

POLICE EMPLOYEE REPRESENTATION IN NEW SOUTH WALES, PART 1A:  
THE BEGINNING THROUGH 1960

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Published and printed by the Australian Institute of Criminology  
10-18 Colbee Court, Phillip, ACT, 2606.

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PREFACE

This chronological description of police employee representation in New South Wales from the beginning through 1960 is presented as a contribution to the police historical record of the state. The end of the 'fifties' and the commencement of the 'sixties' comprised a major social boundary in Western Society generally. That boundary was as evident in police affairs in NSW as it was in pop culture, public morality, politics and numerous other social phenomena. The year 1960 thus represents a convenient cut off point for this particular account. Clearly, a subsequent monograph (Part 2) will be necessary to account for the more complex years from 1960 forward.

In recording the various events presented in the following pages, interpretation and explanation are kept to a minimum. The placing of these data within an explanatory framework will be the substance of Police Employee Representation In New South Wales, Part 1B: The Beginning Through 1960. Sources utilised in the compilation of this description of police employee representation include publicly available sources such as Police Department Annual Reports, parliamentary papers, newspapers and Police News. The files of the Police Association of New South Wales were also accessed. I am grateful to Merv Taylor, Tony Lauer (past Presidents of the Association) and Bob Page (Secretary, Administration) and Sean McCormaic (Secretary, Industrial) for their generosity in granting and facilitating that access. The unfortunate absence of in-house employer views and data has led to an inevitable bias in the following pages, they essentially comprising an employee's eye view of the subject.\* Before the companion Part 1B to this monograph can be attempted, that bias will need to be corrected. Despite the bias in the following account it is nevertheless a worthwhile record of events, the only comprehensive account attempted to date. As such it represents a treasure trove of data and references to researchers of various disciplines.

Although the substance of this monograph is the "staff of life" to (at least some) police analysts of various persuasions, industrial relations practitioners, public administrators, political scientists and others, it hardly makes for compelling reading by those not having such interests. Trish Psaila, who patiently typed these words, does not possess such interests and I am appreciative of her stoicism as well as her great skill in operating her word processor. Greg Coles generously accepted the task of completing accuracy checks and researching a range of details. My thanks go to him for undertaking such a demanding task. Greg also compiled the index.

Few police officers now serving have a clear understanding of the events related within these pages. Reasons include the hitherto lack of a comprehensive account and the lack of professional education available to police officers. The events recounted here starkly reveal the antecedents to the present status and conditions of NSW police officers. They also reveal

\* Such views were sought but were not forthcoming.

examples of great commitment (and sometimes sacrifice) by individual employees to the wellbeing of their colleagues and those who followed them in the police occupation in New South Wales.

No presently serving police officer can fully appreciate his/her conditions or his/her future without a clear understanding of these events of the past and the sacrifices made on their behalf. It is for that reason I hope New South Welsh police employees will take the trouble to read this account of their representation over the years.

February 1984

Bruce Swanton

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TABLE OF OFFICE HOLDERSCommissioners of NSW Police 1920-1960

James	MITCHELL	1914-1930
WH	CHILDS	1930-1935
WJ	MACKAY	1935-1948
JF	SCOTT	1948-1952
CJ	DELANEY	1952-1962

Ministers responsible for NSW Police 1920-1960

George	FULLER	1916-1920
James	DOOLEY	1920-1921
CW	OAKES	1921-1925
CC	LAZZARINI	1925-1927
Mark	GOSLING	1927
Albert	BRUNTNEILL	1927-1929
TB	BAVIN	1929
Mark	GOSLING	1929-1932
Frank	CHAFFEY	1932-1938
George	GOLLAN	1938-1941
JM	BADDLEY	1941-1942
WJ	McKELL	1942-1947
James	McGIRR	1947-1952
JJ	CAHILL	1952-1959
RJ	HEFFRON	1959-1964

Premiers of NSW 1920-1960

John	STOREY	1920-1921
James	DOOLEY	1921-1921
GW	FULLER	1921-1921
James	DOOLEY	1921-1922
GW	FULLER	1922-1925
JT	LANG	1925-1927
TR	BAVIN	1927-1930
JT	LANG	1930-1932
BSB	STEVENS	1932-1939
Alexander	MAIR	1939-1941
WJ	McKELL	1941-1947
James	McGIRR	1947-1952
JJ	CAHILL	1952-1959
RJ	HEFFRON	1959-1964

Presidents of PANSW 1920-1960

T	PAULING	1921-1922
H	CHINNER	1923-1928
CL	GAVIN	1929-1936
WC	WATKINS	1937-1938
W	LITTLEFAIR	1939
JV	DRISCOLL	1940-1948
CT	BOSTON	1949-1956
LH	GRIFFITHS	1957-1963

Secretaries of PANSW 1920-1960

Bertram	FORTESCUE	1920-1931
CJ	COSGROVE	1931-1946
FC	LAUT	1946-1970

TABLE OF STATUTES

<u>Crown Employees Appeal Board Act 1944</u>	commenced 20 Apr 44
<u>Forty Four Hours Week Act 1925</u>	4 Jan 26
<u>Industrial Arbitration Act 1901</u>	10 Dec 01
<u>Industrial Arbitration Act 1912</u>	15 Apr 12
<u>Industrial Arbitration Act 1940</u>	19 Apr 40
<u>Industrial Arbitration (Police) Admendment Act 1946</u>	1 Jun 46
<u>Industrial Arbitration (Forty Hour Week)</u>	
<u>Amendment Act 1947</u>	1 Jun 47
	excl s.2(2), commenced 28 Mar 47
<u>National Security (Economic Organisation) Regulations</u>	19 Feb 42
<u>Police Regulation (Appeals) Act 1923</u>	1 Feb 42
<u>Police Regulation (Appeals) Amendment Act 1947</u>	10 Nov 47
<u>Police Regulation (Superannuation) Act 1906</u>	12 Dec 06
<u>Police Reserve Act 1941</u>	10 Apr 41
	excl PtII, commenced 15 Dec 41
<u>Public Service Salaries Act 1931</u>	8 Aug 31
<u>Public Service (Salaries Reduction) Act 1930</u>	1 Jul 31

So far as is known, non-commissioned police employees in New South Wales first considered combining industrially in 1910. The McGowan labor government took office in October that year and the incoming Colonial Secretary was informed of police rank and file aspirations. His view was that a police union was undesirable as it could 'resort to a strike the very moment the Police Force was most required.' To relieve the pressure he introduced a Police Appeals Bill. The Bill was not enacted but, the action served to keep police employees quiescent - for a while at least.<sup>1</sup> Four years later the possibility of industrial organisation occurred again, this time during the term of the Holman labor government. Little is known concerning the event other than that the Chief Secretary of the day did not feel the same as his predecessor on the subject and even went to the extent of recording his lack of objection to such a course of action in the Police Gazette.<sup>2</sup> However, it seems probable pressures were brought to bear within the department as an Association was not in fact formed until some years later.

## 1920

In 1920, with police morale low due to a number of grievances, the question of forming a Police Association was again raised. Significantly, a labor government was once more in power and, again, the Chief Secretary of the day intimated he had no objection to the creation of a Police Association. Indeed, during the course of a well attended meeting of all ranks at the police depot on the evening of 8 July 1920, he informed his audience that police should have their own representative organisation. At the conclusion of his remarks, Mr Dooley (the Chief Secretary) moved 'that a New South Wales Police Association be formed, non political, and not to be affiliated with any outside body.' The motion was enthusiastically carried.<sup>3</sup> Those present realised the reference to "outside body" alluded to the One Big Union<sup>4</sup> - a contemporary international industrial movement objected to by labor and anti-labor interests alike - Industrial Workers Of The World.

Constable Bertram Fortescue, a headquarters clerk and the meeting's convenor, claimed the meeting arose as a result of the Chief Secretary having earlier professed his belief in the necessity of a Police Association.<sup>5</sup> Only the previous week, the Inspector-General, too, had indicated his support for such an organisation.<sup>6</sup> Such an opportunity, given the general level of dissatisfaction of rank and file members at the time, was too good to be ignored. Thus, Fortescue and a small group of like minded colleagues, reassured by gestures of solidarity from both country<sup>7</sup> and metropolitan members, convened the meeting from which the Police Association of New South Wales sprang.

Whilst expressions of official support possibly precipitated the Association's formative meeting other, longer term factors also contributed to the event. These factors included employee dissatisfaction with promotion and appeals in relation thereto, promotion exams, days off, long service leave and, pay. Concern over pay was considerable. From the start of WWI in 1914 until the depot meeting in 1920, increases in grocery

and food prices overall marginally exceeded police wage rises and the price of meat had increased sharply.<sup>8</sup> In terms of the purchasing power of money across the board, however, the percentage increase in the police minimum wage outstripped inflation by approximately 26 per cent.<sup>9</sup> That is not to say police were necessarily better off. To start with, their wage in 1914 had been on the poverty line and income tax presumably increased with the increase in pay. Thus, a policeman's wife, with seven children to feed may have been worse off or, at least, perceived herself to have been worse off. In referring to the inadequacy of the police wage rise granted early in 1919, the Evening News remarked 'it is not surprising that the police department is not rushed with candidates anxious to wear the uniform.'<sup>10</sup> Even after the raise, junior police were still paid at a rate below the state basic wage. Allied with this sense of the inadequacy of police wages was the strong realisation among many members they were required to work too long and too hard for their income. Little relief was available to members in the sense that the vast majority of members remained at the bottom of the hierarchy, at the rank of Constable - some 74 per cent of members in 1920 were Constables of varying service and grades, which left little room for promotion and, thereby, increased income. In addition to a concern with the absolute amount of their earnings, it seems probable many police employees were also resentful of the improved positions of members of other occupations.

In a relative sense, although NSW police officers were among the best paid police employees in Australia at that time, they were less well paid than the police of New Zealand<sup>11</sup> and, even Britain.<sup>12</sup> Certainly, better informed members of the NSW police department would have been aware of their relative disadvantage vis a vis New Zealand and Britain due to press publicity, including references in the Police News. Closer to home and considerably more dissatisfying was the knowledge that both manual workers and public servants had outstripped police in an economic sense due, in part at least, to their access to the New South Wales Arbitration Court.<sup>13</sup>

For all these reasons and, no doubt, others the decision to form an Association was made.

Following that decision, committees were appointed to prepare rules, regulations and a constitution. Two months later, on 8 September 1920, at a meeting held at police headquarters, an executive committee was elected. At this point it can be said the Police Association of New South Wales (PANSW) actually came into being as a distinct organisation. The major aims of the Association were given as:

- \* promotion of the interests of the police service
- \* consider general welfare of members
- \* attempt resolution of members' grievances.<sup>14</sup>

A small pay rise followed this event, on 8 October, possibly to assuage rank and file dissatisfaction evidenced in the

Association's formation. If that was indeed the intention, it was unsuccessful. The rise still failed to bring the base police pay rate up to the basic wage and did little but encourage a climate of rising expectations. During 1919 and 1921, junior police received four wage rises resulting in an overall increase at the lower level of nearly 50 per cent. Only with the last rise was the base police wage brought up to the state basic wage! The last rise, coming as it did so quickly following the establishment of the Association, must have greatly heartened the executive committee as well as increasing its credibility in the eyes of members generally.

