Under subsection 3 (a) a salary or wage earner is entitled to an increase if he gains promotion from one established position to another established position. This would seem to infer that a new position cannot be created solely for the purpose of promoting someone to it and thus circumventing this subsection. Subsection 3 (c) is based on the grounds that the duties or responsibilities have substantially increased. Again the criteria are stated in very general terms, whose interpretation will be no doubt decided on the facts of each particular application. Lastly, as regards subsection 3 (b) problems arise in interpreting what is exactly meant by the section. The unanswered questions revolve around whether an existing salary scale or arrangement falls within the definition of an instrument within the meaning of the regulations. Secondly whether service includes only length of service, or whether it also includes the quality of the service.

Apart from the strict control of wages under Part 1, the regulations provide under Part 1A for a Wage Hearing Tribunal. This Tribunal is now the overall pay-fixing body and is responsible for the decision of whether to make a wage order. The criteria for making such an order are set out in Section 16H (3), of which the paramount consideration is the promotion of the economic stability of New Zealand, a theme consistent with the approach of the empowering act and the policy of the government of the time.

Thus, in summary, it remains to be seen how the wage-fixing structures will develop. The present government has stressed that the present restrictions are only temporary and that a return to free bargaining is its ultimate aim. To this end the Industrial Relations Council have just recently met and set up a committee to look into the return to this position. But one must not forget that the government is engaged in a crucial struggle to defeat inflation. If this battle is lost, the question of industrial relations will become more crucial than ever. ⊙

# NEWS and VIEWS

## CANTERBURY AND OTAGO: Jack Cornhill*

"There is an underlying attitude by the employers we are talking to that we should accept less because our members live in the South Island. The implication seems to be that it's cheaper to live down here." Thus stated Gavin Cumming of the Cleaners, Caretakers and Watchmen's Union currently negotiating pay rises for his members. One could call it an employers' "exceptional circumstance," perhaps, though any evidence of cheaper living down South has to be viewed in the light of general economic conditions in the Island. With census figures showing a continuing drift of population over Cook Strait, the impact of increased sea freight charges to the North Island effective from June (which has led, among other things, to the demise of a Christchurch company making aluminium framing) and the "death" of the Rangatira, industrial relations in the South have been overshadowed by a growing fear that the Island is doomed to become the Scotland of the Pacific, suffering accelerating de-population and general economic downturn, patronised chiefly by tourists.

The sharper edge of Southern discontent was distinctly shown on 24 August when the C.S.S.O. staged a mass meeting in the Theatre Royal, Christchurch, to protest the effect of the present Wage Regulations on state servants. More than 3000 attended, spilling out on to the pavements. Subsequent similar meetings attracted significantly lower numbers in the North Island (600 Hutt Valley, 100 Auckland) while others in Dunedin, Invercargill and Gore were attended by more than 1200. Broadcasting staffs in Christchurch were more sensitive to the threat of re-structuring than their colleagues elsewhere and are on the edge of their seats for the emergence of the new Bill, reported at the time of writing to be at the point of draft number ten.

Canterbury Drivers were distinctly unhappy with the 3 per cent rise agreed to, if reluctantly, by the Drivers' Federation with the employers. They are currently

---

* **JACK CORNHILL works for the Public Service Association in Christchurch.**

pressing for the planned Restructuring Committee to begin its work this year, instead of the present projection of within 3 months of July 1977. (Drivers are anxious to be regarded as tradesmen instead of unskilled workers). The initiative for direct action by the Veterinarians at meat works came from the Southland contingent, closely followed by those in the Christchurch area. All P.S.A. members, the Vets have determined to ban all overtime from early November unless their demand for payment, instead of time in lieu, is met. Action by this comparative handful of people could have widespread effects on others working in the industry, among whom the freezing workers are currently trying for a 14 per cent pay increase, and a travel allowance.

