New Direction for Industrial Chaplains in New Zealand

by

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The Rev. Canon Bill Wright, senior industrial chaplain on Teesside, U.K., spent eleven weeks in New Zealand this winter as the guest of ITIM (Inter-Church Trade & Industry Mission). His purpose in being here was to share insights from his own industrial involvement in the U.K., and to enable ITIM to review its own work and lay plans for the future.

Bill Wright has spent the last 17 years as industrial chaplain to the 10,000-strong ICI complex at Billingham, Teesside. The main thrust of his work there has been the improvement of job relationships — within groups (such as supervisors) and between groups (such as management and unions).

The independence of the chaplain’s position has enabled Bill to relate to staff at all levels and get to grips with work concerns people cannot always share with another within the company structure. Becoming known, building relationships, and establishing trust takes time but after many conversations a chaplain can often pinpoint widely felt issues.

At such a time he can discuss with a company (without dividing the internal con- fidences) appropriate initiatives that might be taken, and Bill Wright’s own work has included, for example, the establishment of groups for supervisors to share and make plans around the job challenges, and similar groups for various levels of management as well as for shop stewards.

A second stage in relationships develops at the inter-face between groups — a foreman communicating with his workers, management with foremen, or staff in one department having to relate to staff in other departments. Bill Wright has used his independent status as well as his acquired skills in group dynamics to establish a wide variety of groups committed to sorting out organisational problems together.

The success of such groups, however, depends on the participants themselves developing skills in working with others. In British industry, as well as in New Zealand, such skills are hard to find, managers are appointed for their technical expertise, not for their ability in working with people. Management styles are still, in most instances, too authoritarian, with the result that “us and them” attitudes are fostered, confrontation is the norm rather than the exception, and effective joint problem-solving is a rare exercise.

Because of the necessity for such skills the Teesside Industrial Mission team, with the assistance of the University of Durham and local training staff in industry, initiated a variety of courses to train people in the basics of communication, leadership, teamwork, and joint decision-making.

Courses were also run for shop stewards on any subjects they liked, e.g., economics, industrial relations legislation, or handling meetings. The Teesside experience has been that when unions are well established, well respected, well funded, and the leadership well experienced, stable industrial relations have resulted. Whether current legislative moves in New Zealand will have the same effect is debatable.

The Teesside chaplains have also initiated many “frontier groups” in which appropriate people have come together to consider and take action on such issues as unemployment, redundancy, technological change, the gap between school and factory, and faith and work.

**CANON WRIGHT’S NEW ZEALAND VISIT**

Two of New Zealand’s full-time industrial chaplains trained on Teesside from 1970-73 and at their suggestion ITIM nationally invited Bill Wright to visit. Bill arrived in Auckland on 30 June and commenced a busy schedule of seminars with industrialists, union leaders and members, industrial chaplains, church leaders and lay people.

He appeared as guest on TV-2’s Friday Conference to discuss worker participation; visited many major industries from Whangarei to Invercargill; and met with the Minister of Labour and senior Department of Labour officials in Wellington.

A feature of the trip was to interview specific companies to explore the management (in sessions lasting anything up to 16 hours) ways of developing greater teamwork within the organisation.

As a result of such interviews with many companies to explore the management ways of developing greater teamwork within the organisation.

As a result of such visits it was found that those which employed 500 people, many of the highly skilled, had established programmes of seven to two meetings at which the organisation head, along with 15 top sectional leaders, are meeting to discuss their own methods of communicating and working together. An ITIM staff member is acting as an observer at these meetings to pinpoint statements or actions that help or hinder the formation of effective relationships.

The meetings are unstructured and the service that arises directly out of their interactions as members of the group learn to identify tasks and seek consensus decisions about the handling of them.

**REFLECTIONS FROM A BRIEF VISIT**

Without any way suggesting that eleven weeks is sufficient to form a comprehensive assessment, Bill Wright made these observations about the New Zealand industrial scene prior to departure:

- Although industrial development here is comparatively small, New Zealand shares with bigger companies in the U.K. the same problems of job relationships and technological change.
- Rituals by traditional unions and employers indicate a quality of aggression in industrial relations.
- The currently proposed industrial legislation has heightened the conflict, especially the issue of seeking change in the balance of power.
- Very few vocational programmes are encountered in trade union offices.
- Little evidence of systematic training for trade union leaders and job delegates was found.
- Trade union leaders dissipated a lot of valuable time collecting union fees.

> Too much emphasis was given to the technical ability of managers and not enough to “man-management” training.
> Companies often communicated in pieces of paper rather than face to face.
> Unionism amongst white collar workers and managers is not yet evident.
> Little cross-fertilisation of ideas between companies exists, except for the work of Productivity Groups.
> A few companies had established very good worker participation through Productivity Groups.
> Immense interest by managers and union alike had been shown in greater degrees of participative management.

There is scope for work to be done to make a smoother transition from school to work for young people.

Many companies are willing to accept an industrial chaplain as a change agent.

There is much hopeful evidence that New Zealand is still very much at first base in industrial relationships and could build very good models of effective teamwork.

**NEW DIRECTIONS FOR ITIM**

Although industrial chaplains now visit more than 130 industries around New Zealand much work needs to be done in extending their role. Very often chaplaincy has been “sold” as a domestic counselling and welfare service, and while valuable work has been performed in this area, there is an inappropriateness about an industrial chaplain having a domestic agenda.

