

## The impact of the Remuneration Act, 1979-1980

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*This article outlines the history of the Remuneration Act and Regulations, 1979-80, and explores their immediate economic, industrial relations, political and constitutional implications. It is argued that the Government introduced the Act to facilitate its manipulation of the economic, political and industrial relations systems. Instead, because of their nature and the way they were applied, the Act and Regulations challenged many of the principles on which these systems are based. This provoked reactions which ensured that the Act not only failed to achieve the Government's goals, but proved to be counter-productive.*

The *Remuneration Act* deserves consideration. It was ushered into the living rooms of the nation by the Prime Minister himself; it provoked the general strike of 1979 and prolonged the 1980 Kinleith dispute; it stimulated the first period of intense conflict between the Government and unions in New Zealand's history which did not leave the union movement weakened and demoralized; it gave the unions two causes for celebration in one year.

### A Brief History

On 6 July 1979 the Federation of Labour lodged with the Arbitration Court an application for a minimum living wage order in terms of the *General Wage Orders Act, 1977*. On 24 July, before the application had been heard by the Court, the Prime Minister, Robert Muldoon, announced, in a simultaneous television and radio broadcast, that the Government intended to repeal the *General Wage Orders Act*, issue a general increase of 4.5 percent and empower itself to regulate specific wages and conditions. The *Remuneration Act* was introduced into Parliament on 27 July and became law on 10 August. Under it, regulations could be issued for two purposes: to make general adjustments to wages and to set wage rates and conditions for specific groups of workers. Two *Remuneration (General Increase) Regulations* were issued under the Act. The first provided for a 4.5 percent general increase effective from 3 September 1979; the second, a four percent general increase from 1 August 1980.

On four occasions Remuneration Regulations were threatened or used to intervene in award settlements. The first involved the general drivers' award. After three months of negotiations broken by strike action, the New Zealand Drivers' Federation and the Road Transport Association reached agreement on an 11 percent basic wage increase with additional allowances. Before the agreement was finalized, the Prime Minister warned that the Government would issue Remuneration Regulations to reduce the basic increase to 9.5 percent and would ensure that the employers could not pass the settlement on in increased charges (foreshadowing the *Commerce Amendment Bill* introduced on 18 September 1979). The Federation of Labour responded by calling a general strike on

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20 September. After four days of uncertainty following the strike, a suggestion from the Minister of Labour, Jim Bolger, that the case should go to arbitration was accepted by the drivers. The Government undertook to accept the Court's decision rather than issue Remuneration Regulations. On 5 October the Arbitration Court announced an award which gave the drivers virtually what their employers had conceded a month earlier, but in a different form.

The second intervention was the issuing without warning on 12 October of the *Remuneration (Auckland, Canterbury, Westland and Hawke's Bay Bulk Freight Forwarders (Stores) Employees Award) Regulations 1979* (referred to here as the freight forwarders' regulations). The primary purpose was to alter an agreement, reached early in October after sporadic industrial action dating back to December 1978, for a new allowance of \$6.40 per week for the handling of dangerous chemicals. The rest of the award was due to be decided in conciliation on 29 October. The Regulations pre-empted this, establishing basic increases in the award at the trend rate for the wage round – 10.4 percent. The chemical handling allowance was reduced to \$1.80 per week. After initial protests the Federation of Labour decided on 25 October not to take further action in response to the reduction of the allowance, and the freight forwarders themselves finally accepted it in November 1979.

The third intervention came on 26 February 1980 with the signing of the *Remuneration (New Zealand Engine Drivers, Boiler Attendants, Firemen and Greasers Award) Regulations 1980* (referred to here as the engine drivers' regulations). Again these followed bouts of direct action over a period of several months, this time in support of a registration allowance. The Regulations prohibited the introduction of new provisions into the award, thereby preventing registration allowances from being included. The level of wages for the award was not set by regulation.