The new Housing Corporation-owned building in Cathedral Square has opened at long last (five years in construction and a great credit to the two people who seemed to be the sole work-force for much of the time) and this has solved many accommodation problems for public servants in Christchurch which had reached crisis point. The public had suffered too; at one point the Social Welfare Department operated from no less than five locations, some of which changed occasionally for one reason or another, so that the weary beneficiary was obliged to tramp all over the city to find the section appropriate to his needs. It didn't help that, some months before it opened, there was disagreement between the Ministry of Works and Development and the old Christchurch Fire Board about the safety of the building in the event of fire. The P.S.A. took the attitude that no public servants would work in it until the "experts" agreed. Eventually they did, thanks to the report of an independent committee, but there is still some unease that most floors are not linked to a sprinkler system.

On one of the floors without this facility, the sole Industrial Conciliator in the South Island sits trying to put out fires he has little ultimate power to douse. His tremendously increased work-load has been recognised by the recent addition of a typist, but there is no Mediator south of Cook Strait, while the North Island enjoys the services of four Conciliators and three Mediators. ⊙

## SYDNEY:

## B. T. Brooks*

The Commonwealth Government in Australia acts within the limitations imposed upon it by the Constitution. Each of the heads of power in the Constitution has been the subject of litigation in the High Court and no power has been more litigated than the labour power found in section 51 (xxxv). By this grant of power the Federal Government is limited in its excursions into industrial relations to the prevention and settlement of industrial disputes by means of conciliation and arbitration. Clearly, the Federal Government is limited both as to ends and means. A further limitation lies in the fact that the labour power is one exercised jointly with the various States of the Commonwealth. There is, therefore, plenty of room for conflict between State and Federal laws dealing with industrial relations. Machinery does exist, it is true, for the resolution of conflicts between a State labour law and Federal labour law and section 109 of the Constitution lays down in express terms that where there is a direct conflict between a law of the Commonwealth and a State law then the Commonwealth law is to prevail. A similar proposition is enshrined in the Commonwealth Conciliation and Arbitration Act in the wording of section 65. Moreover, as has been reported in this column in an earlier issue of the **Journal,** the central tribunals in the industrial relations system in Australia have been asserting their primacy in clear terms.

What is revealed in the foregoing analysis is this: unlike New Zealand which enjoys a unified centralist parliamentary system the Australian federal system carries within it the seeds of complex conflicts ranging far beyond employer-employee disputation. Indeed the possible computations and permutations of industrial conflict in Australia are staggering and no comment on present trends and events is comprehensible without a constant reminder of the legal limitations on the Federal Government's labour power and the associated reality that the labour power of the central government is shared with the various States which in turn take a different approach. This complex political and legal background goes some way to explain recent events.

* **BRIAN BROOKS is Senior Lecturer in Law at the University of New South Wales.**



Thus, for example, when the nuclear warship Truxtun left New Zealand and entered Australian waters it found that the New South Wales government refused permission to the ship to use Sydney Harbour. The decision caused no apparent fuss in New South Wales although the Federal Government made disapproving noises. On the other hand the state government of Victoria granted permission to the ship and the Truxtun duly anchored in Melbourne with little noticeable enthusiasm or outrage from the people of Victoria and no great applause from the Federal Government. At the same time, of course, there was much talk of outlawing political strikes, an approach anticipated in this column in the last issue of the **Journal.** Yet for anyone with even the most rudimentary grasp of Australian labour and industrial law it is immediately apparent that the Federal Parliament would have the greatest difficulty in legislating upon **political** strikes for the very good reason that the power of the central government is expressly limited to the prevention and settlement of **industrial** disputes. It is difficult to resist the conclusion that a challenge would be made to the High Court should any legislation be brought down along these lines by the central government. Also, of course, industrial action will clearly follow any such legislation.

