Chapter Three

The Right to Be Human, 1891–1903

The bitter dispute was still raging. It was Victoria, 1884, and the Victorian Operative Bootmakers' Union was embroiled in a long and vituperative struggle with employers in the trade. The union's primary complaint was that employers were using outwork to reduce wages. Billy Trenwith was the union's Secretary, and he had earned the opprobrium of employers for his ardent and uncompromising organising efforts, and for allegedly exceeding his station. Trenwith had been seen sporting a top hat and travelling by buggy, irritating employers who were not used to such airs and graces from their labourers' representatives.[1]

Amid this dispute, Trenwith attended the Intercolonial Trades Union Congress held in Melbourne that year, to represent his union. Speaking to an assembly of his comrades, Trenwith explained that for the worker, their 'labour was their merchandise; it was the commodity they had to offer in the market in exchange for living'. Workers needed to organise, for the 'employers of labour cared no more for those who were working for them (nor indeed so much) than they did for their machines'. Unfeeling employers, he castigated, had 'no interest' in their workers 'beyond the time they could grind out of them'—a remark met with cheers at the congress.[2]

Trenwith believed deeply in the humanising mission of unionism. But his experiences of industrial struggle convinced him that the movement's ambitions could not be achieved by industrial might alone.

It was necessary for unions to make explicitly political claims for legis-lative redress—efforts that were greatly bolstered by the direct intervention of the labour movement into the parliamentary realm. After he had already pursued this project for many years, Trenwith's efforts were instilled with greater urgency when the depression of the 1890s hit, and the union movement's industrial position was immeas-urably weakened. Unions sought to utilise the political domain at this time to pursue historic objectives—a mission that dovetailed with a reform-minded project that was being propelled by progressive liberal reformers on the eve of Federation and the creation of the Australian nation.

Trenwith was born in Tasmania in 1846, the son of convict parents. The young Billy entered his father's trade as a bootmaker at the fragile age of just seven. Aged twenty-two, Trenwith left for Melbourne, where he established himself in the working-class suburb of Carlton. He forged a reputation as a fierce orator for labour, 'the embodiment of the new aggressive style of union leadership emerging in the 1880s'.[3]

In 1879, Trenwith was the chair for the foundational meeting of the Victorian Operative Bootmakers' Union—a new union for the semi-skilled labourers in the trade. In 1883 he was elected as the union's paid Secretary, and won acclaim and notoriety as an agitator.[4] In addition to industrial militancy, Trenwith was a strong advocate for the movement taking action to secure its demands through legislation. He had a particular focus on the colony's Factories Act, discussed in the previous chapter, and on strengthening its provisions to protect workers deemed as more vulnerable—most of all women and juvenile males.[5]

Trenwith was elected to the Victorian Legislative Assembly in 1889. Though he received the strong backing of the Melbourne Trades Hall Council, Trenwith presented himself to the electorate as a staunch liberal rather than a labour radical. This was in accordance with the broader approach of the union movement in the colony, which had long allied with progressive liberals over the issues of land reform and tariff protection for Victoria's manufacturing industry.[6]

In parliament, Trenwith was a passionate advocate for labour rights, arguing for the extension of the eight-hour day and the intro-duction of a system of compulsory arbitration.[7] This meant the creation

of an industrial tribunal that had the power to force employers and employees to abide by its determinations. Through the 1880s unions had widely debated whether to support such a scheme, and there had been unsuccessful legislative attempts in Victoria and New South Wales to introduce tribunals on this model.[8] The concept of arbitration had gained enough popularity by 1890 for the progressive reformer Charles Cameron Kingston to introduce a bill to the South Australian legislature to establish boards of compulsory conciliation and arbitration. Strong employer and conservative political opposition to the Bill saw it stalled for several years, and when it was finally passed, the element of compulsion had been removed.[9]

Trenwith strongly supported attempts to introduce legislation in Victoria to create a similar tribunal to settle industrial disputes, including the power to set compulsory agreements by which both unions and employers would be required to abide. In 1890, a bill was introduced by a Liberal member in the Victorian parliament proposing councils of conciliation.[10] This Bill did not become law until 1892, and, as with the South Australian bill, only after all suggestion of compulsion had been thoroughly expunged.[11]

In the years that followed, Trenwith continued his fight to create a compulsory system. He introduced a number of private member's bills but never found the support required to pass them.[12] Though Trenwith was consistently stymied on this score, other opportunities did exist to inscribe labour's rights in legislation, and to use political influence to compensate for the loss of industrial strength.