The final use of Remuneration Regulations to alter a wage settlement was the *Remuneration (New Zealand Forest Products) Regulations, 1980* (referred to here as the Kinleith regulations) which applied to all unions at the New Zealand Forest Products mill at Kinleith, Tokoroa, except the pulp and paper workers. After eight weeks of strike action, the company had agreed to the combined union claim for parity with rates paid at the Tasman Pulp and Paper Company's mill at Kawerau. The 20.5 percent increase which this gave to Kinleith workers restored relativities lost when Tasman workers' rates moved ahead of Kinleith's in the 1978-79 wage round. The Government objected to the size of the proposed increase, arguing that the combined unions should have parity with pulp and paper workers who had settled for 18 percent in January 1980. Accordingly, regulations were signed on 3 March which gave the combined unions an 18 percent increase. The strike continued with strong support from the Federation of Labour and other unions until the Government agreed to withdraw the regulations. On 26 March, the *Revocation of Remuneration (New Zealand Forest Products) Regulations, 1980*, were signed, restoring the settlement to that reached on 24 February.

As one of the conditions for the withdrawal of the Kinleith regulations, the Federation of Labour agreed to take part in tripartite wage policy discussions which began on 24 April. During May, the Federation of Labour and the Combined State Unions initiated a campaign in defence of living standards, demanding a restoration of regular general wage orders, an immediate cost-of-living adjustment and the repeal of the *Remuneration Act*.

The tripartite talks produced an interim accord for the 1980-81 wage round on 6 August. In return for a 'reasonable' wage settlement in the round, the Government agreed that the *Remuneration Act* would be repealed and the Arbitration Court could hear a case for a general cost-of-living adjustment to wages. The *Remuneration Act Repeal Bill* received its first reading on 14 August 1980, and, after a nationwide television and radio broadcast by the Prime Minister, announcing the reasons for the Act's repeal, the *Remuneration Act* was signed out of existence on 4 November 1980.

Erratum Volume 7 Number 1

page 3 Third last line

After "to" and before "fuel"

Insert

"prevent severe erosion of the real value of wages  
but not enough to"

### The *Remuneration Act* as an Instrument of Wages Policy

All New Zealand governments since 1971 have adopted a variety of wage strategies to curb inflation (Martin, 1981, p.5) and to control the wage fixing process (Walsh, 1979, pp.13 and 15). Direct wage controls were used between 1971 and 1977. There was a return to a general wage order system and freer bargaining between 1977 and 1979. This was abandoned in favour of a policy of selective intervention enshrined in the *Remuneration Act*, before tripartite talks were tried in 1980 and 1981 (Martin, pp.5-7). This article considers the *Remuneration Act* in this context, leaving aside the question of whose economic interests the Government was seeking to serve by the Act.

The Minister of Labour's speeches during August 1979 reveal the pragmatism of the Government's approach. Bolger rejected a system in which the Government played no role in wage fixing as inoperable in New Zealand because the protected sector of the economy could pass on wage increases but the export sector could not. At the other extreme, the Government had lost faith in wage controls also. Between 1971 and 1977 these had compressed margins for skill, distorted relativities, hardened attitudes between employers and workers and by 1976 contributed to the highest level of industrial activity for two decades. Wage controls were seen as inflexible, and capable of evasion. Accordingly, the Government had lifted controls and reintroduced the general wage order system in 1977, on the understanding that wage bargaining would be "socially responsible". But by 1979 it was disillusioned with this policy too, because it believed that many unions were obtaining excessive wage settlements or receiving double compensation for inflation.

Through the *Remuneration Act*, the Minister said, the Government was looking for a different path to "responsible free wage bargaining", which would encourage the settlement of wage disputes without industrial action, at levels consistent with the interests of the economy and the community, yet enable the Government to intervene if this did not occur.

From the outset the Government said that it was possible that the *Remuneration Act* would be an interim measure, the duration depending on the outcome of talks it hoped to hold with employers and trade unions about new methods of wage fixing. This essentially pragmatic approach helps to explain why the Government was prepared to abandon the Act in 1980, in exchange for tripartite wage talks.

