meaning being, for the purposes of interpretation, the intention. It is not permissible to distort the intention of the parties and substitute the presumed for the expressed intention. The ordinary rules of construction must be applied, although by so doing the real intentions of the parties may in some circumstances be defeated. Such a course tends to establish a greater degree of certainty in the administration of the law.


Although the Court is aware that collective agreements are drawn up by laymen with the best of intentions but very little skill in the art of craftsmanship, that fact will not cause the Court to depart from

Notes on Industrial Legislation

EQUAL PAY AMENDMENT BILL

The Equal Pay Amendment Bill, which amends the Equal Pay Act 1972, is primarily designed to implement the equal pay provisions relating to the enforcement of equal pay. Clause 3, which amends section 4 of the Equal Pay Act, provides that where an instrument provides for the implementation of equal pay, the employer, on request of the employee or of any group of an instrument that is covered by the instrument, for example, an award or agreement, must supply all relevant information to enable the employer to enforce the instrument.

Clause 4, which amends section 5 of the principal Act, provides that where the rate of remuneration for females is fixed as a percentage of the rate for males, and where in respect of the rate for males increases, the rate for females will be increased by the percentage by which the male rate was increased. Clause 5 (3) which amends section 13 (1) of the principal Act, in respect of any year which the period within which proceedings for the recovery of equal pay entitlements may be taken. This provision now brings the Equal Pay Act into line with the Industrial Relations Act, which is the recovery of wages to be made within a period of 6 years.

Clause 6 (2), which amends section 15 of the principal Act, provides that all employers must now keep records of particulars of all equal pay determinations made by the employer. Clause 7, which inserts a new section 17 in the principal Act, requires employers to give to employees written notice of the purposes for which the purpose of implementing equal pay, and of all other increases in pay granted before the time when equal pay has been fully implemented.

While these amendments will go some way to ensuring an improvement in the enforcement of equal pay, the problem of ensuring that an existing inspectorate to check the records remains. The onus of ensuring that the legislation is being implemented still primarily remains with the individual female employee.

INDUSTRIAL RELATIONS AMENDMENT ACT 1976

This short amendment to the Industrial Relations Act passed in August alters the existing legislation in three ways. First, section 125 is amended to include within the definition of a strike a reduction in the normal output or normal rate of work; secondly, the intent requirement of section 126 has been deleted, which has the effect of including stoppages over non-industrial matters not directed towards, which includes the definition of a strike; thirdly, section 128 relating to suspension of non-striking workers has been amended to enable an employer who as a result of a strike is unable to provide work for other workers in his employment and who are not on strike, to suspend those workers without prior notice. Previously in such a case the employer had to give 7 days notice of such a suspension.

INDUSTRIAL RELATIONS AMENDMENT BILL (No 3)

This amendment Bill makes several important changes to the Industrial Relations Act. First, it makes several amendments to procedural and machinery provisions in the principal Act; secondly, it amends and inserts new provisions relating to union membership; thirdly, it provides new penalty provisions in the event of a strike or suspension.

It is not intended in the note to go into the provisions of the Bill in detail because the Bill is presently before the Labour Bills Committee, the hearing on which was adjourned for the duration of the session. The Labour Bills Committee has submitted an extensive submission on the Bill, and it is also intended in the next issue of the Journal to provide a detailed account of the Bill by that time that will have become law.

The matters which have caused interest in the Bill have been those provisions relating to union membership and penalties. The provisions relating to union membership include an amendment to section 103 of the principal Act which now requires unions to enforce the clauses in their awards and agreements relating to the unqualified preclusion clause, and the supply of lists of employees by employers. Whereas in the past the Department of Labour could undertake the enforcement of these clauses, now they are expressly prevented from doing so.

The Bill also provides that if an employee does not demand the return of a copy of the Bill, has also been inserted under clause 16 of the Bill. This new section enables the Minister of Labour by notice to the Secretary, and after consultation with the Federations of Labour, to require the return of documents of adult workers bound by an unqualified preference clause, so that they can determine whether or not the employee wishes such a clause to continue in their award or agreement. The Minister is not required to give any reason for so requesting such a ballot to be taken.

The new penalty provisions in the Bill provide penalties for non-observance of dispute procedures and decisions of the dispute committees (s 124B); penalties for a strike or lockout over non-industrial matters (s 124B); insertion of an unannounced work clause in awards or agreements in industries where there is a record of frequent strikes of lockouts (s 124C); an order by the Industrial Court to resume work where the public interest is affected by a strike or lockout (s 124D); penalties for strikes or lockouts in essential industries (s 125B); and penalties for strikes or lockouts that affect export slaughterhouses (s 125A).