It had been the Chief Secretary's intention all along to permit police access to the Arbitration Court<sup>15</sup> as well as to establish a police Appeal Board. Indeed, Dooley commenced drafting Appeal Board legislation even prior to the creation of the Association.<sup>16</sup> But, such matters take time and, in the meanwhile, on 8 October, the Association's executive committee requested the basic wage be applied to police. The request was promptly denied.<sup>17</sup> This rebuff by the Chief Secretary was regarded by the executive as being quite inconsistent with his earlier support for police industrial organisation. In all fairness to the Chief Secretary it should be said he honestly expected speedy police access to the Arbitration Court - in which forum such requests could be determined. It is clear he set the bureaucracy in motion preparing necessary amendments to the Industrial Arbitration Act 1912.<sup>18</sup> As events transpired a quarter of a century was to elapse before police achieved even partial access. Shortly after, in March 1921, and, perhaps, aware that access was no longer an immediate possibility, the Treasurer approved police receiving the basic wage.<sup>19</sup> Just to make sure he had not missed the point, a PANSW deputation waited upon him and urged that police pay be increased commensurate with the cost of living.<sup>20</sup>

The Police Association's new executive committee soon became aware of the Queensland police award of 10 September 1920. Selecting a number of items from the Queensland document, the executive, on 3 November 1920, submitted a request to the Inspector-General that New South Wales police employees be similarly provided for. Oddly enough, the request failed to contain any reference to base pay. This omission was possibly due to the fact the executive already had a request before the Chief Secretary relating to the basic wage. Requests made included:

- \* 1/- pd clerical allowance
- \* travelling allowance to be raised from 10/- to 12/6 pd
- \* 4/- pd allowance to be paid when travelling by boat
- \* police families to be provided first class accommodation when travelling
- \* public transport travel concessions
- \* extra leave for personnel at distant outstations to compensate for additional travelling time
- \* escort personnel to be permitted 24 hours leave for each 8 hours on duty when a night and a day had been worked
- \* overtime be recorded.

Needless to say, the requests were denied - because the financial situation did not permit such concessions.<sup>21</sup> At that time, then, although employees had an Association, they were still totally dependent on the employer's goodwill to grant concessions. The fledgling Association had not yet achieved "clout". It was perhaps the Chief Secretary's rebuff which made some members wonder if it were politic to join the Association. To offset such fears the Inspector-General published in the Police Gazette an assurance that joining the Association had official approval.<sup>22</sup>

## 1921

The Association's first annual conference commenced on the last day of February 1921, in the Highland Society's rooms, Phillip Street, Sydney. Among the items listed for discussion were:

- \* abolition of the examination system
- \* travel to and from work to be considered duty time with regard to injuries sustained while so engaged
- \* retirement after 30 years service
- \* night shift allowance
- \* payment of plain clothes allowance to uniform branch police working in plain clothes in excess of seven days.

This agenda is particularly interesting as it failed to reflect major rank and file preoccupations with matters such as pay, promotions, days off and long service leave; although, as the conference progressed a number of such matters were in fact raised. Too, a decision had still not been given by the Treasurer regarding the application for the basic wage. It is also possible the inaugural executive did not wish to appear too demanding at such an early stage of its existence.

The Vice President of the Executive Council deputised for the Chief Secretary at the formal commencement proceedings. Although he was aware of police rank and file concern with questions of pay, he declined to commit himself on the question. The Inspector-General, in his address, expressed the hope that one day off in seven was not too far off. Seriously embarrassed as he was at the time with an epidemic of breakings in the suburbs and political pressures in relation thereto, it was hardly surprising he did not favor a weekly rest day immediately.<sup>23,24</sup> Infact, a weekly rest day was still six years distant. The prevailing official position concerning days off at that time was, one day off a month for city men whilst suburban and country men frequently received no days off other than annual recreation leave and long leave.

Anticipating by many years the Complaints Tribunal issue of the late 'seventies, delegates agreed:

complaints or charges made against any member of the force shall be written and signed by the complainant but, if the complainant is illiterate, he may be assisted in the writing of the complaint but, not in its substance, and no commissioned officer who may afterwards be called upon to adjudicate on such matter shall assist the person making the complaint in any way. A copy of such charge or complaint must be handed to the member accused, such copy to be retained by him until the matter is finally dealt with. Any report to be furnished by a member of the service in regard to charges or complaints should be made within a reasonable time.<sup>25</sup>

Members saw the complaints investigation system of the time, which consisted of secret internal investigations, as being undemocratic and permitting of bias. This view, of course, strengthened desires for an Appeal Board.

The agenda motion concerning retirement at 30 years of service was eventually reduced to one of optional retirement after 30 years service. As British police were permitted to retire after 24 or 26 years (according to location), and members were aware of that fact,<sup>26</sup> the NSW Association's proposal was eminently reasonable.

The prospect of other ranks holding a conference appears to have inspired commissioned officers to action. Early in February, they launched a campaign<sup>27</sup> for increased salaries for Superintendents and Inspectors.

The Chief Secretary found difficulty not only in implementing industrial legislation for police but, also in introducing legislation concerning an Appeal Board. In January 1921, just prior to the commencement of the Association's first annual conference, the Chief Secretary advised he expected the Appeal Board Bill would be brought before parliament in the near future.<sup>28</sup> By March, nothing had happened and some doubt became evident among sections of the membership concerning the General Secretary's effectiveness.<sup>29</sup> This pressure was probably responsible for the Association General Secretary's stinging public attacks on the police administration over the following months. During April 1921, he condemned the exercise of favoritism in promotions<sup>30</sup> and the lack of thought paid to promotion policy generally, both matters being susceptible to resolution by an Appeal Board had one existed. Although the Appeal Board legislation had not yet been passed, he observed, there was nevertheless nothing to prevent the Inspector-General from at least implementing open and well developed promotion practices. To the government's undoubted embarrassment, the press picked up the General Secretary's criticism and made a temporary public issue of them. Throughout mid to late 1921, PANSW executive members kept up the pressure at Parliament House, lobbying parliamentarians concerning the Appeal Board Bill. On 20 October 1921, the Bill was introduced to the lower chamber.<sup>31</sup> After considerable, and at times acrimonious, debate the Police

Regulation (Appeals) Bill 1921 was adopted by the Legislative Assembly.<sup>32</sup> The Bill provided for a Police Appeal Board headed by a chairman acting with the advice of two assessors. The board was designed to hear and determine complaints relating to promotions, demotions, postings and punishments. However, whilst receiving a rough passage in the upper chamber, the bill lapsed (along with many others) by reason of the dissolution of the Legislative Council. This result was a bitter blow to police employees generally and PANSW executive committee members in particular. The remainder of the year was occupied by PANSW countering rumors of forthcoming forced retirements of police and wage cuts resulting from the government's parlous financial situation. As neither possibility eventuated, victory was claimed for PANSW.<sup>33</sup> But, the crunch came when promotions were shortly after greatly reduced which, as Bertram Fortescue, the General Secretary, pointed out equated to retrenchments.<sup>34</sup>

At the Association's inception, the Inspector-General agreed to permit Constable Fortescue to perform his duties as General Secretary of the Police Association on an almost fulltime basis. But, as the Association raised more and more issues, some of which were critical of the department's administration, tension inevitably resulted. Inquiries were made as to when Fortescue could be expected to resume full duty and, by mid 1921, the executive was considering the possibility of employing him as its fulltime salaried secretary, should his position with the department become untenable.<sup>35</sup> By the end of the year, Fortescue had resigned and become permanent General Secretary of PANSW on a salary of £500 pa.<sup>36</sup> In one move his salary had advanced from that of a Constable to a little below that of a Superintendent (Third Class). Four weeks annual recreation leave was approved a short while later.<sup>37</sup>

## 1922

By the time the Association's second annual conference came due, James Dooley was Premier, although he had less than two months more to serve before losing office. In opening the conference, he strongly denied retirements and reduced promotions had occurred, rather he had attempted to introduce more rational promotion policies, including ratios to determine the number of senior ranks required. Although there is no record of his having addressed the question of a Police Appeal Board, he did promise the Industrial Arbitration Act 1901 would be amended to suit police employee needs.<sup>38,39</sup> Dooley's rational promotion policies included a small reduction in the number of Inspector and Superintendent positions. This decision caused great bitterness within PANSW. An unnamed spokesman lambasted Dooley in the press. The basis of police employee bitterness apparently lay in disappointed expectations. In a revealing comment, the spokesman remarked, 'Every man who joins the Force aspires to at least an Inspectorship, and many of us expect to go higher.'<sup>40</sup> It seems career expectations of PDNSW employees involved substantial advancement as early as 1922.

Sergeant WJ Mackay, a police headquarters delegate,

suggested thought be given to amalgamating other rank and commissioned officers' associations. This was but the first of many such suggestions. As Mackay, a future Commissioner of Police and opponent of PANSW, was a confidant of Inspector-General Mitchell, it may be reasonably assumed the suggestion possessed official approval. Such an amalgamation was not to be but, at the time, the suggestion fell upon sympathetic ears and, the possibility was raised again later in the year. At which time the General Secretary of PANSW wrote to the Police Officers' Association asking their views on the subject.<sup>41</sup> The response of the Officers' Association was generally favorable, especially as a poll of PANSW members favored such a merger. However, by the end of 1923 the enthusiasm of officers had waned and the proposition was allowed to drop.<sup>42</sup>

Low wages<sup>43</sup> and the lack of an Appeals Board<sup>44</sup> continued to exercise deep concern among employees during the years 1922 and 1923. The latter issue flared into the open during early 1923, when the new Chief Secretary took umbrage at the vigorous public statements of the Association's General Secretary on the topic. Perhaps, it would be fairer to suggest the Chief Secretary's irritation was stimulated by the publicity accorded Bert Fortescue's comments in the newspapers<sup>45,46,47</sup> rather than their content.

### 1923

At the annual conference of 1923 the Chief Secretary chose to warn Association delegates against being too demanding. Paternalistically, he advised members to wait for government to act in its own time. To soften the impact of his censure, he listed benefits gained by police during the short period his Nationalist-Progressive government had been in office. These included the exclusion of police from an L18 reduction in government employee wages following a reduction in the state basic wage,<sup>48</sup> increases in leave and travelling allowance and, let it not be left unsaid, permission to smoke when travelling. By increased leave it is assumed he referred to the gradual implementation of an eight hour day throughout the police force although broken shifts were still common in country areas.<sup>49</sup> However, delegates preferred to pursue their own goals in their own way urging inter alia the daily rate at the bottom of the rank structure be increased by five pence to a total of 15/- pd.<sup>50</sup>

A matter of great and continuing concern among Association members was the failure of the Nationalist-Progressive government to fill a number of unfilled positions, especially in the commissioned ranks. These positions had been left unfilled by the previous Labor government. In effect, by not filling 20 positions of Inspector and four positions of Superintendent, according to PANSW figures, approximately 30 per cent of all commissioned rank positions were frozen. As commissioned ranks comprised fewer than three per cent of the total personnel establishment, the government's failure to fill the positions mentioned represented a great disadvantage to members - to Senior Sergeants and Inspectors in the short term, and to all junior ranks in the

longer term. It should be mentioned, though, official annual strength statements show a somewhat different picture, the effective reduction in ranks being in the order of 50 per cent of the total claimed by PANSW. It is impossible at this remove to definitely establish which data are more reliable. However, before the year was out, the Chief Secretary compromised and filled half the vacant positions.<sup>51</sup>

A heartwarming event during the commencement ceremonies of the 1923 annual PANSW conference served to evidence the esteem in which Inspector-General James Mitchell was held by his subordinates. In his address, Mitchell indicated his essential humaneness (not a common characteristic among senior public administrators at that time) when he remarked that his ambition had always been to see that the men of the present day did not have to experience conditions similar to those prevailing when he was a young policeman.<sup>52</sup>

As the months passed, the executive committee met periodically to consider members' complaints which were forwarded from branches. In fact, the basic structure of the Association, ie, branches and executive committee with annual conference as the supreme policy maker, has survived almost unchanged to the present day. The executive would direct individual grievances, when considered appropriate, to either the Minister or the chief officer of police. Official reaction to such complaints or suggestions was usually but, not always, negative. It was certainly always cautious. References were usually "noted" and, complaints were mostly "unfounded". Certainly, in its early years, the Association had relatively little direct impact on police terms and conditions of service but, it did perform indirectly the extremely important role of alerting both government and the police administration to sources of serious potential conflict. This role undoubtedly, preempted a considerable degree of industrial conflict over the years.<sup>53</sup>

#### 1924

At this time, ie, 1924, operational police officers in New South Wales received 52 days off per year, comprising 28 days annual leave and alternate Sundays off duty. Office workers worked a five and one half day week, had public holidays off and, 14 days annual leave, totalling approximately 104 days off a year.<sup>54</sup> Bearing in mind that some members had to still work broken shifts (4 hrs on, 4 hrs off, 4 hrs on) and that it was said some probationary Constables were denied their alternate Sunday off, although generally only eight hours a day plus any overtime thought necessary were required to be worked, it is scarcely surprising substantial dissatisfaction existed within the ranks.