There were two wage fixing components to the *Remuneration Act*. The first was provision for the establishment of general increases by regulation; the second the introduction of a policy of selective intervention in wage fixing. Direct government determination of general increases is not new. Economic Stabilisation Regulations provided wage orders in August 1973 and February 1974, as did Wage Adjustment Regulations from 1974 to 1977.

The catalyst for repeal of the 1977 general wage order system was the Federation of Labour's application for a minimum living wage order. Government members expressed fears that this would lead to more unemployment, a more rigid labour market and massive wage rises. They asserted that the Arbitration Court was an inappropriate forum and the general wage order an inappropriate mechanism for dealing with the needs of low income earners.

Avowing its continued faith in the Arbitration Court as an institution for resolving industrial disputes, the Government removed the general wage order function from the Court. Under the *Remuneration Act* the Government had absolute power to decide whether to provide for a general increase in rates of remuneration. No criteria were established for determining the timing or level of any increases. The system seemed to give the Government both flexibility and control. In deciding the level of general increases, it could grant just enough to fuel inflation. This suited the Government's "fine tuning" approach to the economy. When repealing the *Remuneration Act*, it therefore ignored union pleas for a restoration of the general wage order system, and retained the right to

issue general increase regulations under the *Economic Stabilisation Act, 1948*.

This raises the question whether the second component of the *Remuneration Act* – the provision empowering the Government to alter particular wages and conditions – was either new or necessary, given the existence of the *Economic Stabilisation Act*. The policy of selective intervention predated the *Remuneration Act*. In April 1979 the Minister of Labour threatened to cancel an agreement giving freight forwarders an allowance for handling dangerous chemicals, because twelve months had not elapsed since the previous award. The Government also twice issued regulations under the *Economic Stabilisation Act* to alter awards (*The Economic Stabilisation (Meat Processors' Packers' and Preservers' Award) Regulations, 1978* and the *Economic Stabilisation (Remuneration of Sea-going Engineers) Regulations, 1979*). This suggests that Section 4(4) of the *Remuneration Act*, which enabled regulations to be applied to specific groups of workers, may have been unnecessary. But, in fact, these Economic Stabilisation Regulations probably exceeded the powers given the Government in the *Economic Stabilisation Act*. As Lance Adams-Schneider said during the debate on the *Commerce Amendment Bill*:

The advice I have received . . . is that the *Economic Stabilisation Act* is a measure that the Government can confidently use . . . to introduce regulations for price freezes, wage controls and other facets of stabilisation over a broad economic front, but that it is not an appropriate measure under which to take action in an individual case. (Hansard, 1979, p.3603).

Now that it has been conceded by the Government that the *Economic Stabilisation Act* does not enable it to regulate to alter specific wage settlements, the repeal of the *Remuneration Act* should mark the end of this practice – at least within existing law.

The *Remuneration Act* failed as an instrument of wages policy partly because there was a legacy of hostility between National Governments and the union movement dating back to 1951, fuelled by the anti-union emphasis in the party's 1975 election campaign, its policies of secret ballots on voluntary unionism and its introduction of penalty clauses into the *Industrial Relations Act* in 1976. The Government had not consulted the parties before introducing the *Remuneration Bill*, and the Federation of Labour bitterly opposed the policies it represented. It also totally rejected the concept of the Government establishing guidelines for wage negotiations and many unions – especially those with considerable economic power – were unwilling to accept the constraints of the conciliation and arbitration system, let alone the additional restrictions of wage guidelines. The Government was naive to expect a wages policy to work which was so alien to the philosophy and mood of the union movement, yet depended so much on the co-operation of the movement.

The way the Act was applied also ensured that it was ineffective as a means of controlling wages. If the intention was to influence the level of the award round (Martin, p.6), because of the absence of a wage accord the Government would have had to reduce every settlement which exceeded the acceptable level. It did not reduce the metal trades and electrical workers' increases of 10.4 percent in September 1979 or the watersiders' settlement of 12 percent in March 1980, despite the fact that the Government had indicated that the acceptable increase for the 1979-80 round was 9.5 percent by threatening to reduce the drivers' settlement to that level. Nor did it reduce the dairy industry's settlement of 14.5 percent in September 1980 although in discussions with the Federation of Labour in August, Bolger had stated that 13 percent would be reasonable for the 1980-81 round.