As evidence for the last forecast one need look only to the national Medibank strike. Put shortly, Medibank was a Labour Government welfare programme which the present Liberal Government is dismantling, contrary to a clear election promise. Instead of a free programme the scheme is now to be financed by a levy extracted in advance from all pay-packets. This the trade union movement saw as a compulsory wage-cut and issue was joined. In the event a national one-day stoppage was called and, predictably, both sides claimed victory. What makes lucid comment even more difficult is the position adopted by the various States some of which wish to retain Medibank in its original form and others which want its total abolition. It is not a distortion of the truth to say that confusion still surrounds the Medibank issue.

Equal confusion, compounded by State-Federal rivalry, is found in the disputes over cut-price petrol and the matter of aid to the secondary industries. In the former dispute the central actors are the ACTU (equivalent to the FOL) and its affiliates on the one side and the State and Federal governments. All States now enjoy access to cheap petrol through the ACTU owned and operated discount petrol stations. All, that is, except the most populous and industrially most highly developed State and that a State with a Labour Government — New South Wales. The reason? Well, it has to do with multiple registration of trade unions, a recent Court decision, a power struggle within a large union, speculation about the future of Hawke, the President of the ACTU and of the Australian Labour Party, and other factors. Clearly too byzantine a tale to unfold here but one which even on its face reveals the complexities of the Australian scene.

The question of government aid to ailing secondary industries raises the same questions. Thus the simple question is surely — which government? The answer is not simple, as the ship-building industry is discovering and the car industry may yet learn. Federal leaders take one view, State leaders another. Not surprisingly the public, including employers and employees, are confused. And the confusion continues as schoolteachers strike in Queensland to protest the dismissal of three teachers for allegedly smoking marijuana and a State Premier urges the Federal Government to use troops against people on strike (an enjoinder which the Federal Government refused to heed) and in New South Wales the traditional Labour Day March was cancelled for the very first time. The reason? Lack of interest. Yet the most recent issue of **The Bulletin** carried, in red lettering, the slogan "The Trade Unions are Parasites" and a certain prominent Federal Cabinet Minister promised to enact legislation to direct the Conciliation and Arbitration to pay attention to specified matters when reaching its decisions. Such legislation, it is suggested, is beyond the power of the Federal Government which, as we know, is limited. In Australia, as in New Zealand, it is clear that the law is a part of the problem rather than an answer. ⊙

## AUCKLAND:

### Syd. Jackson*

A sure sign that the Trade Union movement in Auckland is alive and thriving in its 101st year was demonstrated by the fact that for the first time in many years, almost all the positions for the Auckland Trades Council were contested.

The sole exception was the position of Secretary. The present incumbent, Peter Purdue, who is also Secretary of the Carpenters' Union, was returned unopposed.

This was some recognition of the fact that he had breathed life into the position. It was recognition also that he had done far more than was fair to expect of a part-time Secretary.

There were two aspirants for the position of President vacated by Sir Tom Skinner after 22 years.

Sir Tom had announced earlier in the year that his commitments as President of the Federation of Labour and as Director of the New Zealand Shipping Corporation gave him insufficient time to remain as President of the Council.

Andersen, who is also Secretary of the Northern Drivers' Union, and well-known as one of the Prime Minister's favourite bogey men, was one of the candidates for the Presidency. Apart from his considerable obvious abilities, Muldoon's constant ridiculous criticism of Andersen was probably one of his greatest electoral assets.

Opposing him was Jack Taylor, Secretary of the Electrical Workers' Union, present Executive member and Chairman of the Council's Education Sub-Committee.

Many observers saw them as reflecting diametrically opposed ideological viewpoints, and it was expected that the voting would clearly reveal this opinion. In the event, Andersen was elected by a clear margin.

Three candidates had been nominated for the Vice-Presidency. Because of their differing backgrounds, they were also perceived as representing particular functions within the Trade Union movement. Frank Barnard of the Freezing Workers' Union, was nominated by the Drivers; Paddy Lenaghan of the Watersiders' Union had been nominated by the Carpenters, while the seeming moderate in the bunch, Tom Morrow of the Clerical Union, had been nominated by the Plumbers.

Barnard was a clear winner, ahead of Lenaghan with Morrow a distant third.