The first day of February 1924, saw the commencement of the Police Regulation (Appeals) Act 1923 - much to the delight of PANSW members. There was some resentment that the legislation had been watered down considerably in the Legislative Council by giving the Minister power to override the Board's decision but, at last there existed some slight buffer against arbitrary

administration with respect to promotions, punishments and postings. The Appeal Board established under the statute comprised a district court Judge as chairman plus two assessors at the discretion of appellants.<sup>55</sup> The Board first sat on 28 May 1924, complete with a commissioned officer and a Sergeant as assessors.<sup>56</sup> This commencement of the Appeal Board legislation took the heat off Chief Secretary CW Oakes when he opened the fourth annual conference of PANSW only one month later.

When faced with the possibility of the Appeals Bill's success, some commissioned officers became concerned that disciplinary standards might slip as authority would be to a degree trammelled by senior officers having to consider the potential of their administrative decisions being subjected to critical scrutiny by the Appeal Board. The temporary and democratic putting aside of rank necessary at Association meetings was considered part and parcel of a decline in standards. It was at this time the Officers' Association appeared to lose interest in merging with PANSW. Thus, the Appeals Act was possibly responsible for the non merger of the two Associations. Indeed, not only did the merger not eventuate but, elements within the Officers' Association even favored a separate Sergeants' Association, so as to industrially segregate the major rank groupings within the force. The motivation underlying such actions was, of course, not altruistic. By dividing ranks in such a manner control by the administration was made simpler. This tactic was employed most effectively in England and Wales by the British government when it introduced separate boards for Constables, Sergeants and Inspectors following the police strikes of 1918 and 1919.<sup>57</sup> Its success had clearly not been missed in the upper echelons of PDNSW. The President of PANSW raised the matter directly with the Chief Secretary during the opening of the 1924 conference, warning him strongly not to entertain such an idea.<sup>58</sup> The impetus then died somewhat only to arise again in mid 1926 when a determined effort was made by a number of Sergeants associated with the Metropolitan Superintendent's office to form a breakaway union exclusive to Sergeants. The Chief Secretary was largely responsible for suppressing the rogue movement by promising that only PANSW would ever have access to the Industrial Court. But, both he and the Inspector-General of Police were recipients of vigorous objections to a Sergeants' Association by the very effective President of the Association, Sergeant (First Class) H Chinner.<sup>59</sup> Interestingly, this was not the only occasion a breakaway movement occurred within PANSW. During the annual conference of 1931, CIB members threatened to form their own Association should they not be accorded branch status. Conference rejected the claim and the detectives did not in fact carry out their threat but, tempers ran very high for a while.<sup>60</sup>

Despite a good deal of satisfaction with the creation of an Appeal Board, which diluted somewhat when the Minister started disregarding its decisions, many rank and file grievances remained unresolved. Inequities under the Police Regulation (Superannuation) Act 1906, poor pay, lack of remuneration when injured on duty, the collection of rural statistics, the delivery of baby outfits to welfare recipients and a host of other matters

consumed much of the executive's time. In particular s.13 Police Regulation (Superannuation) Act 1906 had the effect of depriving dependents of members, who died before they would be classified medically unfit, of a pension. Request for appropriate amendment of the statute had been submitted to the government several times without success. On each occasion the government temporised, claiming inadequate finance. A PANSW deputation met with the Chief Secretary on 8 May 1924 and vigorously expressed members' views. Still nothing happened and PANSW-government relations steadily deteriorated throughout the remainder of the year.<sup>61</sup>

A judgment of singular interest and significance was given in September 1924. A police officer had been knocked from his motor cycle by a passing car whilst patrolling Parramatta Road. His leg was broken in five places and he was unable to resume duty on a regular basis. The government argued his injury was not sustained as part of a risk peculiar to the police occupation, such as when making an arrest or quelling a riot. As such, the government held the member was not entitled to wages once his leave had expired. The Association took the matter to the District Court and, after lengthy legal argument, the court ruled in favor of the plaintiff.<sup>62</sup> As a result of this judgment the government conceded a number of similar cases. The court's decision was important, not only in that it ensured support to the injured member but, it served to impress on members the importance of unity. Without the financial resources made possible from union funds, such litigation would have been impossible. No individual member could have afforded to contest the government's attitude but, by combining and pooling resources the legal system was made to operate equitably.<sup>63</sup>

During August 1924, the Association suggested to the Chief Secretary he route all communications with PANSW through the General Secretary to be discussed by the executive committee, rather than the Chief Secretary approaching the President direct. The Chief Secretary replied, through his Under Secretary, that he would consult with whomever he chose whenever he liked and, furthermore, all Association communications to him should be channelled through the Inspector-General.<sup>64</sup> This latter point raised an issue which was to have a traumatic sequel upon both Association and Department some 18 years hence. The Association, understandably, wished to keep its President (or any other officials) both "honest" and free from pressure. On the other hand, it wished to retain the tactical flexibility of approaching both the Inspector-General and the Minister separately as best indicated by circumstances. The Chief Secretary, who undoubtedly saw industrial relations as being just another part of public administration, was unlikely to be amenable to what he would have seen as an unwarranted attempt to constrain his freedom of action.

These events served to increase employee dissatisfaction with PANSW's executive committee during the latter part of 1924 and, on 14 September a general meeting of members was held to consider a motion of no confidence in the executive. The motion was quickly defeated and discussion then turned to problems of government intransigence. Several speakers advocated vigorous

action to achieve immediate ends. It was realised that without the capacity to take job actions and in the absence of access to the Arbitration Court, the Association had little leverage in its relations with government. In the meanwhile, it was determined to continue bombarding the government with its demands and to publicise PANSW indignation at having to route its correspondence with the Chief Secretary through the Inspector-General.<sup>65</sup> Apparently impressed with the level of rank and file resentment, the Chief Secretary granted an interview on 9 October 1924 to PANSW representatives. The deputation strongly expressed to the Minister the general dissatisfaction experienced by members with pay and the defects of s.13 Police Regulation (Superannuation) Act 1906. The Minister for his part expressed irritation at employees lack of faith in the government's goodwill. Even so, the deputation's impression was that favorable results would follow.<sup>66,67</sup> This impression was correct as a small pay rise was announced shortly following the deputation. The rise, which had been recommended by the Inspector-General, took effect from 1 December 1924.<sup>68</sup> It increased the minimum police wage by sixpence a day to 15/1d pd.<sup>69</sup> However, members felt such a sum insufficient to attract much needed recruits to the job and accordingly condemned the increase.<sup>70</sup>

#### 1925-1926

Official resentment was still evident in April 1925 when the Chief Secretary declined to formally open the Association's conference. This, the fifth annual conference, emphasised the general lack of direct impact made by the Association concerning members' complaints generally. During the course of the conference, the General Secretary itemised some 71 complaints and recommendations made by the Association to police and governmental authorities on behalf of members. All but a few had been denied, rejected or ignored. Official reaction to members' views remained fairly constant regardless of the ideology of the government in power, no doubt reflecting bureaucratic attitudes as much as those of politicians. The ire of Chief Secretary Oakes, however, became water under the bridge in June 1925, when government changed hands and a new labor Chief Secretary took office. He was quick to receive a PANSW deputation and agreed that PANSW should be granted access to the Arbitration Court. After several disappointments, PANSW reaction was understandably cautious.<sup>71,72</sup> However, the new Chief Secretary, CC Lazarini, soon gave evidence of both his goodwill and effectiveness when he had s.13 Police Regulation (Superannuation) Act 1906 amended so as to correct the potential for inequity previously existing in that section.<sup>73</sup> On 1 May 1926, a 44 hour, ie, six day, working week was approved for police after considerable delay<sup>74</sup> by the Minister pursuant to s.6(1)(a) Forty Four Hours Week Act 1925.<sup>75,76</sup> The Government Gazette of 1 October 1926 provided that each member work 7.25 hrs actual duty for six days a week, with one day off a week and, alternate Sundays to be off. Not content with that, on 1 July the Chief Secretary raised the pay of police possessing 25 years service or more by sixpence a day.<sup>77</sup> A promise was also made during 1926 to appoint an additional ten commissioned police officers the following financial year.<sup>78</sup> According to personnel strengths

recorded in the department's annual report, this promise was kept.<sup>79,80</sup> The introduction of one rest day a week was a great advance in police conditions when compared with the alternate Sunday off (when convenient) as was the case previously. In fact, although it seems one day off in fourteen was general in the force at that time, it was said that at some stations probationary Constables were permitted to work without any days off at all other than annual leave. It was said probationers were too timid in some cases to insist on their entitlement, which was one day off a month.<sup>81</sup> Under the new management, it was determined the rest day should be a Sunday one week and a Monday, Tuesday, Wednesday or Thursday on the other week. Thus, although field police could never receive a Friday or a Saturday completely off duty other than when on annual or sick leave, at least the possibility of an occasional two days off together, ie, Sunday and Monday, was raised. For married members in particular, this must have appeared an attractive prospect.<sup>82</sup> The psychological and physiological demands of performing a minimum of 104 hours shift work each two weeks must have imposed considerable strain on members, especially when excessive overtime and/or split shifts were also involved. Members would have had to adjust their pace of work to the hours demanded of them and their biological rhythms would also have made some adaptation. Even so, it seems probable that levels of general health were adversely affected under the old work regimens and must have improved as a result of the forty-four hours week provision. It is unfortunate accurate sick leave data are not available for the twelve months immediately preceding the implementation of the forty-four hour week and, say, for a twelve month period after a year had elapsed following the implementation, so as to at least permit superficial measurement of the health related impact of the introduction of the 44 hr week.

### 1930-1931

The advent of the Great Depression brought no joy to anyone, including police employees. In May 1930, in a desperate attempt to operate an independent budget, the government reduced salaries of government employees generally by £8.6.8d a month. Persons working 48 hours a week were exempted this deduction and, so, police reverted to a 48 hours week. Later on, in 1931, despite the increase in hours, police along with other government employees were subjected to a 16.5 per cent salary deduction in addition to 3d (later raised to one shilling) in the pound unemployment tax. In the space of a little more than 12 months, police conditions had been set back years.<sup>83</sup>

On 29 December 1931, Bertram Fortescue, founder and inaugural General Secretary of PANSW, died.<sup>84</sup> His death was not only a severe blow to the Association and its aims but, also marked the end of the initial phase of the Association's development. During that first phase, the Association's stance vis a vis the government and the police department had been largely conciliatory despite occasional flare ups. This general approach no doubt reflected the newness of the organisation and the limited experience of its officials in public affairs. It

also reflected the personality of Fortescue who was a consensualist, had good social skills and was a mason dealing mostly with other masons. Most of the period, too, fell within the reign of James Mitchell who, as chief officer of police, was the best administrator and diplomat the department has produced.