One reason given for use of the Act was to cut back settlements which exceeded what would have been negotiable without direct action. But it proved difficult to decide how much of an offer was a concession to strike action. The levels which the Government announced were acceptable in the drivers' and freight forwarders' cases therefore seemed entirely arbitrary.

The Prime Minister referred to the harmful effects on wage levels if the Kinleith settle-

ment flowed on to the Auckland core tradesmen's rates, and justified the regulations as an effort to prevent this. But in order to prevent such a flow-on from timber workers' settlements, the Government would also have had to reduce the Tasman and Caxton agreements which were identical to that reached at Kinleith before regulations were issued. It did not do this. The need to prevent the leap-frogging which could develop when relativities were upset, was cited as another reason for the Kinleith regulations. But the altered rates in this case compounded relativity problems rather than resolving them.

It was also made clear that unions would not be allowed to use allowance claims to gain overall increases in excess of trend levels. The freight forwarders' and engine drivers' regulations did prevent the unions concerned from doing this, but it was difficult to determine whether it was the means used to obtain the allowances, or the allowances themselves to which the Government objected. Therefore, although the *Remuneration Act* appeared to be a mechanism which would enable the Government to keep control of wage movements, it was not used consistently to achieve this purpose. The Act was discredited as an instrument of wages policy because it appeared to be used arbitrarily and unfairly.

The Government was seeking middle ground with the *Remuneration Act*. Free wage bargaining allowed it too little control; wage controls were too rigid and created pressure on the industrial relations system. The solution seemed to be a policy which allowed a degree of freedom in wage bargaining, but reserved the right for the Government to intervene when circumstances justified this. However, because it was inappropriate to the industrial relations environment into which it was introduced, and because of inconsistent application, selective intervention failed as a wages control measure. Once it became an embarrassment for political and industrial relations reasons, the *Remuneration Act* could therefore be dispensed with from the point of view of economic policy, especially since an alternative offered itself in the form of tripartite wage talks.

### The Impact on Industrial Relations

It appears, both from Government statements and from the way the Act was used to alter awards, that the Government had three main industrial relations objectives for the *Remuneration Act*: to discourage the use of industrial action in support of wage claims; to reduce the influence of militants in the union movement; and to encourage the use of arbitration to resolve industrial disputes.

While the *Remuneration Act* was in force, the Minister of Labour repeatedly stated the Government's view that strike action is not a legitimate weapon in wage bargaining in a democracy and that it is harmful to the economy. In all four cases where the Act was threatened or used to intervene in an award, the unions had used strike action to force their employers to concede settlements they had earlier resisted.

The Government also criticized the influence of militants in the unions affected by Remuneration Regulations and linked disruptive tactics with the Socialist Unity Party. It is noteworthy that officials of the New Zealand Drivers' Federation, the Northern Drivers' Union, the Auckland Storemen and Packers' Union and the New Zealand Drivers' Union all featured on the list the Prime Minister issued on 17 March 1980, naming alleged Socialist Unity Party members influential in trade unions. At the time of the Kinleith dispute, Muldoon alleged that the Party was "very close" to the dispute and that the combined unions' advocate had been a founder member of the Socialist Unity Party.

The Government's desire to encourage the use of "responsible" free wage bargaining and conciliation and arbitration rather than strike action to resolve industrial disputes was also stated frequently. All of the unions engaged in the four disputes were known for their reluctance to use the Arbitration Court. All have a definite impact on the economy when they take strike action. These were, in fact, representative of the sorts of unions which can afford to operate outside the conciliation and arbitration system (Woods, p.21-22).

It appears, then, that some of the puzzling inconsistencies in the Government's application of the *Remuneration Act* to implement its wages policy can be explained by its

simultaneous use of the Act to mete out industrial relations penalties. A settlement was deemed to be excessive only if strike action had been used to reach it. Unions were irresponsible if they allowed alleged militants to lead them. And, as the saga of the drivers' dispute illustrated, the Government did not issue regulations to limit settlements reached by arbitration, even when these exceeded what the Government considered reasonable for the industry.