Victoria had a particularly strong tradition of liberal reform in the colonial era. These progressive liberals were nation-builders, seeking to construct a new society (aligning as it did to the movement towards Federation and a new nationhood) in which citizenship was conceived as a common bond—a social contract based on mutual obligation in which both labour and capital played their part. This was part of a broader progressive civilising project pursued by liberal reformers at this time, in Australia and in other colonial-settler states.

As Marilyn Lake has demonstrated in her pioneering work on this topic, this progressivism was deeply ambiguous, and its reform-orientation was inflected by the prevailing notions of racial hierarchy, which posited the white race as superior in its state of civilisation. The liberal reform project inaugurated world-leading progressive reforms

that elevated the status of working people through the creation of new rights inherent to the citizen. The notion of citizenship rights was expanded to include economic rights—basic economic protections that could not be superseded by the everyday operations of the labour market and the law of supply and demand. At the time of their introduction these were radical departures from the established orthodoxy, which considered labour as little more than a commodity, and the labour market as functioning best when free from government interference. But these claims on greater democratic and economic rights were shaped by a racially exclusionary and gendered conceptualisation of citizenship. These liberal reformers consciously counterposed their notion of (white) civilisation with Asian peoples and cultures, and actively sought to exclude them from the communities these reformers were building. As Lake noted, these reformers believed that progressive labour law was necessary to protect the civilised standards of white workers from competition by the allegedly 'cheap labour' of Asian workers—a conceptualisation of migrant labour deeply steeped in the racist caricatures of the time.[13]

This worldview was also premised on continued dispossession of Aboriginal and Torres Strait Islander peoples, and the belief that they constituted a dying race. Leading progressive liberals such as future Prime Minister Alfred Deakin actively perpetuated the policies of assimilation that stripped Aboriginal and Torres Strait Islander peoples of basic human rights, dispossessed them from land and culture, and stole children from their families and communities.[14] This is a sobering reminder of the realities of racial ideologies and racism in this period. Australia was constituted at this time as a white nation—liberals, conservatives, and unionists alike were all complicit in the politics and practices of racial exclusion and dispossession, even while pursuing reforms intended to instil pioneering labour rights.

In 1895 Alexander Peacock, Chief Secretary of the Victorian government, moved a series of amendments to the *Factories and Shops Act* to protect workers within certain trades from dehumanising threats. One of the first 'threats' identified was labour performed by Chinese workers. In a mark of the time, this was wholly presented as a degrading danger to established white standards. One of Peacock's amendments would define a factory as any workplace 'in which four or more persons other than a Chinese' were employed. This meant that every

Chinese worker, wherever they toiled and however few there were, would be considered a 'factory', targeting them for inspection and additional regulation, and forcing them to pay an expensive fee to register.[15]

The most significant innovation in the economic rights of the working person in this era was the creation of the minimum wage. Peacock's amendments would also create special wage boards in certain industries to 'determine the lowest price or rate which within any district might be paid to any person under the age of sixteen years, or any woman or girl'.[16] In other words, the amendment would create boards in proscribed industries to set a minimum wage for those deemed most vulnerable: white women, girls, and boys aged under sixteen in those sectors. In a time in which its industrial power had been seriously sapped, the labour movement considered this a key opportunity to push beyond what Peacock had in mind, and to secure a broader protection for white workers in these industries. The month before Peacock's amendment was tabled in the Victorian Parliament, the Melbourne Trades Hall Council had resolved that its position was that 'the Minimum wage principle be extended to males as well as females'.[17] In other words, to make the minimum wage set down by the wages boards generally applicable rather than being limited by gender.

Trade-union backed members of Parliament, sitting in formal alliance with the liberal representatives, worked in coordination to enact this Trades Hall position. After Peacock moved his amendment, FC Gray sought an alteration that led to the new wages boards setting down minimum wages for women *and* men in an industry.[18] Gray, the Member for Prahran, was formerly the Secretary of the Shop Employees' Union. This amendment was seconded by George Prendergast, the former President of the Council. (Prendergast had long been a leading advocate for the minimum wage, and later served as Labor premier.)