The second phase of the Association's existence began with the appointment of Fortescue's successor, Charles J Cosgrove.<sup>85</sup> Cosgrove, a combative Catholic who lacked previous service in the New South Wales police service, was the antithesis of Fortescue in his style of operation. The first few years of the second phase were fairly stable, until the resignation of Commissioner Walter Henry Childs in 1935. The stability which existed during the early 'thirties was due in part to the preparedness of all parties to await the report of the Advisory Committee appointed by the Chief Secretary in 1933 to report upon questions of police pay and promotion. As a result of the committee's findings a number of promotions were made and new positions created.<sup>86</sup> Although the creation of these new positions afforded subordinate members some relief, it was insufficient and, by 1935 the Association's executive was urging, unsuccessfully, a further 100 positions be created throughout the non commissioned range.<sup>87</sup> The government conveniently declined to action the Advisory's Committee's recommendations concerning pay and allowances, claiming insufficient funds.<sup>88</sup> With the appointment of William John Mackay in 1935 the scene was set for a stormy Association-Department relationship which terminated only with the death of Mackay in 1948.

Not only did the Depression see a real reduction in police terms and conditions of service but, simultaneously, a considerably increased workload fell to their lot - especially with regard to the administration of unemployment relief and the carrying out of charitable work.<sup>89</sup> Pay and the closely related issue of promotions remained the major grievances, though.<sup>90</sup> Late in 1931, a deputation of commissioned officers and PANSW representatives waited on the Premier, JT Lang.<sup>91</sup> It was maintained by the representatives that police salaries should not be reduced as they were excessively low to start with and, in any case, the nature of police work was such that cuts were not equitable. Lang rejected the argument, although he did promise to have the promotion situation remedied. He also joined the long list of politicians known to have promised police employees access to industrial arbitration.<sup>92</sup>

Another source of extra work for police at this time was the New Guard. The President's address at the 1931 Police Association annual conference contained thinly veiled criticism of that organisation. A great deal of unpaid overtime was made necessary by the need to maintain public order in the vicinity of New Guard rallies and other of its activities. However, the placing of these criticisms in an industrial setting suggests that in addition to expressing the irritation of metropolitan members there was also a subtle message to the Premier to the effect that containment of the government's New Guard enemies rested solely with police and, perhaps, in view of this fact, they deserved a better economic deal.<sup>93</sup> If, indeed, such a message was intended, it was unsuccessful.

1933

In 1933, an Advisory Committee was appointed to examine a number of police problems, promotions being one of them. Although some of the committee's recommendations were eventually actioned, insufficient was done to assuage rank and file discontent concerning advancement from Constable to Constable (First Class) and restoration of full pay.<sup>94</sup> However, one recommendation of the committee accepted by the government resulted in 25 new Sergeants (Third Class) and 150 Constables (First Class) positions.<sup>95</sup> With an apparent improvement in state finances in 1935, the Association again requested relief concerning additional promotions, to a total of 40 Sergeants (various grades) and 60 Constables (First Class).<sup>96</sup> The request was promptly rejected by the Chief Secretary on grounds of insufficient finance.<sup>97</sup> From the junior employee viewpoint, the situation was desperate. They were trapped at the bottom level of a badly paying organisation. The considerable advantage of security of employment in times of massive unemployment were understandably not emphasised in the Association's arguments for improved conditions. It seems probable, though, that it bore heavily on the attitudes of those with whom they had to negotiate. It was still a fact, nevertheless, that Constables routinely waited 13 years to achieve Constable (First Class). The economic difference between the two grades was 1/5d pd. A secondary concern of junior members relating to promotion was the fact that employees with substantial service and experience felt they were indistinguishable to the public from raw probationers by virtue of their having no badges of rank to display.<sup>98</sup> Although the point possesses little merit generally, it was genuinely perceived as a shortcoming of the system.

Employee concern with promotion, based on both economic and psycho-social grounds, suggests there was at that time a general expectation among members that a normal career pattern included promotion. The British and American phenomenon of Constables and Patrolmen staying on base rank for their entire service and which (to a lesser extent) had been the case in New South Wales in earlier years, was no longer the case. The lengthier period of service required to be served by employees of Australian police agencies vis a vis the generally shorter periods required to be served by those in many forces overseas, holds obvious implications for promotion. Policemen retiring at age 40 or 44 are more likely to enter second careers than those serving until age 60. Thus, questions of pay and terminal rates determining superannuation scales are of greater concern to the long serving policeman. It may be, too, the case that older men are more conscious of rank, status and symbols than their younger colleagues.

1935

Police employee dissatisfaction with terms and conditions of service continued throughout the 'thirties. Treasury refused to increase government expenditure<sup>99</sup> and the Minister for Relief, in response to a PANSW delegation in 1935 was sympathetic

but unhelpful. Premier Lang refused even to meet with Association representatives.<sup>100</sup>

### 1937

Days off continued to remain a major source of employee concern. Despite official proclamations concerning conditions of service, the reality was sometimes different. For example, in 1937, men at city divisions complained many of them never received a Sunday off, despite their entitlement to one every second week.<sup>101</sup> Stringent recruitment limitations placed divisional officers in a difficult position. Numerous additional tasks arose on Sundays, especially during summer. The Domain had to be policed and the numerous beach resorts required constant patrolling. To meet these commitments, while police posted to seaside suburbs either took their days off or performed routine duties, city division commanders were placed in the position of depriving certain of their own men of their Sundays off duty. Under departmental regulations Sundays off were, in fact, contingent upon the exigencies of the service but, to a policeman deprived of his Sunday off week after week, such a matter easily became a grievance, exigency or no exigency. Complaints by PANSW officials to the police administration concerning such practices<sup>102</sup> merely attracted unsympathetic responses,<sup>103,104,105</sup> and so the problem continued.<sup>106</sup> The administration with its responsibility to meet public demands, judging by the tenor of its responses, saw such complaints as indicating a lack of commitment to duty on the part of employees. This attitude was compounded by the administration's inability to investigate grievances properly. Files were merely forwarded to divisional officers for comment. There is little doubt administrative incompetence within divisions was merely denied and the denial accepted at headquarters. Thus, a proper climate for the reduction of employee discontent over poor local management was impossible. To do so, would have required far more sophisticated inquiry methods, methods which would have laid invalid complaints to rest just as soon as improper practices. Another, and interesting, complaint from city members at that time concerned members having to take their meal breaks in call boxes. The boxes were cramped and, in summer, often excessively hot. To conserve limited human resources by keeping patrol and traffic men on their beats at all times and, in outer suburbs, to save rents on permanent structures, men not only had to take their meal breaks in them but, in some locations, report on and off duty from them. This was not an uncommon practice in some English and American police forces. The complaint of city members was that where call boxes were near police stations anyway, members should be permitted to eat their meals in relatively greater ease.<sup>107</sup>

### 1940

It was in 1940 that the Industrial Court of NSW became known as the State Industrial Commission.

On 10 June 1940, a meeting of approximately 1000

metropolitan members was held by the Commissioner of Police at the police depot to consider ways and means of helping the war effort. Mackay had previously obtained the support of the President and the General Secretary of PANSW for this action.<sup>108</sup> Commissioner WJ Mackay, a strong empire loyalist, also chaired the meeting. During that meeting, members, at the Commissioner's suggestion, unanimously voted to forego one rest day each two weeks as well as to destroy their overtime cards.<sup>109</sup> The sacrificed rest day was the non Sunday rest day. Overtime cards had only been introduced by Mackay some six months earlier. Many members already had large amounts of accrued overtime on their cards in respect of which, to that point, time off in lieu had not been given. The destruction of these cards was equivalent to a donation of thousands of pounds to the government. It was also a matter of considerable relief to a Commissioner pressed for manpower, particularly with the entry of Italy into the war on the very day the meeting was held.

Actually, the judgment of all concerned in this event is subject to criticism. Certainly, it was no way for a police administrator to behave. He had no legal authority to commit the government to decisions of an economic nature such as were taken. To take advantage of members' enthusiasm for the war effort in this way was, in any case, a gross dereliction of his responsibility for their welfare. The government was apparently unaware Mackay intended to hold the meeting. If such was in fact the case, the Commissioner had neglected to inform his Minister. If not, the government should have forbidden the taking of such measures and, in any case, should have refused to accept the entire proceedings as soon as they became known. PANSW officials, including the executive, should have objected in advance on the very obvious grounds that the 1000 or so members who voted (no contrary vote was called for) had no mandate to even commit those metropolitan employees who were unable to attend to such an undertaking, let alone country members.

In his address prior to calling for a vote, Mackay explained that sacrifices were necessary to permit the posting of extra men to the Military Police Intelligence section, so as to cope with the demands of alien registration and control and, also, to provide the equivalent of about 140 men to replace the police orchestra and choir which would tour the state assisting in patriotic fund drives. Only one short tour was, in fact, ever made by the band, orchestra and choir. After two hectic months, the pressure of alien control efforts (which was undoubtedly the major factor motivating the Commissioner) reduced. There were then, it was claimed, too many police on duty, often with too little to do. It was at this stage the lack of forethought and planning underpinning the entire depot meeting and the agreement entered into became evident. Second thoughts occurred among rank and file members once it became clear their sacrifice was no longer directly serving the war effort. Correspondence was entered into between PANSW and the department on the subject.<sup>110,111</sup> By September 1940, PANSW officials had asked the department to restore the donated rest days as well as the overtime worked prior to 10 June.<sup>112</sup> But, Commissioner Mackay was not about to voluntarily forego an advantage already gained and he declined to consider the Association's arguments. Since

the depot meeting, overtime worked in divisions had been recorded in station books but, many members had actually burned their cards and it would have been difficult to restore the pre-10 June overtime credits. The Association's argument became public knowledge and generally received a good press.<sup>113</sup>

An argument employed by Commissioner Mackay in rejecting the Association's case was that the number of complaints he received in the matter had been negligible, thus, there was no substantial rank and file demand for reverting to previous conditions.<sup>114</sup> At its executive meeting on 12 November, committee members decided to poll members concerning their views on the rest day issue. In such a manner, they reasoned, the Commissioner's assertions could be tested and the matter equitably resolved.<sup>115</sup> At the same time, a closely reasoned letter was sent to Mackay itemising the various reasons supporting return of the lost rest day.<sup>116</sup> Mackay obviously learned of the Association's move to hold a secret ballot of members and moved to interdict it.<sup>117</sup> On 25 November 1940, he had all metropolitan members parade before their respective officers-in-charge at 2045 hours. Divisional officers read to assembled members a prepared text and then requested members to sign a declaration to the effect that they agreed with the decision to forego one rest day each two weeks. Many members no doubt signed willingly, others were allegedly coerced into signing and, yet others, refused to sign. According to employee reports, it was in all cases implied that failure to sign indicated a lack of patriotism.<sup>118</sup> No provision was made, as was also the case at the depot meeting, for negative responses. The Sydney press assumed a vote favoring restoration of the lost rest day but,<sup>119</sup> after remaining silent on the point for just over two weeks, Mackay declared a majority of members spoken to at the divisional meetings had favored foregoing a rest day each two weeks. No data were ever produced to support this declaration.<sup>120</sup>

In the Legislative Assembly, the Chief Secretary agreed, in answer to a question implying departmental coercion, that as the rush of additional police tasks was over there was no good reason why rest days should not be restored.<sup>121</sup> Following the department's initiative on 25 November, the Police Association wrote to all major Sydney daily and weekly newspapers explaining its case,<sup>122</sup> suggesting official duplicity and making the point that the circumstances which prompted the original decision no longer existed. The Chief Secretary declined to intervene in the matter on the ground the entire issue concerned relations between the Commissioner and his men and could only be resolved by them. On 3 December 1940, Mackay wrote a letter advising PANSW he was undecided whether to restore the lost rest day per fortnight.<sup>123</sup> The very next day, however, he sent for the President of PANSW together with two other senior members and advised them not to proceed with their intended secret ballot on the rest day issue, as he considered it contrary to the interests of discipline.<sup>124</sup> Such a move, he advised them, could be subversive of discipline. Accordingly, PANSW officials deferred the ballot and sought counsel's opinion. Counsel's advice was that the Association had every right to conduct such a ballot. The bottom line of his opinion, however, contained the daunting view that the Crown had

unlimited discretion to fire personnel at wish. Accordingly, the Association executive decided not to risk their respective employment and did not proceed with the ballot.<sup>125</sup> Instead, the executive referred their complaint to the federal trade union advisory panel.<sup>126,127</sup> This product of federal wartime expansion into employment matters deliberated on the matter for some four months before advising the executive it was not empowered to deal with the matter.<sup>128</sup>

#### 1941

During February 1941, Mackay tried to pacify members by granting an additional, ie, third, rest day that month. PANSW quickly claimed such a measure was quite unsatisfactory, demanding full and continuing reinstatement of their legally provided rest days.<sup>129</sup> Truth suggested the concession was prompted by the government as elections were only 12 weeks distant. The thought of the lost votes of police and their dependents being the assumed motivation.<sup>130</sup> The following month, ie, March 1941, two extra days off were granted. But, dissatisfaction was still evident within the Association's ranks as the concessions were not only made from month to month as an act of grace rather than of right but, were granted according to calendar rather than lunar months - a fact which over the course of a year could result in a loss of two rest days.