The result of the Government's policy in all three respects was counter-productive. Instead of reducing strike action, it provoked the general strike and prolonged the Kinleith strike by four weeks. Instead of undermining the influence of "militants" it made more unionists willing to take "militant" action in the general strike or to support it financially at Kinleith. Instead of bolstering union confidence in the conciliation and arbitration system, it reduced it. Union publications emphasized the fact that as long as the *Remuneration Act* existed, unions could not be sure that the Government would allow the Court to arbitrate freely.

Employers were ambivalent towards the *Remuneration Act*. The Employers' Federation was not sorry to see the end of the general wage order system and the minimum living wage proposal. Their preferred wage control mechanism was tripartism but in principle they supported the Government's right, even responsibility, to intervene to prevent industrial action being used to obtain excessive wage settlements. Because it had no strong feelings on the Act, the Employers' Federation played a low-key role in the controversy over it, pleading only that employers should not be the innocent victims of the application of the Act as they seemed to be following Government intervention in the drivers' and Kinleith disputes, and that the Employers' Federation should be consulted before regulations were issued. This was ignored. The dispute over the *Remuneration Act* was essentially one between unions and the Government.

The union movement's industrial struggle against the Act itself began with the Federation of Labour's special conference on 9 August 1979, which decided to hold stopwork meetings to inform members about the Bill, authorized the Executive to call for national action if the Government used its powers, and ordered the Federation of Labour to withdraw from the Industrial Relations Council because the Government had not consulted the council before introducing the Act. The stopwork meetings took place early in September.

The Combined State Unions also opposed the Act. Member unions used circulars, journals and discussions at timely annual conferences to explain the issues to their members. The themes of union messages to members about the *Remuneration Act* were simple: the Government is giving itself dictatorial powers; this is an attack on wage and salary earners; you and your union could be directly affected.

When the Prime Minister announced that the drivers' settlement would be reduced by regulation, the Meat Workers' Union stopped award negotiations in protest, and stopwork meetings in the Wellington Trades Council area called for national action. On 17 September, the Federation of Labour Executive called a 24 hour general strike for 20 September, which was supported in principle by the Combined State Unions although they considered the notice too short. Despite this, the State Services Commission estimated that 10 percent of public servants joined the strike. Shops, offices and banks were less affected than transport and manufacturing which virtually halted (Roth, 1979, 4(3), p.5). Roth believes that at least 300,000 took part and the Chamber of Commerce estimated that \$80 million worth of production and \$37 million in wages were lost as a result. (*The Evening Post*, 21 September 1979, p.4).

Although it was by no means general, the extent of support for the strike despite the notice is a measure both of union hostility to the Act and of the success of the Federation of Labour's drive to publicize the dangers of the Act before it was used. The impact may also be gauged by the fact that following the strike the Government retreated from its threat to use the Act against the drivers.

The Federation of Labour chose not to make an issue of the freight forwarders' or the engine drivers' regulations. This is understandable in view of the timing of these regulations (the former only three weeks after the general strike, the latter at the same time as the

Kinleith dispute), the independent stances of the unions concerned and the fact that it was more difficult to rally public support against regulation of allowances than it was over changes in basic rates.

Kinleith, on the other hand, was an ideal battleground for the unions. The Government's intervention after a long dispute had been resolved appeared provocative; the unions' case for parity with Tasman rates was readily understood; because the strike affected an important industry, but few people outside Tokoroa, it hurt the economy but not the general public directly; the combined unions were well organised and maintained the support of families as well as the workers themselves, by involving them closely in decision-making and relief work. Quite apart from the circumstances of the dispute suiting a union campaign, the Federation of Labour leadership's handling of it was skilful. The President, Jim Knox, led from the midst of the workers through regular mass meetings, while the call went out to other unions for funds to support the strikers.

