential for violence. Strategically, the lack of open space at the dock limited police ability to manoeuvre the throng of people. Two small entrances were seized for four hours by police but no truck driver was prepared to enter the dock. The union movement hailed this outcome as a very significant victory, both as a physical encounter and a symbolic industrial one. According to Greg Combet, 'That day turned the dispute ... They (police) appreciated that it wasn't violent - that was very important tactically and when that assault was turned back ... it was a decisive moment' (quoted in Pocock 1999, p. 28). 'Bastard Boys', produced without

consultation with key police players in the protracted dispute, undermines the unpredictability and volatility of the East Swanson impasse: the police Commander is depicted as being sympathetic to the unionists, even suggesting they join police 'for a beer' the next morning.

Intense discussions occurred between police and union organisers in order to maintain the peace. While the court outcomes in relation to the legality of the Patrick sackings and the alleged Government involvement in contravention of its own 1996 *Workplace Relations Act* were eagerly anticipated, a truce ensued in Melbourne (much to Corrigan's disgust) between police and picketers in which 'both parties were true to their word' (Winther interview 1998). Police promised that no trucks would convey freight from the docks and they would not attempt to move union pickets (Towers 1998). When this peace agreement expired, police resumed talks rather than attempt to break the pickets. Some discussions were very 'heated': the physical blockades and obstructions to freedom of movement on the port were sources of bickering between union and police negotiators and of frustration and inconvenience to the employer (Baker 2005, pp. 168-173).

Top-level police played a role in the dispute's unravelling. In an unprecedented and significant initiative, state police commissioners, at their annual conference in Melbourne on 21 April, issued a statement advocating a 'negotiated' and 'non-violent' resolution of the maritime dispute. Conscious of the 'complex and emotive' nature of the dispute, the commissioners stressed that police would act as necessary to deal with unlawful blockades but reaffirmed 'their strong desire that the maritime dispute is settled through negotiations and the legal processes rather than violent conflict' (Millett et al. 1998). The police commissioners advocated a low-key, non-confrontational approach instead of coercive tactics: 'Physical contact on the wharves is likely to lead to violence and perhaps serious injury to participants and police' (Reynolds 1998). After the commissioners' communique, police made no further attempt to remove picket lines at the Patrick terminals.

Having failed to defeat the MUA at the dock gates, the Federal Government reproached some state police forces for 'limp responses' in implementing Supreme Court orders against the picketers (*Age* 4 April 1998, p.13). Prime Minister Howard insisted that state police enforce court injunctions against picketers delaying cargo on Sydney and Melbourne wharves and branded open defiance of the law as 'very unsatisfactory' (Millett et al. 1998). Victorian Premier Kennett, in private talks with Police Command, insisted that the blockade be broken (*Age: News Extra* 9 December 2000). Della Porta (1996, p. 29) conjectures that in Europe, 'police forces will fulfil

demands by the government', overriding democratic rights of protest. But this certainly did not occur during the 1998 Australian dispute.

Criticism from employer and conservative politicians focused on the police's inaction against the MUA assemblies. Victoria Police Command, exhibiting independence from political pressure, ensured that police members were not manipulated in the dispute. Chief Commissioner Comrie, boasting of a record of managing disputes with 'minimal violence', refused to enter 'battle mode' and be 'pushed into using excessive force' (*Courier Mail* 20 April 1998). Patrick's Chairperson, Chris Corrigan, castigated the very lack of action by Victoria Police for allowing the continuance of the MUA pickets, being 'neither peaceful nor legal', and thereby creating an allegedly unlawful impasse obstructing commerce (Corrigan speech 13 May 1998). Although Patrick Stevedoring made no official complaint about the policing of the dispute, company criticism of the police vehemently challenged the belief that the protests and pickets were peaceful and non-violent. Corrigan labelled the picketers as the 'couple of thousand rent-a-crowd at East Swanson dock' (Corrigan speech 13 May 1998), a description very much at odds with that provided by the police. Corrigan's most ardent attack was directed against the Victoria Police, especially for its ineptitude against the MUA 'assembly': 'The unpleasant reality is that the police in Melbourne did not do their job'. (Corrigan speech, 16 March 1999) He scorned Victoria Police's time delaying 'while the police sniff the wind to see who's winning the public relations war before deciding whether to enforce the law' (Kermond 1998). Corrigan and other critics appear to have acted upon the traditional assumption that, if the employer demands police intervention to clear passage, police will automatically and immediately concur without consideration of the consequences.

The 1998 police-union protocols and non-confrontational policing of industrial disputation have been challenged by a New Right agenda. Stuart Wood (1998), an industrial relations barrister acting for Patrick, presented a paper to the H. R. Nicholls Society on the failings of the Victoria Police during the dispute 'to control the violence and respond to the threat to kill; to clear the trespassers from the docks'. Wood (1998, pp.15 and 23-25) argued that the future policing of pickets should include no police consultation with 'persons determined to break the law', presumably any picketer. He advocated the 'establishment of a specially trained, rapid response industrial disputes unit'. Similarly, Des Moore, director of the right-wing 'think-tank', the Institute for Private Enterprise, condemned 'the abysmal failure of the police to enforce the law in the waterfront dispute' and for encouraging 'violent actions by protesters' (Moore 1998). During a dispute at Feltex carpet

manufacturing in November 2001, Moore, maintaining his crusade against perceived police ineffectiveness, claimed that Victoria Police 'upset' the company by continuing 'their very poor record in handling violence at industrial disputes' (Moore 2001). Such comments, in effect, constitute a call for a return to the traditional, militaristic style policing response to strikes of the late 1920s. The potentially dire consequences of police pursuing such a confrontational approach are evident by the violent ramifications of much historical policing of industrial conflict (Baker 2002).