Their proposal was immediately rejected by Peacock, who explained with great regret that he 'could not see his way to accept the amendment', as the Act's objective was only to protect 'the weaker sections of the community'.[19]

Trenwith rose to speak in response. He understood, he explained, that the government's intention was to extend protection to women and girls, as 'they were not so well able to protect themselves as were

men' (a summary met with a hearty 'Hear, hear' from Peacock). But, Trenwith continued, 'That reason applied to all descriptions of labour.' Trenwith conceded that in many instances male workers had 'protected themselves by combinations' (i.e. unions), but they had 'only done so by a series of painful struggles'. This was, after all, still in the immediate wake of the bitter industrial battles of the early 1890s. While these struggles were, Trenwith contended, sometimes 'necessary', they were also 'extremely prejudicial to the well-being of the people'.[20]

If male workers could only protect themselves 'by the brutal, unscientific, and painful method he had just described', and if it was 'acknowledged that people who could not protect themselves from aggression at the hands of their employers should be protected by the State', then it followed that male workers in the affected industries should also be brought under the auspices of the new boards—and a guaranteed minimum wage. These boards would operate in each named industry as 'a perpetual board of arbitration', fulfilling a prin-ciple that was not just 'economically sound' but 'humane'.[21]

In short, Trenwith was seeking a new way to advance the union movement's historic aims of asserting the fundamental humanity of the working person. At a moment when the union movement's industrial strength was weakened, the wages boards provided the dual benefit of using legislation both to compensate for that weakness, and to create new and standing institutions to mediate the worst effects of the law of supply and demand on the labour market. The situation of Trenwith's own union was ample and urgent proof of this: the 1890s witnessed many sackings in the trade, and the abandonment by employers of rates and conditions agreed after the 1884–1885 dispute.[22]

The proposal to expand the coverage of the boards was fiercely resisted. The Member for Hawthorn, Robert Murray-Smith, a propo-nent of laissez-faire economics, rose to speak.[23] 'Any interference,' he argued, 'with the relations of private employers and employés [employees], however well-intentioned that interference might be, would do more mischief than good.' He believed that if 'Parliament passed an edict that the clothing trade should pay the employés engaged in it a certain remunerative rate of wages, Parliament would simply destroy the clothing trade altogether, so that the employés, instead of getting small wages, would not get any wages at all'.[24] To which Trenwith immediately interjected, 'Will people go without clothes?'

Clearly, the stakes were high. Murray-Smith was articulating the opposition of the vast majority of employers who were hostile to the change, preferring for the standard wage rates to be determined by the capacity an industry had to pay—in other words, supply and demand.[25]

Ultimately, the union members' proposal was carried—the newly created wages boards set a minimum wage for all workers in the industries they covered (the clothing, bootmaking, furniture, and baking trades).[26] A substantial number of liberals broke ranks from their parliamentary colleague Peacock and voted for the motion. Though marked by the limitations and exclusions mentioned above, this was an extraordinary political experiment. It was one that broke decisively with the prevailing orthodoxy that the labour market should function unhindered, regulated only by the law of supply and demand. In short, as Lake summarised, the minimum wage 'denounced the treatment of workers as commodities, rather than as human beings'.[27]

According to this liberal outlook, the minimum standard 'reinforced the equality of citizenship'. But this was a notion of citizenship that privileged white men and their contribution to public and economic life. It was no accident that 'the first minimum wage for adult male workers was introduced to protect "white men" from the competition posed by local Chinese furniture manufacturers'. It also needs to be situated within gender relations and conceptualisations of manhood. Progressive politics (of both the liberal and labour variant) in this colonial context conceived of manhood as a crucial value and virtue. This debate revealed anxieties that the crushing nature of contemporary market-driven capitalism was stripping male workers of their social position as providers. The mandatory minimum was a key means to protect white-male primacy in the labour market.[28]

Ultimately, the wage boards were not the wholesale protection that was intended by some labour advocates. It is important to note that they did not prescribe a singular minimum across all industries, but were restricted to those sectors where 'sweating' and other forms of hyper-exploitation were most prominent. One contemporary observer alleged that the union and employer representatives on the boards 'merely sit round the table … and bargain with each other as to what the price of Labour should be'.[29] But this understates the significant change that the boards did achieve. At a time when the industrial power of labour had been greatly reduced, the boards ensured that

unions had a mechanism to negotiate with employers who would prefer the boards did not exist at all. Conceived originally as a temporary measure, the boards were made permanent in 1905, and functioned as standing tribunals with the power to 'compulsorily determine wages and conditions'.[30] The market alone would not determine the wages and conditions of working people—nor define the boundaries of the quality of life they could enjoy.

But this pioneering reform was not welcomed by all. We have already witnessed the free-market opposition of Murray-Smith. And the newly instituted minimum encountered strong opposition from another quarter: among the well-organised and increasingly militant Chinese worker community, who felt themselves to be largely excluded from its benefits.