The following month, police were back to three days off per calendar month, much to their discontent. It was about this time a police reserve was formed.<sup>131</sup> It was rarely used and Truth, ever on the outlook for the true motivations underlying public policy felt that, perhaps, the reserve's formation was designed to lessen the Commissioner's dependence on the force given the mood of many members.<sup>132</sup> Finding the incumbent government apparently unwilling to exercise its will concerning the days off dispute, the Police Association appealed to Labor Opposition Leader, William McKell. By the time the overture was made, McKell's policy speech was written but, he did promise to make some ad lib comments on the days off dispute at the conclusion of his policy address. He also promised, subject to his achieving government, he would institute an inquiry into police grievances.<sup>133</sup> Shortly after, on 29 April and just eleven days short of polling day, approval was given for members to receive their full rest day entitlement, ie, two week days and two Sundays per month.<sup>134,135</sup>

Although the dispute concerning days off had occupied a great deal of time and effort on the part of PANSW, government and the department during 1940 and 1941, other matters were also the subject of employee concern. Widows' pensions had been one such topic and was only resolved in April 1941 by means of an amendment to the police superannuation statute which granted widows permanent pensions rather than lump sum payments as had previously been the case.<sup>136</sup>

Other causes of substantial employee concern were the continued practice of Chief Secretaries in not complying with

decisions of the Police Appeal Board and pay. Late in 1941, PANSW brought to the notice of the Chief Secretary a resolution calling for increased police pay. Apart from the public service salary cuts of the 'thirties, there had been no movement in police pay since 1927. Once more, the overture was rejected on the grounds of lack of finance.<sup>137</sup> A similar request for increased promotions<sup>138</sup> was also rejected.<sup>139</sup> An added factor to the long running sense of grievance concerning insufficient promotions was the question of favoritism being shown in certain promotions.<sup>140</sup> Associated with pay grievances, including the withdrawal of grade pay for police in 1940, was a renewed demand for police access to arbitration.<sup>141</sup> A formal approach was made to the Chief Secretary requesting his approval for such a course of action but, he responded cautiously.<sup>142</sup> During October 1941, the Chief Secretary informed PANSW General Secretary that he was concerned about the constitution of the Police Appeal Board, especially with regard to the presence of a Judge thereon. The precise nature of his objection to a Judge is not clear. However, the General Secretary informed the Chief Secretary the Police Association would under no circumstances agree to removal of the Judge. It seems the government wished to replace the judge with two Under Secretaries. At this stage, it began to appear the government would include police within the scope of a general appeal board<sup>143</sup> for public servants which was then being considered.

As 1941 drew to an uneasy close, Association executive committee members continued their routine consideration of PANSW business, members' grievances and the like. At one December executive meeting, the point was made that the Chief Secretary had laid down a three step resolution process for individual grievances. One, a grievant's station commander should be informed. Two, failure to settle the matter within a division or squad warranted an approach being made to the Commissioner of Police. Three, if the chief officer failed to satisfy then, he, the Chief Secretary could be approached.<sup>144</sup> During late December 1941, the Chief Secretary had two meetings with executive members of PANSW, thereby contravening his own instruction. Topics covered at these meetings included official harassment of an executive member, favoritism exhibited in promotions and, the official abolition of overtime and withdrawal of overtime cards. At this, the Chief Secretary telephoned Commissioner Mackay to obtain details of the decision to withdraw overtime. After some conversation with the Commissioner over the telephone, the Chief Secretary terminated the meeting. Not long after that deputation, the Commissioner "carpeted" those executive members who had met with the Minister. In addition to accusing the Association's President of disrespect, Mackay demanded to know why the complaint concerning overtime had not been raised with him initially. Sergeant (First Class) JV Driscoll, the President, explained the matter of overtime had arisen in the course of conversation and had not been an agenda item for the deputation.<sup>145</sup> Mackay then handed Driscoll a written communication directing that all future Association complaints must be raised first with him. Any other approaches, the correspondence implied, might be considered subversive and result in disciplinary action.<sup>146</sup> The tone of the Commissioner's direction made it abundantly clear he was

incapable of seeing the executive officers of PANSW in any role other than subordinate employees of a disciplined organisation. To the executive committee, the direction threatened the very basis of its industrial mission, the right to take its own counsel where thought best. Had police possessed right of access to the Arbitration Court at that time most of these problems would, of course, never have occurred. The Commissioner would, under such circumstances, have found it much easier to accept that subordinate members were entitled to some autonomy in their role as union officials. Needless to say, the direction given by the Commissioner created great concern within Association ranks.

In pursuing his argument, Commissioner Mackay not only pressured the police headquarters branch of PANSW to recommend that the Association not approach the Chief Secretary during wartime<sup>147</sup> but, he also tackled the Chief Secretary directly on the matter.

### 1942

On 14 January 1942, so great was rank and file concern over the Commissioner's insistence that all grievances be placed before him and only him that the Chief Secretary felt obliged to attend an executive meeting of PANSW. During that meeting, the Chief Secretary, Mr Baddely, assured executive committee members that they had direct access to him whenever necessary. The withdrawal of overtime was also discussed with the Chief Secretary. But, the major issue discussed, apart from the Commissioner's attitude to representation of grievances, was that of billeting. Billeting was a practice in which members were required to sleep at fixed locations on certain nights, eg, one night in six. The general idea was that such a measure would provide reserves of men in event of an emergency. The men, on the other hand, could see no demonstrated necessity for the measure which in any case was not practised in other states. In addition, certain billet locations, eg, Glebe Clubhouse, were considered extremely dangerous being sited next to oil storage facilities. In the event of a bomb hitting an oil tank the reserve employees would be instantly obliterated. Other complaints related to the debilitating effect of sleeping in unsuitable, unhygienic and unfamiliar circumstances.<sup>148,149</sup>

However, following his assurance that PANSW had an untrammelled right to approach him, the Chief Secretary contacted the Association's General Secretary requesting him to formally advise the Commissioner of Police of a forthcoming deputation on the question of pay. The request was considered by the executive and rejected. Ultimately, as a compromise, the Chief Secretary asked for the Association's data in relation to their pay claim, promising he would see them at a later date after having studied the details. Employees became aware of the Chief Secretary's volte face and saw it as capitulation to the Commissioner. This view was substantially correct and must have been particularly galling to the Chief Secretary who had long disliked the Commissioner following a fracas at the Rothbury coalfield in 1929. The General Secretary attended at least one divisional meeting, counselling against mass meetings on the subject.<sup>150</sup>

Reference has been made previously to the clash of personalities between the (Presbyterian/mason) Commissioner of Police and the (Catholic) General Secretary of the Police Association. Friction had been building up between the two especially during the previous 12 months, coming to a head early 1942. As if there was not sufficient friction already in existence, Commissioner Mackay published in the Police Gazette an item referring to the legal dispute of Constable (First Class) Oldfield v Superintendent Keogh. In 1939, as a result of comments made in an official report, then Inspector Keogh had been sued by Constable (First Class) Oldfield for defamation. Initially, Oldfield had been successful in the Supreme Court, obtaining damages of L750. This verdict, however, was upset on appeal to the full court. The Gazette item alleged the Police News (edited by PANSW General Secretary CJ Cosgrove) published the first decision but not the second.<sup>151</sup> This action by the Commissioner was clearly insupportable. He was, on ethical grounds, quite wrong to pursue his private feud with the General Secretary within the pages of an official publication over which he exercised control by virtue of his public office. It was a gratuitous offense to the Association's management designed to inflame industrial relations rather than encourage harmony. Above all, Mackay was wrong. The second decision had been published in the Police News but, as a supplement insert. Never one to resist a challenge the combative General Secretary, rather than dealing with the matter in a low key manner, wrote a seething rejection of the Commissioner's attack<sup>152</sup> in Police News, which he signed. Mackay, in response, then called before him all members of the executive on 20 February 1942. He demanded from them reports of their own opinions concerning the General Secretary's rebuttal of the Commissioner's item in the Police Gazette. The executive members took the view that it was improper they should be compelled to state their private views. Their reports to this effect were handed to the Commissioner at about midday. That evening certain executive members were paraded before their divisional officers and advised the Commissioner considered them, on the advice of divisional officers, guilty of disloyalty. They, and the other members who were to be paraded the following day, were all to be despatched to various country police stations on "temporary" posting.<sup>153</sup>

The Police Minister, who was unaware of the Commissioner's intentions,<sup>154</sup> was at his home at Toronto, out of Newcastle. As he did not have a telephone, two Labor parliamentarians and the PANSW General Secretary drove to Toronto to request him to reverse the Commissioner's direction concerning the country postings. On his return to Sydney on the Monday morning, the Minister spoke to the Police Commissioner but, could not get him to countermand his instructions. Legal advice was obtained to the effect the employees concerned could not legally refuse the order and so, apart from several who were either sick or required for court appearances, the members all departed to their various country destinations. As the postings were designated "temporary" no appeal could lay to the Police Appeal Board. Outraged at this attempt to neutralise PANSW, the General Secretary circularised all parliamentarians and many unions appealing for support.<sup>155</sup> The general reaction of unions was one of alarm. The Public Service Association considered a statewide strike on the issue.

On the Tuesday, ie, 24 February, Premier McKell assumed the police portfolio and reversed the Commissioner's direction, thereby bringing the banished executive members back to Sydney. The matter was debated in parliament the following day. Despite this embarrassment, the Commissioner was not prepared to let the matter drop. In a supplement to the Police Gazette,<sup>156</sup> he published a lengthy extract of a letter to an unnamed official who was quite obviously the Premier. The letter was obviously a reply to a communication received from the Premier. In the lengthy supplement, Mackay emphasised his paramount responsibility to command the force and exhaustively contended that he had acquitted his responsibilities with great merit over the years. In a sense, this was Mackay's last grandstand as a little while later he was "loaned" to the federal government as its first Director-General of Security. His independence and forthrightness made him unacceptable to established interests in Canberra, however, and he was back at his desk in police headquarters by October 1942. But, to McKell's undoubted relief, Mackay's absence had been sufficient to let tempers cool down. It has not been possible to establish whether Mackay was sent to Canberra on his merits or merely despatched as a means of removing a source of political embarrassment to Macquarie Street. In all probability it was a convenient combination of circumstances.