However, Morrow gained some compensation by topping the poll for the Executive. Also elected were:

Eric Duncan (Plumbers).
Mike Jackson (Storemen-Packers).
Dave Clarke (Seamen's Union).
Jim Hewitt (Waterfront Workers).
Len Smith (Labourers' Union).
Jock Findlay (Boilermakers).
The unsuccessful candidates were:
Bruce Brown (Shop Assistants).
Dave Bates (Stevedores).
Connie Purdue (Clerical Workers).

The Disputes Committee consists of Peter Ritchie and Mike Jackson, with the President of course, being an ex-officio member.

With these results, the Executive could be considered to have undergone a great purification.

There is now a brand new President, as well as Vice-President. Only the Secretary and two former members of the Executive retained their places, although only one (Connie Purdue) was defeated in the ballot.

Immediately after the election, Bill Andersen was subjected to intense hostility from both Television and Radio, with their "reds in the bed" fears.

The fact that he had been elected by democratic process because of his undoubted talents seemed to be totally irrelevant.

As the Government is determined to go ahead with its ill-conceived and ill-advised industrial legislation, the Auckland Trades Council appears to have the dynamism that will be needed in the stormy days that lie ahead.

It is clearly more to the left than any Executive has been in the past, a necessary attribute if it is to cope with the Government's right-wing gyrations.

It is also younger, has a Maori member in Dave Clarke and is more representative of the key industries.

If there are any deficiencies, it may be a lack of representation from the Engineering Industry and the absence of a woman's touch! ⊙

* SYD JACKSON is a Field Officer, Auckland Clerical Union.



## WELLINGTON:

### B. H. Holt*

**JULY**

A series of emergency stopwork meetings for 10,000 shop assistants in the lower half of the North Island were organised by the Wellington Shop Assistants' Union during the first week in July. They were in response to a letter which Mr Gordon wrote in June to the N.Z. Retailers Federation and the N.Z. Shop Employees Association, outlining a tentative proposal of the Government Caucus Labour Committee to add items to the list of goods that could be sold outside weekday trading hours, under the Shops and Offices Act, 1955. The union argued to its members that the proposal could effectively cancel out the 1945 "Forty Hour Working Week" Act. They agreed to actively resist it, if necessary. Meanwhile, the Labour Department has "cracked down" on weekend trading by hardware stores in the Wellington area, presumably so that the Government will be able to test public reaction to their proposal.

When the car industry's 14 combined trade unions submitted their new wage claims on 2 July, the employers argued that the 10th Amendment to the Wage Adjustment Regulations debarred them from entering into conciliation, unless the unions could prove that exceptional circumstances had arisen since June 30, 1975 which had caused "substantial problems" to arise in the application of the award. Sir Thomas Skinner described these regulations (issued on June 17) on July 19 as an open invitation to unions to create "exceptional circumstances" by strike action and said that it was presumptuous of the Government and employers to interpret the regulations when this was a matter for the Industrial Commission.

The car workers responded to the situation by holding a series of two-hour stopwork meetings at the various plants during July. At Ford's Lower Hutt plant three other stoppages took place the same month, about a shift transfer of two toolmakers; whether coachworkers should wear new or washed gloves; and alleged offensive behaviour in front of women by two paintshop workers. The latter was a nine-day stoppage which may go down in the history of women in New Zealand trade unions as being one of the first in which women took the lead in a dispute. The paintshop employs 14 women, most of whom have worked at Fords from 2-15 years and they were supported by the rest of the 66 plantshop workers.

Firemen in Wellington worked restricted duties for seven days in July because the Fire Service Commission decided to stop payment from July 9 of a 6 per cent loading which they had received since last July. The union of Fire Brigade Employees argued that, in the absence of award negotiations, the wage freeze should apply to employers as well as employees.