In actual fact from the very beginning managers and shop-floor workers have freely shared with New Zealand’s industrial chaplains the concerns that relate to their job relationships. Because of the “domestic” image, however, it has been difficult for a chaplain to become included as a person who might have some involvement with a company’s job relationships agenda.

Not all chaplains, of course, have the skills to contribute in the latter way. Many are parish clergy who do only a few hours each week in industry training. It will be necessary to give them competence in such skills as process observation or group dynamics. A company will rightly suspect amateurs, but in many cases the companies...
THEME: INDUSTRIAL LAW CASES

**HOLIDAY PAY, ACCRUES DURING ILLEGAL STRIKE: SUPREME COURT UPHELD BY COURT OF APPEAL**

*Hellaby Shortland Ltd v Weir*, Court of Appeal, Wellington, 30 April 1976 (C.A. 89/75), McCarthy P., Richmond and Cooke J. J.

"Lord Upjohn recently observed in the English House of Lords that "... Factory Acts are Acts passed for the benefit of the workers and ought to be construed as an 'industrial charity.' These remarks were, of course, made in the context of English legislation, but they have been adopted and repeated in the New Zealand Court of Appeal, by Mr Justice Richmond, with respect to the Factory Act 1946 of New Zealand, Richmond J., in his opinion by McCarrick P, and joined in a separate concurring opinion by Cooke J., thus upheld the decision of Mahon J. in the Supreme Court that striking workers are entitled to statutory 'holiday' pay during the statutory strike period. (Weir v Hellaby Shortland Ltd (1975) 2 NZLR 204, noted at (1976) NZJIR 19).

Appellant Hellaby, Defendant in the Court below, argued that statutory holiday pay, which accrues under ss 26 and 28 of the Factory Act 1946, is payable only to workers who actually worked during the fortnight of the holiday in question, i.e. workers who were in the factory doing physical labour during that fortnight. The Appellant argued that the phrase "Any person who is employed in any factory" in s 28 (1) can only refer to persons actually performing work in the factory. The unanimous Court of Appeal did not accept that submission, but agreed with Mahon J that "Any person who is employed in any factory" in s 28 (1) refers to the status of the contract of employment, and not actual labour. If a contract of employment subsists then when a worker is sick or on strike (remembering that the employer may elect to treat the breach as fundamental and announce the termination of the contract of employment), the statutory holiday pay is due and payable.

The Court acknowledged that the verb "employ" had been used in two senses in the Factory Act, and gave the example of s 28 (2) where the unmodified verb could only refer to actual physical presence and labour. The Court was more influenced, however, by the use of the adverb "actually," used in s 28 (6) to distinguish the physical sense of employment from the contractual sense, and Richmond J said "I attach great importance to this change of language, as it occurs within s 28 itself." In addition to the $48,000 judgment, Appellant was ordered to pay $539 towards Respondent's costs.

**"INDIVISIBILITY OF WEEKLY WAGE" DOCTRINE NOT APPLICABLE**


Disputes over applicability of wage provisions in awards can fall into one of only four categories:

1. Conflicts between two clauses of the same award;
2. Conflicts between clauses in two different awards;
3. A conflict between a clause in an award and coverage by no award at all; and
4. A conflict between coverage of an award on one hand and the status of an independent contractor on the other.

This case fell into the third category, as the Inspector claimed that the worker was subject to successive New Zealand Clerical Workers Awards for the relevant period and due arrears of wages from July 1971 to May 1974. Defendant employer (hereafter Heylen) claimed that the worker was subject to no award. Ironically, Heylen did not suggest that the worker was really an independent contractor, and therefore exempt from awards and collective agreements, even though a similar employer recently won a similar case. See *Market Investigations Limited v Minister of Social Security* (1969) 2 Q.B. 173.

Traditionally, the questions posed by disputes in this third category, as well as disputes in the first two categories, are resolved by applying one of two conflicting tests: the "indivisibility of the weekly wage" test or the "substantial employment" test. In choosing between the two tests, Jamieson J. noted, reference is usually made "by considering the facts" of individual cases. Cornish J. in *International Paints of New Zealand Ltd v Hopper* (1948) NZLR 240, 256 to ascertain which of the two doctrines might be applicable.

Jamieson J then recorded that Heylen submitted that the worker concerned allocated 20% per cent of her time to tasks described in the award, while the employee herself estimated that her clerical duties, as defined in the award, might take up 37 per cent of her time.

By both estimations, the clerical work was regular, continuous, not incidental or of an emergency nature, and quantitatively far in excess of the principle "de minimis non curat lex." Therefore, in the ordinary case, as Cornish J. would have ruled, the "indivisibility" rule should apply, and the worker should be covered by and be paid by the relevant award.

However, in the instant case, the coverage clause of the award itself excludes application of the "indivisibility" principle; Clause 2 (a) of the Clerical Workers Award reads as follows:

"By way of conclusion of this award the term 'clerical worker' shall comprise all workers employed wholly or substantially (at various types of clerical work)" (emphasis added) 73 B.A. 1106.

The Court of Appeal, therefore, concluded that the plaintiff had not established that the worker was so "wholly or substantially" employed. The "indivisibility" test does not apply, the worker concerned is not covered by the award, and the plaintiff's action under s 158 of the Industrial Relations Act 1973 must fail.

The Court did not specifically say whether they accepted or rejected the worker's estimate of 37 per cent of her time being given to clerical work. If they did accept...