The Government, by contrast, made several tactical errors. It was unwise to regulate the Kinleith settlement, for all the reasons that made the dispute ideal from the Federation of Labour's point of view; it was unable to justify its intervention in simple terms and it was criticized by all parties to the dispute, editors and ultimately the Statutes Revision Committee, for failing to communicate directly with the employers and unions before the regulations were issued. When it became clear that the strike would continue indefinitely and that there was a great deal of sympathy for the strikers throughout the country, the Government backed down before it compounded the damage it had done to its credibility.

Because the Federation of Labour's agreement to take part in tripartite wage talks in 1980 arose out of its success at Kinleith, the Federation was in a strong position to take the initiative during the talks, in order to obtain repeal of the *Remuneration Act*. This was achieved in the interim agreement announced in August 1980. What appeared to be a concession by the Federation of Labour in return for the revocation of the Kinleith regulations, therefore became the immediate means by which it obtained the Government's agreement to repeal the Act.

### Political Aspects

In New Zealand, elections can be won and lost over industrial relations issues. (The 1951 and 1975 elections are notable examples.) In 1979 it was widely believed that the National Government had lost votes and seats in the 1978 election because it had failed to satisfy expectations raised in 1975 that it would bring militant unions to heel. Apparently believing that the public had failed to understand the Government's strategy of attempting to isolate "militant" unionists from the "moderate" mainstream, the Prime Minister adopted a different approach in 1979 and began to handle industrial relations disputes in the open. Writing before the announcement of the *Remuneration Bill*, Garnier (*The Evening Post* 3 July 1979, p.2) pointed out one of the dangers of such a policy: the threats and tough actions would be public, but so would the retreats and concessions. This certainly proved to be the case with the drivers' and the Kinleith disputes. Use of the *Remuneration Act* was a gamble. If it worked it would help the Government in 1981. Because, instead, the Government was twice forced to retreat from using the Act and appeared thereby to have given in to union pressure, the Act became a potential vote loser.

Internal National Party politics were crucial to the Government's handling of the *Remuneration Act* and Regulations. Although the National Party Conference does not direct the Parliamentary Party, Muldoon tends to use it to reinforce his leadership position. It can be no coincidence that he announced the *Remuneration Act* on nationwide radio and television only days before the National Party's 1979 Conference. This was seen by some commentators at the time as a warning to party dissidents that Muldoon was still in control, despite speculation about his waning popularity and rumours of moves to challenge his leadership.

The *Remuneration Act* proved to be a major test for the man who had taken up the Labour portfolio in December 1978 without any record of involvement in industrial

relations. Bolger's equivocation over arbitration of the drivers' dispute between September 21 and 26 and his failure to communicate directly with the parties to the Kinleith dispute earned him considerable criticism. But not only did he have to handle a new portfolio and a new Act which was proving very difficult to administer, but he also had to contend with the Prime Minister's insistence on retaining the initiative even when overseas for extended periods. Bolger's statement that the Government might interfere in an Arbitration Court decision on the drivers' dispute has been attributed to telephone calls from Muldoon overseas (*The Evening Post* 27 September 1979, p.1.). It took a special Cabinet meeting and some diplomatic explanations by the Acting Prime Minister, Brian Talboys, to resolve that impediment to peaceful resolution of the dispute. Bolger also found himself having to adopt and incorporate into his own public statements arguments belatedly introduced by Muldoon to justify the Kinleith regulations (*The Evening Post* 4 March 1980, p.2). In July 1980, Talboys and Bolger were unable to give any commitment to a wages settlement in the absence of the Prime Minister on yet another overseas trip. It was not until Muldoon resumed the chair of the talks on 6 August 1980 that an interim settlement (including repeal of the *Remuneration Act*) was possible.

The President and Secretary of the Federation of Labour were also new to their positions when the Remuneration Act was introduced. Knox and Douglas adopted a different style of leadership from that of Tom Skinner, Knox's predecessor. It was a deliberate team approach, favouring rank and file involvement in Federation of Labour activities. They shunned the close contacts with the Government favoured by Skinner, and were determined to intervene in industrial disputes when invited by the unions involved, with the primary aim of supporting the just claims of the unions rather than ending the dispute as soon as possible. This approach contributed a great deal to their success in handling the Kinleith strike and the campaign against the *Remuneration Act*. But it produced a communication gulf between the Government and the union movement which probably heightened the conflict and prevented early resolution of disputes by top level negotiation.