Strong and vibrant Chinese communities have existed in Australia since the earliest days of the Gold Rush. A significant population of Chinese migrants joined the mass movement of people towards the Australian colonies during the 1850s.[31] It is estimated that in 1855 Chinese miners composed around 20 per cent of workers on the diggings, numbering about 20,000.[32]

The continued migration of Chinese peoples to the Australian colonies was usually met with racism and calls for exclusion. As we have seen with the Seamen's Strike of 1878, organised white workers generally chose to prioritise campaigns of racist exclusion to prevent Chinese labourers from operating within a trade (or even entering the colonies), rather than a common struggle of working people across racial lines. The emotional community of unionism at this time was racially restricted, and based on exclusion towards workers of Asian origin.

This racist exclusionary worldview was structured around a series of anxieties and racialised fears: the assumption that all Chinese labour was 'cheap' or 'coolie' labour that would undercut white wage standards; the stereotype that Chinese workers were servile and would toil extensive hours (threatening, so white unions posited, the great prize of the eight-hour day); and racist caricatures of Chinese people as uncivilised and immoral.[33] This racism was visceral and deeply embedded throughout white colonial society—including within the union movement.

These exclusionary attitudes were contested. The Chinese community was not homogenous. Just as with every other community,

experience and interest differed according to class, gender, religion, political leanings, and regional origin, among other factors. But it can be broadly seen that Chinese migrant communities in Australia conceived of themselves as the subjects of a great empire, and community leaders mobilised to demand their common human rights.[34] Chinese workers virulently resisted racist attitudes and exclusionary laws through their own organising and activism. But their assertions of class-based rights fell on deaf ears in the European-dominated movement, that did not conceive of a place for these Chinese workers within its emotional community.

In this way, Chinese workers experienced the dehumanisation and commodification of the labour market, but their experience was further shaped by the racism they encountered. Chinese workers' access to the labour market was restricted by racial exclusions, meaning that Chinese workers tended to be located in specific trades and sectors—such as furniture making. The very existence of their toil was identified as being inimical to the racial 'civilisation' project of white identity in the colonies, leading to greater precarity of their labour (including the threat of their physical removal from Australia). Chinese workers could often *only* find work with Chinese employers, limiting their options for employment, and making it more difficult for them to raise claims for improvements.

Chinese workers were not passive victims. They forged their own organisations and took collective actions to assert their rights. Disbarred from the European-dominated movement, they formed an emotional community of their own, with its own organisational presence. One of the most significant and long-lasting organisations of this type was the Chinese Cabinetmakers' Union (CCU), which was founded in Melbourne in the 1880s.[35] Under the union's leadership, Chinese workers in the industry took strike action on at least three occasions in the 1880s and 1890s.[36] The union was able to win a fifty-hour working week, prevented work on Sundays, and increased prices for piece work.[37] While Chinese workers collectively organised to resist the dehumanisation of the labour market, they did not always raise the same demands as the white union movement. In 1885, for instance, the CCU led a strike for the right to be paid in piece rates rather than a regular wage—a demand directly counter to that of most white unions.[38]

Even though the CCU was a trade union, it was isolated and

excluded from the white-dominated movement. In 1890, for instance, the CCU raised a donation for maritime workers who were engaged in a bitter strike. This donation was returned to the CCU following a complaint from the white cabinet-makers' union.[39]

The creation of the wages boards—and the compulsory minimum wage—was in large part inspired by the fear of competition from Chinese workers. It is notable that when these boards were created, in almost every trade employer and union, representatives were elected directly by owners and workers. The exception to this was in the furniture trades, where hostility to representation of Chinese workers and employers led to the boards being appointed by the government instead.[40]

The new minimum wage was a primary objective of white workers seeking a set wage in regulated hours. But many Chinese workers considered this to be discriminatory against their work practices and, it was argued, had the effect of terminating employment opportunities for the elderly or infirm (who were not attractive hires for waged hourly work).[41]

In 1897, a petition drawn up by the CCU and signed by 640 Chinese workers was presented to the Victorian government, protesting the discriminatory effects of the new law. The petition pointed out that while aspects of the Act had been beneficial, others discriminated against Chinese workers, who, if driven out of a factory (because they demanded higher rates) could only then make a living by registering themselves as a factory at a high fee.[42]