Early in July the printers managed to get their claims to conciliation but their employers refused to discuss them owing to uncertainty as to the definition and scope of an "exceptional circumstance," and the council was adjourned until the end of the month. The printers held mass stopwork meetings over the next two weeks, and in the middle of July all newspaper journalists, except those in the Auckland province, stopped work for 48 hours to show their employers how they felt about the breakdown of their award negotiations on 25 June. "The Dominion," one of the worst hit papers, described the stoppage as the first major journalists' strike in New Zealand newspaper history. Its leading column commented that implementation was bungled and that strikes were "counter-productive." "They can be understood in some retaliatory situations," it said, "but not in the negotiation of industrial awards."

In contrast to this attitude, and the journalists' action, when 500 Avalon broadcasters wanted radio and television broadcasts of the Olympic Games to be "blacked-out" to persuade the Government to negotiate with the P.S.A. on the proposed re-structuring of broadcasting, 380 Wellington-based broadcasters representing 950 workers in the capital decided not to support them.

The drivers' conciliation council, which was formally established on July 8, failed to resume its sittings in Wellington on July 27 because employers refused to talk while a stoppage was in progress at Firth Industries, Hamilton. It resumed on July 28, watched by 50 spectators from other unions and was adjourned until August 9. In the meantime, the Federated Cooks and Stewards Union members stopped work on July 21 to protest at the failure of the employers to negotiate with the printers, journalists,

* B. H. HOLT is a Staff Training Officer in the Public Service.

drivers and rubber workers (Canterbury). The Seamen's Union held a stoppage to show support for the FOL in its negotiations on behalf of the drivers on July 27.

**AUGUST**

When the drivers' talks broke down in August, drivers in Wellington, the Wairarapa and Levin refused to haul trailers or transport containers from August 12. Drivers in other centres in the region took the same action the next day. In Hawkes Bay it was found that many rural operations could not survive without trailers and by August 16, eight firms there had closed down because 18 men had been sacked and 175 men had walked off their jobs in protest. On August 18, the Government passed through Parliament an Industrial Relations Amendment Bill which more narrowly defined a strike to include reduction of normal work output and gave employers the power to suspend non-striking workers without notice where work was not available to them during a strike. To avoid charges that the wage regulations were unfair, it also introduced a price freeze.

On August 19, the union side, led by A. J. Neary, walked out of award negotiations for electricians working for electrical supply authorities when the employers suggested an adjournment. The union claimed that a 3.5 per cent pay rise was needed to bring wages to the same rate being paid to similar workers employed by the state, and that these rates had fallen behind for the first time in seven years. The union's members decided, in breach of the Industrial Relations Act (which requires 14 days' notice of a strike in an essential industry) that they would do no "live-line repairs" from August 24 in their areas (North Island, Otago and Southland).

Frank Thorn, Secretary of the Wellington Clothing Workers Union, sent the following telegram to the Prime Minister on August 20:

"As in your belated and facile price freeze you have seen fit to give a blank cheque to the pirates of the women's fashion industry to further plunder the long-suffering women of New Zealand, are you prepared to unfreeze the wages of the garment industry or do you consider $52.43 to be a sufficient wage?" The New Zealand Combined Apparel and Related Trades Union was due to go into conciliation on 23 and 24 August in Auckland but Frank Thorn cancelled the meeting in order to attend the meeting of the FOL Executive called to discuss the special conference on wages being requested by Wellington Trades Council. Sir Thomas Skinner also cancelled his top-level visit to the South Pacific with Parliamentarians.

Agitation among State servants at the wage freeze and cuts in spending again became prominent during August. The N.Z. Police Association's Wellington Branch called a special meeting on August 18 to discuss the need for pre-1970 margins between ranks to be restored and problems over leave arising from pressure of work.

At the PSA's annual Executive Council meeting, which began on August 10, a report was adopted affirming the importance of effective price control and the protection of members' living standards. The Conference wanted the immediate inclusion of an adjustment from the April Half-Yearly Survey and an early survey of Ruling Rates for tradesmen. They also reaffirmed their belief in the responsibility and right of public servants to express their views as individuals on matters of public interest.