MARGARET WILSON

BOOKS


This book will be of interest to all persons interested in the Public Service Association. It includes speeches delivered at the conference by J. P. Lenihan on “The Association in Perspective,” Doria Macdonald on “The Role of the Unions in New Zealand,” Wolfgang Rosenbaum on “Overseas Investment in New Zealand,” N. S. Woods on “Trade Unions in Modern Society,” and Paul Munro on “Civil Liberties and the Public Servants, a Province for Union Action.”

Inquiries about obtaining copies of this book should be made to the P.S.A.


The above three occasionals papers on industrial conflict by Don Turkington have recently been published by the Industrial Relations Centre. They will be of great interest to all persons concerned with this aspect of industrial relations. Copies of these papers may be obtained by writing to

Industrial Relations Centre, Victoria University of Wellington, Wellington.
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It is always embarrassing to find a writer whose work one has come to respect, fall below his accustomed standard, but this history of the Wellington Drivers' Union gives the impression of having been written and published in a hurry. The printer must bear his share of responsibility, for the well-selected illustrations are badly reproduced, the inking of the pages is uneven and often inadequate and the unnecessarily small type-face inhibits prolonged reading. Proof-reading seems to have been done fitfully, spelling mistakes have remained uncorrected or undetected, especially where proper names are concerned (e.g. Hanslin and Hannafin: Allan and Allen Orr, who becomes G. Orr in the photo caption), and there is total confusion and inconsistency in the use of capital letters and apostrophes (e.g. Secretary's instead of Secretaries' on page 20).

As Campbell says in his introduction, the Wellington Drivers' Union was a rather unremarkable small, undemocratic, arbitration-system union for most of its history. He has found it difficult therefore to inject much excitement in the early chapters, and the narrative only comes to life with the 1951 waterfront dispute and the union's subsequent history. At this point too, Campbell largely abandons the chronological treatment, with its recital of what transpired at each monthly or quarterly meeting, in favour of a subject approach - the 1951 dispute, the struggle to rebuild the union after '51, relations with the FOL, internal re-organisation and dissenion, and case studies of recent disputes. The terminal point is 1971 (the list of presidents and organisers stops in 1970), though the cover photo refers to a more recent incident.

In the absence of footnotes or references, the author's statements have to be taken on trust. One minor query concerns the name of the union's first secretary in 1899. Campbell says it was T. M. Wilford who was (this is not mentioned) a prominent Wellington lawyer and ex-M.P. He re-entered Parliament in December 1899 and later became a Cabinet Minister. I have not seen the union's minute books but newspaper reports at the time of the union's foundation say that Wilford was appointed honorary solicitor to the union (New Zealand Times 11-9-1899) and give the secretary's name as Moore (New Zealand Times 9-8-1899). Lloyd Moore is in fact mentioned as secretary on page 15 of the book, but his name does not appear in the list of secretaries on page 109.

More important, and surprising in view of Campbell's background as an economic historian, is his failure to anchor the union's story more firmly in the economic and political setting of New Zealand. For instance, in describing the union's difficulties in renewing its award in 1932-33, he might have explained that the government had abolished compulsory arbitration and that henceforth awards lapsed unless agreement was reached in conciliation. On a more general plane, I would have expected some discussion of the impact of the motor car on New Zealand's transport industry, and some attempt to relate the growth of militancy in the union to economic changes in the industry and not merely (as in Chapter 11) to changes in its internal structure.

As Campbell rightly says, the Wellington Drivers' Union stands in the forefront of New Zealand militant unions. So does its sister union in Auckland. Why? Is this primarily the result of a democratic internal structure, or of good leadership by such men as Chip Bailey, Ken Douglas and (in Auckland) Bill Andersen? And to the extent that leadership is important, is it relevant that these men were and are Communists? Or can we find a more fundamental explanation of the rise to prominence of the drivers' unions in the postwar expansion of the road transport industry at the expense of rail and sea transport, and in the growing concentration of ownership and increasing size of firms on the employers' side? What, moreover, has been the impact of high membership turnover and of the postwar influx of Maori and other Polynesian members?

Campbell is aware of these factors - he skims over them lightly in two pages of Conclusions - but he has deliberately refrained from giving us, for the time being, what he calls "a more theoretical or analytical treatment." This is the second time that he has written on the history of the Wellington Drivers' Union, for a smaller, very attractively produced booklet with the same title ("The Only Weapon") appeared last year. Let us hope that in his third attempt he will answer the more fundamental questions raised in the present volume.

BERT ROTH
The Industrial Relations Society of New Zealand Incorporated

was founded in 1974 by a group of people drawn from management, government, trade unions, the legal profession and the universities, who saw a need to improve communications among those working in all areas of industrial relations and to promote a wider understanding of industrial relations problems and practice in New Zealand.

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