William Ah Ket, the famed lawyer and advocate for the Chinese community, acted as a translator for the CCU in a meeting between the union's delegation and government authorities. Ah Ket explained that the CCU had been formed by Chinese workers 'to protect its members against the employers, who formerly paid just what they liked'. The minimum wage had assisted in forcing up prices, but the employers had since 'discharged every workman too slow to earn it'. If the minimum wage was not paid, it was explained, then the 'union would call a strike' to demand it, however 'they also wanted to see the older or less capable workmen able to earn a living, which could easily be done under the former system of piece-work'.[43]

The CCU mobilised in response to the racially discriminatory aspects of the *Factories and Shops Act*. In Melbourne, it engaged in

extensive community organising and, as historian Mei-fen Kuo has argued, 'reframed labour rights as a common interest of the Chinese diaspora community in Melbourne'.[44]

The most infamous example of racial exclusion in this era was the White Australia policy, which was embodied in several pieces of legislation passed by the new Commonwealth Parliament. The best known of these was the *Immigration Restriction Act*, which introduced a 'dictation test', an unsubtle ban on non-white people from entering Australia. This was joined by the *Pacific Island Labourers Act*, which provided for the deportation of Pacific Islanders, many of whom had been forcibly relocated to Australia.

While this new policy sought to prevent migration to Australia from Asia in general and China in particular, its effects were never complete. There were well-established non-British migrant communities in Australia stretching back many decades that continued to labour, live, and survive, even during the vituperative racism of the White Australia era.[45] Even amid these repressive conditions, Chinese workers took collective action to elevate their position on the labour market, and to assert their own fundamental humanity. As they did so, these workers challenged the racist and oppressive stereotypes that abounded in white society, and that were perpetuated by the white union movement, which presented Chinese workers as servile 'coolies' uninterested in improving their lot. One notable example of this dynamic was the Chinese cabinet-makers' strike of 1903 in Melbourne.

Early in that year, the owners of twenty-eight furniture companies had combined to form the Chinese Furniture Employers' Union (CFEU) as an act of self-protection from the racist policies that were intended to disrupt their ability to compete on equal terms with white establishments. Fear grew among the CCU that this new employer organisation intended to drive smaller Chinese-owned businesses out of the trade and to engage white labour. In September 1903, these tensions boiled over into a strike by the CCU. In retaliation, replicating the tactics of employers elsewhere in the economy, the CFEU locked out its workforce. By early October, 330 Chinese workers, by one estimate 70 per cent of Melbourne's Chinese workforce in the trade, were now engaged in the struggle.[46]

Strike leaders drew up nine demands, reported in the conservative *Argus* newspaper as 'ranging from the reasonable to the grotesque'.

These included an increase in the pay rates for piece work; that strikers not be compelled to return to their former employers once the dispute was over; that employers were to pay costs incurred due to the lockout/strike; that no European workers would be employed in Chinese-owned factories; that there would be an ongoing financial contribution to the maintenance of the union; and that the employers would 'provide two roast pigs, each weighing at least 80lb' to be used for cultural observation. The final demand—'grotesque', so the *Argus* declared—was reported as being a 'direct slap' to the employers, the majority of whom had converted to Christianity.[47]

Luckily, we do not have to rely on European correspondents in the *Argus* alone to understand the motivations of the strike. A letter appeared in the newspaper attributed to Doo-Goong Yen, a striker who sought to represent the CCU's position. The 'trouble is not a new one', he explained, 'but has been brewing for years past'. The origin of the discord, he insisted, was the 'gradual reduction of wages year by year' that Chinese workers in the trade were forced to endure. He was aware that 'Europeans are inclined to the opinion that Chinese always work under European prices', and were content with undercutting established wages. This could not be further from the truth. In reality, Yen argued, he and his countrymen 'would not work cheaply if those who purchased their goods would pay fair prices'—a complaint that strongly echoed those of white workers in the trade.[48]

Yen outlined the reality for Chinese cabinet-makers: employers engaged in 'cut-throat competition', which meant there was a 'very small margin for wages' and it was 'the workmen [who] must always suffer by a continual reduction'. In addition to this serious grievance was the practice of employers in the trade insisting that a worker procure a letter of discharge from their former employer before finding new employment, a practice that directly violated basic labour rights and the ability of these workers to engage freely on the labour market.[49]

Yen explained that the furniture trade was divided between larger and smaller firms, with most smaller firms being founded out of desperation by unemployed workers forced 'to start on their own account'. It was notable, Yen remarked, that the 'whole of the small shops and the workmen employed in the trade are in favour of the present Factories Act being maintained in its entirety, whilst the larger shops are against it, and are continually cutting wages down'.[50]

In a decision that sparked immense acrimony, strike-breakers were brought by employers to Melbourne from Sydney, precipitating a violent confrontation and police arrests. In December, after weeks of deepening bitterness, employers agreed to the union's demands.[51] The CFEU had not been broken up, as the strikers had hoped. But the union had successfully demonstrated the militancy and capacity for collective action by Chinese workers in the trade.