Opening the Post-Primary Teachers' Conference, Prime Minister Muldoon described their Association as "shrill" and "hysterical" and "not the most balanced of pressure groups." Later the delegates voted 60-40 in favour of stoppages if the Government failed to give a firm commitment that day relief would be restored. Delegates at the Kindergarten Teachers' Conference in Wellington on August 24 voted in agreement with the motion that they tell their members not to apply for any jobs next year if a scheme giving preference for new jobs to those already in the service was introduced. As a result of cuts in Government spending, 110 first year teachers were still looking for permanent jobs in August.

After the arrival of the nuclear-powered American cruiser USS "Truxtun" in Wellington Harbour on August 27, the port's unions withdrew all labour. Mr Gordon, Minister of Labour, said the protest was taken "at the expense of countless mothers and children" (because school holidays were in progress) and promised that legislation would be introduced shortly which would make political strikes illegal.

The month ended on one happier note when the North Island, Otago and Southland Electrical Workers Union and electrical supply authorities (which are subsidiaries of the state) agreed to make a joint application on wages to the Industrial Commission.

**SEPTEMBER**

On 2 September, work resumed in the port of Wellington after the "Truxtun" had left; a spokesman for the unions affected saying that the strike had been industrial, not political. Other people entered the debate, some insisting that all strikes are political, some saying that a clear distinction could be difficult to draw. On 3 September Mr Gordon de-registered the Wellington Boilermakers Union for constant disregard of the provisions of the Industrial Relations Act.

Once again the FOL reported that it had not been consulted over this decision. Fortunately, by the time the FOL's Special Conference on Wages was held on 15 September (the third this year, previous ones being held about five years ago) the long-sought breakthrough in the award negotiations had been achieved. In the fifth round of meetings on the drivers' award, agreement to a 3 per cent rise on wages and improved conditions for drivers was reached; and for Air New Zealand cabin staff a 4 per cent across the board wage rise, with 7.5 per cent for chief pursers. The Conference voiced its view on the wage and price freeze, and on the threat of penal provisions in industrial legislation. It also agreed that no work normally done by Wellington boilermakers (150 members) should be done by members of other unions, which means that the Government's action in this area could be ineffective.

During September, while the Industrial Relations Council studied drafts of the Industrial Relations Amendment Bill No. 3, which provided penalties for strikes, and ballots on voluntary unionism, engineers, carpenters, car workers and others held stoppages in protest at failure to reach agreement in their award negotiations. On 22 September the Industrial Commission decided that an exceptional circumstance did exist in the case of the electrical supply workers — the employers' representative offering a dissenting view, however. But the odd circumstances of this case make it an unhelpful one to most unions, in that the claim was based on parity with state servants. Co-incidentally, in September mass meetings of Wellington and Hutt Valley state servants were held calling for the immediate implementation of the half-yearly and ruling rate surveys and a return to the principles of fair relativity in wage-fixing. Post Office and Railways staff later decided by secret ballot to take direct action if the Government did not authorise a ruling rates survey this October. No further proof should be needed that the claims of a Mr Wight (mentioned in the last issue of this Journal) are without foundation, however lucidly they may be presented.

One union leader has been reported as saying that, in terms of union involvement, there has not been as good a year as 1976. Considering the effort I have needed to write this column in such a way as to give due notice to events of importance, I can only agree. ⊙

* * *

**BOOK REVIEW**

**The First Forty Years 1936-1976** by G. J. Ogilvie. New Zealand Insurance Workers Guild Industrial Union of Workers, Wellington, 1976.

The above book has just been published by the Insurance Workers Union and deals with the history of that union over the past forty years. It is a book that will be of great interest to all persons not only interested in the insurance industry but also in the development of white collar unions in New Zealand. As there is little written about white collar unions in this country, this book will make a valuable contribution to the greater understanding of this sector of the trade union movement.

Copies available from:

**The N.Z. Insurance Guild Industrial Union of Workers, P.O. Box 1762, Wellington.**

**Price $2.00 a copy.**