Victoria Police, acting according to legal advice, delayed any sortie against picket lines until the Federal and High Court decisions were announced. According to Victoria Police Industrial Disputation Officer, John Winther (interview 2005), (who stressed 'the seriousness of the dispute - anything can happen'), police believed that 'the ultimate decision came out of the courts which resolved the issue'. Police would have appeared 'rather foolish' if they had intervened hastily before the High Court ruling and as the tide of public opinion moved in favour of the union movement. Just as the leading players in the dispute awaited the major court decisions, senior police awaited the decisions in order to maintain or change operations. Police autonomy means that they can reject pressure from a particular vested interest in a dispute, such as Patrick's Chairman and the Prime Minister, but court injunctions are obeyed (Baker 2005, pp. 105-130). If Justice North's interlocutory orders had gone against the MUA in April 1998, Victoria Police had alternative, detailed, coercive operational plans to smash the picketing (Nation interview 1998). In such a tense political and industrial climate, the police-union relationship would have been fully tested.

Whether or not Victoria Police would have successfully dismantled the pickets remains contentious because the MUA, via the 'telephone tree', was capable of rallying masses at East Swanson Dock in such an eventuality. With the multitude of roving TV cameras and outside radio broadcasts, violent clashes between police and picketers would have served neither's interest. 'Bastard Boys' challenges the viewer to decide whose interests would have been served by bloody, violent clashes between police and the MUA. Philosophically, Victoria Police rhetoric states that success is 'primarily judged by the extent to which the use of force is avoided or minimised' (*Police Gazette* 28 April 1997). According to senior Victoria Police, the lack of arrests, complaints and injuries justified 'a good result' for a hundred days' operation (Winther interview 2001).

Modern-day police leaders throughout Australia are aware of the risks of attempting to smash through mass picketing. Similarly, experienced union organisers have seen the folly of physical confrontation with police, who are not the adversary in disputes. The ACTU, in July 2003, announced a new and expanded picket code that banned unionists from drinking alcohol on picket lines and outlawed violence, intimidation and destruction of property. All picketing has to be coordinated by union committees; union-appointed marshals must liaise with police to resolve any conflicts. The code stressed the need to 'honour agreements or understandings that exist or are reached between police authorities and unions or TLCs in respect to picket or demonstration activity' and 'to establish protocols with police' to ensure that potential conflicts are resolved (*Workers Online* 18 July 2003; *Australian Financial Review* 3 July 2003). In April 2006, the NSW Police Association stated that its members would not use a water cannon vehicle, purchased by the public order and riot squad for \$700,000, at union pickets and protests although other demonstrators, such as those at APEC in September 2007, might confront a different scenario (Morris 2006).

The policing *modus operandi* employed in the 1998 waterfront dispute placed peace-keeping and public safety above the enforcement of law, the latter of which would have assisted commercial enterprises to conduct their business unhindered. This low-key strategy necessitated interference to the company's business and transportation of goods and some inconvenience to the general public. Police are obliged neither to protect a business interest at any cost nor to placate people's right to protest at any cost. Employers and governments are entitled to criticise and make demands but police must safeguard their operational independence. In February 2004, newspaper publisher, John Fairfax Holdings Ltd, angrily chastised police for failing to take action against unionists blockading the Tullamarine printing plant and preventing *The Age's* distribution. *The Age's* Paul Heinrichs (22 February 2004) pontificated that, 'despite having the rule of law on its side, *The Age* was unable to enlist the assistance of Victoria Police, who were either unwilling or unable to enforce law and order'. This dispute once again illustrates an employer still expecting and demanding an immediate and aggressive police response to handling picketing but such demands can be rejected by modern police operational strategy.

Conclusion

Ray Quint, director of 'Bastard Boys', approached an Australian film distributor with the program's concept but he received a terse reply: 'Mate, there's no bang. Where are all the dead bodies?' (Blundell 2007). The fact that the tense 1998 national dispute was confined to limited physical confrontation stems primarily from the police-union 'accord'. Both police and unionists derived real benefits from their evolving flexible and non-confrontational strategy. Neither wanted members injured; neither wanted adverse media attention; neither wanted prolonged criminal litigation; both sought legitimacy from the community. Throughout the explosive days of April 1998, both the police and the union movement averted major confrontation and violence by concerted negotiation and arrangements. However, the police always retained the capacity to act decisively and forcefully to quell unrest if compromise and negotiation failed. The Howard Government, Patrick, Corrigan and the New Right advocates, who espouse the traditional edict that public police should respond quickly and decisively to employer and/or government requests in industrial disputes, saw police as the legitimate coercive agent to remove pickets but they seemed oblivious to police capacity for operational independence when keeping the peace and containing the volatile waterfront.

The drama, 'Bastard Boys', successfully re-visited a seminal event in Australian industrial history. It re-told 'a complex and historically significant story' (Enker 2007) by condensing the volatile waterfront dispute into a four-hour dramatisation. However, the police-union relationship failed to be represented in its maturity, sophistication and complexity. That relationship is part of the 1998 events and it was significant in the process, procedures and, arguably, even the outcome of the industrial dispute. The police peacekeeping and non-confrontational strategy has been tested and has survived but for how long?

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Acronyms used in paper

ABC	Australian Broadcasting Corporation
ACTU	Australian Council of Trade Unions
APEC	Asia-Pacific Economic Cooperation
CFMEU	Construction, Forest and Mining Employees Union
MUA	Maritime Union of Australia
VTHC	Victorian Trades Hall Council
APPM	Associated Pulp and Paper Mill
TLC	Trades and Labour Council