In June 1942, police employees received a payrise of ten shillings and sixpence a week, at a cost to the exchequer of L101,000 pa.<sup>157</sup> Although falling well short of the Association's claim, the rise, the first for 15 years, was well received.<sup>158</sup> The rise followed a PANSW deputation to Premier McKell earlier in the month in which the Association had forcefully argued for a larger increase. Discontent continued throughout 1942 over the question of billeting. The authorities refused to discontinue the practice, so the Association concentrated on achieving: (1) more hygienic and comfortable billets<sup>159,160</sup> and, (2) either a billeting allowance or overtime pay for the time spent in billets.<sup>161</sup> The government refused to consider the latter matter, claiming it to be a federal concern.<sup>162</sup> Little success was achieved in these endeavors overall but, a major industrial breakthrough occurred<sup>163</sup> in October 1942, when the Premier agreed that police travelling between their homes and their station or billet and who were killed or injured in transit would, for pension purposes, be considered as being on duty. A similar determination was made in respect of those killed or injured whilst occupying a billet under direction.<sup>164</sup> Relief was not to be available for a long time as billeting continued until 1945. With the irritant of billeting thus reduced, members' number one grievance then became that of favoritism exercised by the police administration in promotions and<sup>165</sup> the matter was raised with heat at the 1943 annual conference.<sup>166</sup> The question of overtime recording was also seething just below the surface.<sup>167,168</sup> Members wanted overtime cards reintroduced so they could maintain a formal record of excess hours worked under their own control. The department, on the other hand, insisted that it be merely recorded on duty rosters. Thus, at any given moment the department could abolish or suspend time off in lieu thereof for excess hours worked and, when reintroduced, members would have no record, ie, they would lose their overtime credits as had occurred previously in 1941.

Clearly, many employees no longer trusted the administration in such matters.

From 1942 on, relations between the Commissioner of Police and the Association remained at a very low ebb. One tactic employed by the administration to weaken the Association was to ignore PANSW as an employee representative body and approach individual members personally. An interesting example of this tactic occurred during mid 1943 when, to offset a shortage of personnel some members were approached directly by their divisional officers - on the instructions of senior administrators - to see if they were willing to work four hours paid overtime (x 1.5) on not more than three nights per fortnight. Following the furore and confusion that prevailed following the depot meeting concerning days off, volunteers were required to sign an undertaking to work the prescribed additional hours. The Association, realising that it was being deliberately bypassed by the administration, complained loudly to all who would listen - including the Premier.<sup>169</sup> However, the Premier had been previously consulted on this occasion and he declined to intervene, even though the Federal & State Public & Essential Services Council took up cudgels on behalf of PANSW. This provision remained in force for many months and in early 1945 was even extended. The reason given being the visit of the British fleet to Sydney.<sup>170</sup>

### 1943

It was in 1943 that the government substantially amended the Industrial Arbitration Act 1940 but, to the dismay of Association members, failed to include the police department within its ambit.<sup>171</sup> Despite complaints to cabinet, the omission was not rectified.

In July 1943, PANSW executive considered affiliation with NSW Labor Council.<sup>172</sup> The executive, after some deliberation, agreed that it favored TLC affiliation. A committee report noted:

It must be obvious that our hand would be immeasurably strengthened in the current matter of arbitration if we approach the authorities as an affiliated body of the TLC. In the past it would appear that the authorities have followed a policy of procrastination in regard to the affairs of our Association and it is felt that the promises given to us would be speedily concluded if we enjoyed the prestige and standing of an affiliated trade union.

The two main objectives of our Association are to obtain full recognition of a registered trade union, and all that implies, and to secure access to the Arbitration Court where the majority of our occupational complaints could be remedied, and it is our contention that only by affiliation with the TLC

will we be provided with the vehicles necessary to reach our goals...

The report was held over until the 1944 conference. A little later, PANSW received a letter from the Premier inviting representatives to a meeting to be held on 26 October concerning the creation of a Crown Employees Appeal Board. Immediate PANSW reaction was that the Police Appeal Board was largely satisfactory provided its determinations were made binding, together with a number of minor reservations. The President was instructed to attend the proposed meeting and oppose police inclusion in CEAB. However, upon his report back to the executive, the President was obviously ambivalent about the respective merits of the two boards (even assuming the PAB to have the final say in appeals).<sup>173</sup> In the following year, the government introduced the Crown Employees Appeal Board Act 1944. Initially, police were not included within the provisions of the Bill but, following a deputation from the Police Association which had by then altered its mind, the Premier had police included.<sup>174</sup> As a result, the Police Appeal Board was abolished and, at long last, police appeals lay to a body possessing finality of decision, ie, its decisions were not subject to review by either employee or government.

It was also in July 1943 that police employees were granted an extra two weeks annual recreation leave, in recognition of the extreme hardships imposed upon them under wartime conditions.<sup>175</sup>

#### 1944

Early in 1944, feelings among CIB members became inflamed in relation to the Association's executive. On 10 January, the Association held a special one day conference to discuss various aspects of the then current grievance of shift changeover. Apparently, reports to some branches concerning the conference were not sufficiently full to satisfy members. As a result, the Association's President was submitted to a terse two and one half hours cross examination by detective members.<sup>176</sup> Although the underlying motivation for the session was the dissatisfaction experienced by many CIB members with the Association, there seems also to have been a genuine block in communications which precipitated the confrontation. It needs to be borne in mind also that in all prevailing Association-Commissioner division within the department, many CIB members were supportive of the Commissioner. The furore, which quickly died down after the President's appearance before CIB members, was also a reminder of the deep division existing between detectives and uniform branch employees.

Late 1944 saw also the introduction by the government of a provision requiring that members may not be promoted after having attained the age of 58 years. This provision, which possessed much merit in that a member is unlikely to achieve much in a new rank in a period of less than two years, was widely resented by members; especially those who were directly impacted as a result of their superannuation being adversely affected by the bar.

Persistent Association representations to government to repeal the decision were unavailing.<sup>177</sup>

### 1945

The first police appellants to appear before the Crown Employees' Appeal Board did so on 26 February 1945, a significant event in the history of the Police Association.<sup>178</sup> Not surprisingly, the appeals concerned promotions. The Sunday Sun was quick to criticise the board, claiming it was creating a force of many chiefs and few indians.<sup>179</sup> What in fact happened was that the Commissioner of Police, at the Premier's request, advanced a number of younger and allegedly more capable members to the rank of Sergeant (Third Class). It was considered by many members the Commissioner had exercised favoritism in respect of several of the members so advanced. One hundred and sixty appeals were lodged by aggrieved members having greater seniority than those newly promoted members suspected of possessing the Commissioner's favor. The appeals had been actually lodged in the days of the old Police Appeal Board and, by consent, were stood over to the new body for adjudication. In fact, by the time the appeals were heard only 60 were still outstanding and 23 of them were successful - a substantial implied criticism of the department's selection policy. Successful appellants had then to be promoted to Sergeant (Third Class), thereby creating an excess of Sergeants. The Commissioner of Police in retaliation then promoted his selections again so as to ensure their seniority over the successful appellants. He, further, ordered successful appellants to remain in the jobs they were performing as Constables prior to their appeal. Fortunately this was a "one off" event due to the change of administrative appeal machinery.<sup>180</sup> But, it served to entirely nullify the government's and department's very sensible aim to advance young men of capacity so as to improve managerial caliber in the long term. Springing directly from this experience was the excessive emphasis on seniority which has obtained ever since in the promotion criteria of the Police Department of New South Wales and which has had such a marked impact on the managerial competence of the agency. By his persistent indulgence in favoritism, Commissioner Mackay was directly responsible for development of that unfortunate development. A grievance of substantial concern to members was the fact that police were excluded, under s.10(5) from the full benefits of the Crown Employees Appeal Board Act 1944. This loophole provided the Commissioner of Police the opportunity to advance selected members in seniority prior to promoting them, thereby depriving those unpromoted members who had been originally senior to the promotees of grounds for appeal.

A major cause for concern at all levels of the department and government throughout the war years was the strength of the police force. By mid 1945, the shortage was acute, responsible among many things for the additional half shifts required to be worked by many members. At that time some 100 police were still serving with either the armed forces or the security services and an additional 391 actual vacancies also existed. To add to the problem there were no available applicants for the service.<sup>181</sup>

The additional pressures which impacted members during the war years must have had a debilitating effect on their health. Later in the year, questions were raised in parliament concerning the shortage.<sup>182</sup> The relationship of personnel shortages to wages are direct and obvious but, the government was not disposed to offer a direct rise in pay.<sup>183</sup> Many creased brows turned to smiles on 20 July 1945, though, when not only were increments recommenced but the rank of Senior Constable was reintroduced. These provisions represented indirect small pay rises to many junior members and were appreciated as such.<sup>184</sup> At the end of 1945, cabinet approved the engagement of 100 extra police to assist in enforcing city parking regulations<sup>185</sup> but, the promised relief was not forthcoming as sufficient recruits could not be obtained.

An inevitable result of the emphasis paid to seniority in the police force of New South Wales is that senior NCOs are almost invariably well on in years. In 1945, The Association recommended to the Commissioner of Police that members over 50 years of age not be rostered on night duty unless they so desired. The Commissioner rejected this humane suggestion, claiming there would be insufficient supervisors available to provide necessary levels of control.<sup>186</sup>

Toward the end of 1945, considerable employee discontent existed within the Force concerning an amalgam of grievances, including pay, days off, rosters, hours of work, promotion, overtime, etc. The popular press gave the matter considerably publicity although not without some hyperbole.<sup>187</sup> The Association publicly recommended a parliamentary select committee be appointed to investigate the department's promotion systems. It seems possible this embryonic crisis did much to persuade the Premier to place PANSW members within the ambit of the CEAB. At least, in writing to the Association, he declined to appoint a select committee and advised members to take their grievances to the Board.

#### 1946-1947

That perennial cause of employee dissatisfaction, rest days, again raised its head in 1946. Apparently, for some years, plain clothes personnel had received every other weekend off duty. PANSW requested the Commissioner of Police extend similar conditions to uniformed employees.<sup>188</sup> The Commissioner, responding, pointed out that Saturday was the busiest day of the police week due to additional traffic on the roads, the need for supervision at hotels, beaches and sporting venues, and so on.<sup>189</sup> Police were also called back to duty on their Sundays off to deal with processions and such like duties, much to their annoyance.<sup>190</sup> The Commissioner also complained publicly regarding the inadequate salaries of policemen. He pointed out that in the first quarter of the year more than 100 members had resigned, mostly on grounds of inadequate recompense. 'For years', he said, 'I, as Commissioner of Police, have been advocating an increase in pay, and have met with no success.'<sup>191</sup> At the same time he expressed disapproval of a proposal that police be given

access to the Arbitration Court. Despite admitting his inability to obtain improved pay for his men, Mackay insisted that police pay and conditions should be governed entirely by parliament acting through the Minister. ~~His through the Minister.~~ His reference to the Arbitration Court concerned a Bill introduced into the Legislative Assembly on 20 March 1946 by the Premier which provided for industrial awards to be made in respect of police.<sup>192</sup> Cabinet decided upon such a move following a PANSW deputation to the Premier's assistant Minister on 19 October 1945.<sup>193, 194</sup> The amendment to the Industrial Arbitration Act 1940 finally received assent on 17 April 1946<sup>195</sup> and, was commenced on 1 June 1946.<sup>196</sup> To the regret of members the degree of access permitted was something less than total, although the executive committee felt it could discuss those matters not covered satisfactorily with the Minister at a later date.<sup>197</sup>

On 3 August 1946, the Police Association's General Secretary, Charles Joseph Cosgrove, died of a stroke. His passing was as severe a blow to the Association as had been the death of his predecessor. Both men had devoted themselves singlemindedly to the Association's objectives, fought its battles - legal and otherwise - assiduously. Both died from a combination of overwork and the related effects of excessive alcohol consumption. For several months following Cosgrove's demise, the Association's President, JV Driscoll, acted fulltime as Secretary. This was a particularly taxing time for the Association as it was busy mounting its first claim before the Industrial Commission. In fact, the Association's claims went before a conciliation committee on 27 September 1946. The affidavit contained 13 clauses, some of which, eg, added dangers of police work and recent loss of respect for law and order, are reminiscent of claims used in more recent years.<sup>198</sup> Legal argument unfortunately resulted in the case being remanded several times. In the meanwhile, the Association's Honorary Treasurer, Frank Laut, was appointed General Secretary for a seven year period. The federal Arbitration Court, on 10 October 1946, declared itself in favor of the principle of a 40 hour working week.<sup>199</sup>

The Association's action in taking its salary claim to the Industrial Commission achieved a degree of success when the Conciliation Commissioner, on 27 September 1946, adjourned the matter as he was prepared to forward his finding in the Association's favor to the Chief Judge of the federal arbitration court for ratification. His finding was that a situation existed which justified the claim. Federal ratification was necessary as National Security (Economic Organisation) Regulations still applied. Authority was duly given for the application to proceed. The government then sought to negotiate with the Association, making an offer which the executive quickly accepted on 24 December 1946.<sup>200</sup> The offer was for a flat L68.4.0 a year increase as from 6 December 1946 for all ranks from Sergeant (First Class) down. The increase comprised L50 a year plus a seven shillings a week rise in the basic wage. For all confirmed personnel the rise overall amounted to L1.6.3 a week or, 3/9 a day. For Constables (Probationary) an increase of elevenpence a day plus the basic wage increase was agreed upon, bringing their pay to a flat L1 a day.<sup>201, 202, 203</sup> Thus, the police service

obtained its first award by consent. The award itself was not comprehensive, confining itself almost exclusively to the agreed pay rise. The government refused to consider paid overtime and no thought was given to affixing hours of duty.