This was a substantial victory for workers against their employers— but it was largely contained within the Chinese community itself, with the broader union movement demonstrating little interest in the dispute, and scant support. White labour press coverage of the strike was sparse and racialised, abounding with unfounded and deeply offensive stereotypes.[52] Exclusion comes in many forms. The silence of the broader union movement spoke volumes: they did not consider Chinese workers to be their comrades. Their emotional community marked its boundaries based on race, perpetuating the racist exclusions of broader Australian society.

The period of the late nineteenth and early twentieth centuries was transformational for labour. New conceptualisations of human rights were being formed that explicitly included economic rights to mediate against the commodification of the labour market. The emotional community of unionism, which had been deeply marked by the industrial defeats of the 1890s, embraced a new opportunity to utilise political influence to pursue its historic humanising mission through these reforms. These were defining reforms that fundamentally shifted the entrenched orthodoxy on how the labour market should function, and the manner through which working peoples' quality of life should be determined. But these reforms were deeply marked by the inequities and exclusions of the time, reflecting notions of what support a white man needed to provide for 'his' family as the cornerstone of the new white civilisation.

The humanising mission of unionism, and the emotional community that pursued it, was shaped by this racism—undermining its claims to solidarity, and the betterment of the workers' lot. Such contradictions would mark the new federation that was formed in these years, and set the attitudes of the union movement that rose to unprecedented power and influence within it.

PRE-ORDER TODAY!

Pre-order your copy of *No Power Greater* at **Booktopia** to receive 19% off your purchase!

Unions are making a comeback. Labour disputes around the world have hit the headlines as unions take action to challenge inequality. But while media coverage has increased, understanding of unions has not.

In this lively history of Australian unionism Liam Byrne seeks to illuminate what unionism means, exploring why successive generations of working people organised unions and nurtured them for future generations. Foregrounding the pioneering efforts of women workers, Aboriginal and Torres Strait Islander workers, culturally and linguistically diverse workers, and LGBTIQA+ workers as central to the union story today, Byrne uses case studies of worker action and struggle to better understand the lived reality of unionism, its challenges, and its contribution to Australian life.

No Power Greater is the compelling story of the acts of rebellion and solidarity that have shaped Australia's past and shows that unions are far from history.
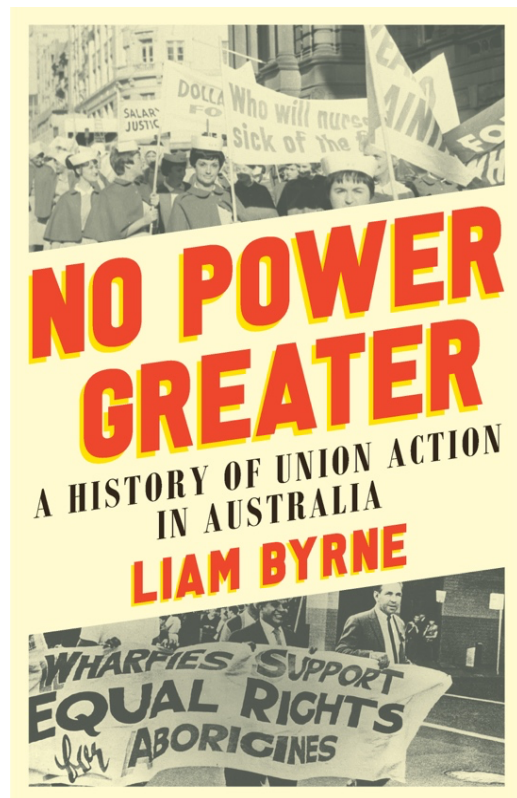
Scan the QR code to pre-order your copy of *No Power Greater* at Booktopia to receive 19% off your purchase!

Liam Byrne is a biographer and political historian, and has written on Australian politics and history for *the Guardian*, *The Age*, *the Sydney Morning Herald*, *the South China Morning Post*, *The Conversation* and many others. Byrne's first book*, Becoming John Curtin and James Scullin: the Making of the Modern Labor Party*, was published by Melbourne University Press in 2020.