During the period 1946-1947, the Police Association commenced a campaign for full civil rights for police employees. Under clause 14(2) Police Rules it was decreed:

2. Police will -

- (a) studiously observe neutrality in all political matters
- (b) rigidly abstain from manifesting any political or sectarian proclivities in the discharge of their duties
- (c) not be permitted to take a prominent part in local government matters, or in any sectarian society or organisation; or belong to, or pay any money to any political organisation or party.

Such provisions clearly prevented police employees from belonging to political parties or standing for local government. A definition of sectarian society was not provided in Police Rules, unfortunately. A strict interpretation would seem to include inter alia masonic lodges and would have involved many senior police officers from Commissioner Mackay downwards. However, it was the political implications of the rule with which Association members were concerned, the restrictions placed upon police being regarded as undemocratic.<sup>204</sup> The Association's campaign, rejected outright by Premier McGirr, was provided extensive support by the Essential Services Council and many unions.<sup>205,206</sup>

In February 1947, the Premier announced the government's intention to introduce legislation providing for a 40 hour week for all organisations covered by the state Industrial Court. Police Association representatives met with the Premier to ensure police were not excluded from such benefits. Shortly thereafter, it was learned from another Minister that police were indeed to be excluded and the Association's General Secretary promptly wrote to the Premier asking for an assurance police would not be discriminated against.<sup>207</sup> The Premier was quick to assure the Association that its members would not be excluded from the provisions of the Industrial Arbitration (Forty Hours Week) Amendment Act 1947.<sup>208</sup> This statute commenced 1 July 1947. However, the Association wanted a further assurance that forty hours would be worked over a five day week and a deputation waited on the Minister for Justice on 21 July 1947. A few days later, on 1 August, the five day week was instituted throughout the police force.<sup>209,210</sup> The poor recruiting situation at that time made compulsory overtime necessary at some stations but, a tremendous

gain in police working conditions, in conjunction with other workers, had nevertheless been achieved. Half hour meal breaks were to be taken in members' own time, new shift times being decreed as: (1) #1 shift - 0545-1415 hrs, (2) #2 shift - 1330-2200 hrs, and (3) #3 shift - 2135-0605 hrs.<sup>211</sup> At the time of introduction, the government provided that where overtime was unavoidably worked, it would be paid for at penalty rates. However, when the Association requested that members be permitted to elect whether to be paid or take time off in lieu, the government promptly changed its mind and insisted that all overtime be compensated by time off in lieu. This change of policy caused intense dissatisfaction within the Association for a while, although it eventually reduced to a dull resentment as time passed.<sup>212</sup>

July 1947 saw some official response to a substantial cause for Police Association dissatisfaction - exclusion from the provisions of s.10 Crown Employees Appeal Board Act 1944. Briefly, s.10 provides that employing authorities desirous of promoting a member must give notice of such intention to those senior in rank or grade to the intended promotee. They would then be able, should they so desire, to appeal the matter to the Board. The Board had decided that where no vacancy existed apart from the one occupied by a junior promotee, it could not then create one for the purpose of promoting an appellant.<sup>213</sup> This decision followed the rather ridiculous situation which earlier existed where both juniors and appellants had been promoted and personnel establishments exceeded.<sup>214</sup> Not unnaturally, the press caustically commented on the matter, referring to the police department, amongst other things, as a Portuguese Army. The Premier promised PANSW officials that legislation would be shortly enacted so as to bring police within s.10 Crown Employees Appeal Board Act 1944.<sup>215</sup> In point of fact, the government successfully introduced the Police Regulation (Appeals) Amendment Act 1947 (commenced 10 November 1947), which brought police appellants within the provisions of s.10. Although the Commissioner of Police was now required to give advance notice of his intention to promote members out of turn, he was still able to award extra seniority to those he wished to advance. Accordingly, the Association requested the Premier to forbid the practice.<sup>216</sup> The Commissioner declined to comply with the request. Interestingly, in 1951, a number of members appealed to the CEAB on the grounds that a grant of seniority was a de facto promotion. The argument, although ingenious, was not accepted by the Board, which ruled that seniority grants were not promotions.<sup>217</sup> Not long after the commencement of the legislation, criticism began to appear claiming that s.10 meant a promotion situation governed exclusively by seniority. JV Driscoll, President of PANSW, was sufficiently concerned to raise the matter in his address to the Association's annual conference of 1948. To the assembled delegates and guests he asserted that the Association had never advocated promotion based on seniority alone.<sup>218</sup> Clearly, he pointed out, not all people are made equal and some are more deserving of promotion than others. But, where promotion out of turn was warranted, the Association properly desired that the grounds underpinning the accelerated promotion be demonstrated before an impartial tribunal.<sup>219</sup> What has happened in practice,

of course, is that the department over the years<sup>220</sup> rather than face the challenge of developing validated promotion criteria has relied on seniority with significant disadvantages accruing to the agency as a result. The Association shared some of the blame for the development of this situation, although precise apportionment between the parties is impossible.

Late in 1947, the Association's executive discussed the question of compulsory unionism within the Police Department. A small minority of members declined to become Association members whilst at the same time accepting the benefits, eg, increased allowances, obtained by the Association. The matter was prompted by the NSW Railway Department introducing compulsory unionism within its ranks with effect from 31 January 1948.<sup>221</sup> The executive committee determined to request the Commissioner of Police to have all eligible members of the force made Association members by decree. The Association had written to the Minister immediately following the 1947 annual conference in similar vein.<sup>222</sup> The Premier had in fact sounded out Commissioner Mackay's views on compulsory unionism and preference to unionists at that time. The Commissioner of Police had strongly opposed such measures arguing that such 'compulsion would amount to a regimentation by the Association in direct clash with disciplinary control by Commissioned Officers and would smash any link in the chain of loyalty to the government and to the oath of office by which all policemen are bound.'<sup>223</sup> The Association's direct approach to the Commissioner was thus little more than a gesture. Not long after receiving the Association's request Commissioner Mackay died of a stroke. It has never been suggested the request in any way contributed to his demise (indeed he was observed to be very relaxed in his office on the day of his death) but, at the same time, it certainly would have done nothing to improve his health. In any event, the death of William John Mackay on 22 January 1948 marked the end of a tumultuous era in police employee representation in NSW. Improved industrial relations were observable immediately following his death.<sup>224</sup> No satisfactory response was received by the Association from either the department or government concerning compulsory unionism. This was hardly surprising as the government, despite an ALP decision in 1941 that all government employees become union members, was clearly not prepared to push the matter.

The Association tried again following its 1949 annual conference, writing to the Premier suggesting an appropriate amendment to the Industrial Arbitration Act 1940.<sup>225</sup> Undeterred by lack of response, it made the same suggestion again a year later.<sup>226</sup> Perhaps hoping to be successful on a third attempt, the Association once more wrote to the Premier in 1952, again suggesting a legislative approach to compulsory unionism in the police service.<sup>227</sup> On this occasion, the Premier's Department requested the views of both the Police Department and the Department of Labor & Industry. Labor & Industry officials felt it was a matter solely for the employer.<sup>228</sup> The employer steadfastly declined to approve such measures.<sup>229</sup> Finally, in July 1952, the Association was advised by the (new) Premier that he 'it would not be appropriate at the present juncture to accede to your request.'<sup>230</sup> This ended the saga of the Association's

attempt to introduce either compulsory unionism or preference to unionists within the Police Force.

### 1948

The big industrial issue of 1948, though, was not so much compulsory unionism but, whether or not the Association would affiliate with the NSW Labor Council. The matter had been unsuccessfully raised several years previously. The issue on this occasion stemmed from a motion passed by the Australian Federation of Police Associations/Unions in November 1947. The motion urged all state (as opposed to territory) police associations and unions to affiliate with the ACTU or Labor Councils.<sup>231</sup> When considered by the executive committee, the general view was that the matter was of sufficient substance to be determined by annual conference. It was realised that considerable opposition to such a measure existed among members. However, conference declined to commit itself, recommending a ballot of all members be held.<sup>232</sup> Ballot forms were posted to members in November. By this time, the department's objection to Association ballots had evaporated. The ballot was held closing 24 November 1948 and resulted in a decisive rejection of affiliation with the NSW Labor Council.<sup>233</sup> In following years, the question of PANSW affiliation was raised and defeated in committee and conference until in 1954, the motion was finally passed by annual conference.<sup>234</sup> The Association was accorded five seats in the Labor Council. Police delegates form an integral part of the Council's "right wing" group of unions. The matter is of particular interest for two reasons. Firstly, there was a small group of committed executive members, including the General Secretary, who were prepared to keep raising the item before conference until success was achieved. Secondly, in December 1953, the Police Federation applied to join the ACTU.<sup>235</sup> Thus, PANSW became (on 1 January 1954) an indirect member of a union peak council. This fact served to substantially detract from the arguments of those who opposed affiliation in the case of the state Labor Council. The logic being: 'Well? We are already affiliated, albeit indirectly, with one council. What is the difference in principle if we affiliate directly with another?'

Another issue to raise its head in 1948 was the question of suspended members not being paid. Even when eventually found by whatever tribunal to be blameless and reinstated, the department declined to reimburse members for their period of suspension.<sup>236</sup> There was confusion concerning the interpretation of Police Rules on the point. Moreover, as the police headquarters branch of PANSW pointed out, suspension was sometimes invoked when there was no necessity for it. Members could be often charged with minor breaches, dealt with and punished, without any need for their suspension. The Association, on the part of two such disadvantaged members, determined to finance their appeal to the CEAB.<sup>237</sup>

During February 1948, PANSW applied for a variation of award. The variation was based on the grounds that in making an award for commissioned officers the Industrial Commission (as it

was by then known) had altered the traditional relativity between top NCO rates and lowest commissioned officer rates. To rectify the matter relativities between non commissioned ranks would also require adjustment. For a variety of reasons the matter was delayed until 16 August, when the hearing proper commenced.<sup>238</sup> Although nominally an application for restitution of relativities in the form of a variation to a consensus award, the case in fact was conducted in the form of a substantial review of police conditions. One hundred and nineteen witnesses were called in all and proceedings only closed in April 1949. During the course of the case an interim award of L1 a week was granted.<sup>239</sup> In determining the application, the President of the Industrial Commission felt matters such as rates of pay and public holidays were properly dealt with in a variation application but, rejected all questions of extra rates until the next full scale review of conditions.<sup>240</sup> The President later approved L82 pa as a salary increase as well as time and one half for public holiday duty, rather than the doubletime requested.<sup>241</sup>

30 November 1948 saw the resignation to pension of PANSW President John Vincent Driscoll. Driscoll was a doughty fighter for the welfare of police employees. He withstood all the pressures a sometimes vindictive chief executive put in his way, including posting to the country and loss of promotion so as not to compromise his principles. It is he above all who present police employees of NSW have to thank for their economic and other advantages. He was succeeded for the remainder of the term by Senior Vice President, Charles Theodore Boston. At the annual conference of 1949, Boston was elected President. It was in 1949, too, that the department, at the Association's request, experimented with granting each fourth weekend off duty.<sup>242</sup> The practice was made permanent in 1951.<sup>243</sup>

## 1951

By 1951, it was observed both by the Premier and the Commissioner of Police that there appeared to be few areas of substantial conflict existing between the Police Association on the one hand and the government and department on the other.<sup>244</sup> Both these officials credited the lack of conflict to be due in part to the cordial industrial relations which had developed since the death of Commissioner Mackay. The President of the Association himself concurred with these views.<sup>245</sup> These observations were to a considerable degree true. The only major Association grievances at that time were ones of long standing, and in respect of which no rapid gains could be expected. Such long term grievances included: (1) lack of full arbitration rights, (2) granting of seniority by the Commissioner which to a great extent rendered nugatory the protection afforded members by s.10 Crown Employees Appeal Board Act 1944, (3) Association representation on the Police Superannuation Board, (4) failure of government/department to implement either preference to unionists or compulsory unionism, (5) department's continuing use of acting Sergeants, (6) renovation of police buildings, (7) civil and political rights of members, (8) payment to members of the monetary value of extended leave due at time of dismissal, and

(9) summerweight uniform.<sup>246</sup> A short time prior to that year's annual conference opening, the Premier removed a major police grievance, ie, the shortage of Sergeants (First Class). The Premier approved the appointment of 150 additional Sergeants, much to the satisfaction of PANSW members.<sup>247</sup>

## 1952

Women police were first admitted to PANSW in 1946. At that time they were considered members of whichever branch they happened to be attached. By 1952, 34 out of a total of 38 female police were Association members and were demanding to be heard at annual conference. The Association's executive committee discussed the request in rather paternalistic tones, finally agreeing that a female be permitted to speak at the following conference 'as no harm would come from it and they would be much more content with their lot as members of the Association.'<sup>248</sup> The desire of female members to be heard concerned their dissatisfaction with annual issues of uniform. Two female members were eventually permitted to vent their grievance and the Association duly made formal representations to the department concerning irregular issues of female uniform items.<sup>249</sup>

Over the years the question of grants of seniority continued to irritate Association officials as the power to do so, and which was exercised by all Commissioners of Police in turn, detracted to varying extents from the safeguards provided by the Crown Employees Appeal Board Act 1944 and the Police Regulation (Appeals) Amendment Act 1947. During the period 1953-1954 several principles were laid down in Board judgments; one of which served to satisfy police employee resentment concerning grants of seniority. Major principles enunciated were: (1) promotions within the police force can only be from one rank to the next, (2) awards of seniority grants must be accompanied by notification to all personnel whose seniority would be effected, and (3) the rank of Constable (First Class) must be held for seven years before a member became eligible to be promoted beyond it.<sup>250</sup> Incidentally, these principles were laid down in the course of a judgment concerning the appealed against promotion of a certain Constable (First Class) JT Lees, an employee who became Commissioner of Police some 26 years later.<sup>251</sup>

## 1955

An important economic concession was gained in 1955 by the Association when the Premier agreed not only to granting penalty rates for weekend and shift work but, that such allowances be considered as salary for superannuation purposes.<sup>252</sup> 1955 saw also the raising in the industrial arena of a long felt complaint of New South Wales police employees. Under rule 37(1) Police Rules police officers were required to provide explanations concerning all complaints made against them. Criminals, of course, are placed under no such coercion and the requirement placed on police was but one item in the Association's long campaign for civil and political rights for police employees. One

member was dismissed from the service for having refused to answer questions put to him by a senior officer.<sup>253</sup> He unsuccessfully appealed his dismissal to the Crown Employees Appeal Board.<sup>254</sup> The Board, to the considerable alarm of members, upheld the requirement of subordinates to answer questions put to them by their superordinates. At the direction of annual conference, PANSW took counsel's opinion on the subject but, to no avail. The point remains one of considerable resentment to this day. Counsel hired to perform this task was Sir Garfield Barwick,<sup>255</sup> later Chief Justice of the High Court of Australia. His opinion was that no appeal could be entered against a Board decision and that no basis for a writ of mandamus existed.<sup>256</sup> Left with no legal recourse, the Association determined to take the matter up with the Commissioner of Police by way of deputation. The deputation to the Commissioner was unproductive and so, the Association then approached the Premier in deputation.<sup>257</sup> In so doing, it submitted a substantial document listing a wide range of grievances relating to discipline, including the question of compulsory answers to questions.<sup>258</sup> In fact, partly as a result of the Scorrer case and partly as a result of other disciplinary investigations operating contemporaneously, the Association early in 1957 mounted something of a campaign against the police administration, complaining about a wide range of unacceptable investigation practices. The Association's President made such complaints the major focus of his annual report for the year.<sup>259</sup> A new President, LH Griffiths, was in the chair for 1957, following the elevation of his predecessor, CT Boston, to the rank of Inspector. However, both the deputation to the Commissioner and the subsequent deputation to the Premier proved fruitless. A further Association request for an independent tribunal to examine all aspects of the Scorrer case was also rejected.<sup>260</sup> In a general vein, though, a change of emphasis became evident in the department's attitude to disciplinary matters. This softening of attitudes, according to the Association's Junior Vice President, greatly improved police morale over the succeeding 12 months.<sup>261</sup>

### 1957

Early in 1957, the Labor Council mounted an offensive to have the Police Association granted full access to the Industrial Commission. A deputation representing the Labor Council and associated unions met with the Premier to push the argument<sup>262</sup> on 28 March. The Premier, Mr JJ Cahill, despite the high powered nature of the deputation, nevertheless declined to comply with its request.<sup>263</sup>

### 1958

By the time the 1958 annual conference of the Association took place it was apparent to the executive that, short of taking a job action of some sort, there was little more that could be done with the Scorrer case, and that it was becoming an embarrassment to the executive. The executive decided to refer the matter to the Labor Council at an appropriate time.<sup>264</sup> One

final attempt to obtain some form of redress for Mr Scorrer was taken by the executive when, in September 1958, it took legal advice as to the possibility of petitioning the Queen. The opinion given was that such a course of action did not lie.<sup>265</sup>

### 1959

The basis of police leave was altered on 1 April 1959, thereby changing a long existing police entitlement of 28 days annual leave a year. In order to achieve an overall gain of one week, thereby making five weeks in all, the government insisted on reducing the annual leave entitlement to 21 days. Fourteen days in lieu of public holidays were then added making five weeks in all. The Association accepted the compromise but was unhappy concerning the actual reduction in leave entitlement.<sup>266</sup> Clearly, in the event of another reduction in conditions such as happened during the Depression years, the potential for public holiday compensation could be lost in one fell move and police would be in the position of having lost an entire week's entitlement. No doubt the government's main aim was to reduce the basic annual leave entitlement in order that the total amount of leave due would be less than it otherwise would have been but, the possibility for future latent function such as just mentioned must have occurred immediately to every police officer when he learned of the bargain struck by the Association in this matter. Later in the year, 5 May 1959, the Association wrote to the Premier requesting a further week's leave be granted all ranks, thereby making six weeks annual leave.<sup>267</sup>

In an effort to avoid the government's objection to permitting police full access to the Industrial Commission, the Association's 1959 conference recommended an independent arbitration tribunal be created for the police service. Discussions with the Premier were forstalled by the death of the Premier, JJ Cahill. Efforts were then made to engage his successor, RJ Heffron, in discussion on the subject.<sup>268</sup> Negotiations were abortive and the Association has remained registered with the Industrial Commission to the present.

### 1960

The year 1960 again saw the question of shift times again raise its head. A ballot conducted by the Association on 4 November, showed a majority of members favoring a change to: (1) 0700-1530 hrs, (2) 1500-2330 hrs, and (3) 2300-0730 hrs. These results were forwarded to the Commissioner with the recommendation they be implemented. It was apparent from the ballot result, though, that a sizeable minority favored the status quo.<sup>269</sup>

An important economic concession granted to police by the government during 1960 concerned medically unfit pensions. Previously, members boarded out as medically unfit received their first pension payment only after the period of their extended leave expired. Under the new conditions, pensions commenced

immediately and a lump sum payment was paid in lieu of extended leave. Admittedly, the tax man also benefitted by such a move but, so too did the member who was thereby brought into line with public service conditions.<sup>270</sup>

### Conclusion

Levels of analysis, of course, vary according to the desire of the analyst. This descriptive chronology has concentrated almost exclusively on events occurring within the police industrial community and its associated political domain. Thus, for the most part external factors such as social and technological change, economic circumstances, public administration principles, etc, have been excluded. Even within this limited framework, though, the foregoing chronology of the first 40 years of police employee representation in New South Wales contains many points of significance to the interested observer. These will be comprehensively discussed subsequently in a separate publication (Part IB) in this series.

Even so, some of the grosser conclusions derivable from this body of data warrant brief mention here as preparation for reading Part 2 (when written) of this series, ie, the chronology of police employee representation in NSW from 1960 forward. The more obvious points noted included:

- \* the importance of personalities in determining relations between police employees and employer
- \* the determination of governments of all political persuasions to keep police conditions and status to a minimum
- \* the paternalistic attitudes and occasional duplicity of some Ministers responsible for police affairs
- \* the difficulties experienced by even well intentioned Ministers due to the vagaries of the legislative process and the limited ability of the public service to design sensible schemes and prepare suitable legislation in respect thereof
- \* the determination of both police employers and governments to deny employee participation in decisions pertaining to their welfare
- \* the fierce determination of police employers to resist erosion of their authority
- \* the growing desire of employees to participate in decisions affecting their welfare

- \* the determination of police employers and governments to deny police access to independent arbitration
- \* the unquestioning acceptance of the structure of employer-employee relations by all parties
- \* the lack of industrial expertise possessed by all parties
- \* the lack of occupational consciousness among police employees and their representatives
- \* the essential conflict of interest between employees and employers
- \* the lack of industrial disputes pertaining to mechanical and electronic technology
- \* the almost totally reactionary stance of police employers and Ministers to industrial relations and matters impacting employees generally
- \* the potential for functional division among police employees
- \* the sometimes powerful impact of external events on police employee conditions, eg, the Depression
- \* the importance of committed individuals to the cause of employee representation
- \* the continuing increase in police employee expectations
- \* the relevance of an employee representative organisation to the improvement of their conditions
- \* the short term perspectives generally exhibited by both employees and employers

Some of these points have been learned and no longer represent a problem. Others have receded with the passage of time. Some, of course, are perennials and require as much attention as ever.

The major conclusion to be drawn from this description of the first 40 years of employee representation in the state is that a major change has occurred in power relations within the police department. Of the three determinants of police employee relations dealt with in the foregoing pages, ie, Minister/government, employer and employees, employees are no longer the recipients of crumbs from the table of authority they once were prior to the creation of the Police Association. Organisational and occupational life are, of course, dynamic and the balance of

relationships will continue to change over time, especially in the wake of the massive social changes that commenced in the 'sixties'. How they balance out will be the subject of Part 2 of this series.

On a gross scale of 1-10 over the years 1920-1960 the cause of employee representation, on the evidence produced here, warrants a score of about five. That is to say, employee representatives just about held their own over time in their relations with employers and government. This admittedly subjective score suggests adequacy rather than brilliance but implicit within it is the legitimisation of police employee representation in the form of an Association. The establishment and growth of that Association is the central element in police employee representation and will remain so for some time yet.

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