Knox's and Douglas's concentration on establishing the trust of unionists in their leadership, rather than on consolidating their personal bargaining relationships with the Government, therefore paid dividends by strengthening their positions in the Federation of Labour and increasing the effectiveness of the union movement as a political and industrial force.

The new Federation of Labour leadership was also responsive to Combined State Unions' efforts to establish closer working relationships between the two organisations. Although there were initial difficulties (as with the short notice over the general strike) by May 1980 it was possible for them to mount a joint political campaign in defence of living standards: for an immediate cost-of-living wage increase, a general wage order system and repeal of the *Remuneration Act*.

The campaign was co-ordinated centrally but organized through Trades Councils and Public Service Association sections (in the absence of a regional Combined State Union structure). Rank and file involvement was achieved through meetings, rallies and pamphlets, which were used to convey information, rebut Government arguments, attract publicity and demonstrate the strength of feeling on the issues. Other tactics suggested in literature distributed to unions were to discuss the issues with friends and workmates and to send deputations to employers and letters to Members of Parliament and newspapers.

The fact that the campaign was politicizing more and more union members as well as creating publicity for the union movement made it politically sensible for the Government to remove the major stimuli. Once another cost-of-living adjustment had been paid and an undertaking given to repeal the *Remuneration Act*, early in August 1980, the political campaign ended.

The general strike was also an essentially political tactic – a protest against threatened use of the *Remuneration Act* rather than a strike in support of the drivers' right to an 11 percent increase. Although it failed to bring the country to a halt, most New Zealanders felt its effects. It publicized the issues in a way which had considerable political impact

and the heat it generated no doubt contributed to persuading the Government to suggest arbitration rather than insist on using the *Remuneration Act*.

The fundamental conflict between governments and unions in New Zealand, of which the disputes over the *Remuneration Act* were symptoms, is essentially political, because it is about the balance of power between the two parties. It revolves around the question of the right of the State to intervene in industrial relations versus the unions' right to bargain freely with their employers, with the strike and lockout as legitimate weapons. In New Zealand's industrial relations system, the State theoretically has the balance of power firmly in its favour. It makes the rules and has the machinery to enforce those rules. Yet increasingly in recent years some powerful unions have been able to reject the conciliation and arbitration system and enter into free wage bargaining with their employers (Walsh, 1979, p.15). Because the Government has the power to force them to conform if it chooses, the unions must make it politically or economically counter-productive for the Government to use those powers. This they did successfully in the case of the *Remuneration Act*. Because the Government found itself in the position of appearing to provoke rather than reduce industrial conflict, and calculated that it was losing rather than gaining control and support by persevering with the Act, it was forced to back down.

This should not disguise the fact that the Government retains all of the potential powers it had before the *Remuneration Act* was introduced. The unions merely prevented the permanent extension of those powers. But in the process they strengthened their defences. As a result, in future Governments may be rather more wary about provoking a confrontation when the union movement is united over an issue.

#### Implications for Parliamentary Democracy

The *Remuneration Act* reflects the growth in the powers of central Government. Penalties were imposed, not for breaches in the law, but for breaches of guidelines which remained a mystery. Because the Act did not specify the circumstances in which regulations would be issued, the Government could render retrospectively illegal any industrial actions associated with award negotiations which it disliked, by cutting back the settlement reached. And this it did. By means of Remuneration Regulations it imposed its will on three union groups which had chosen to act outside the conciliation and arbitration system, as they are entitled to do under the *Industrial Relations Act 1973*. They had used tactics which are considered legitimate in western style democratic industrial relations systems (Szakats, 1979, p.393). In short, the Act gave the Government dictatorial powers which it exercised arbitrarily.

The Act also reinforced the growth in the power of the Prime Minister in the New Zealand political system. As both Minister of Finance and Prime Minister, Muldoon was intimately involved with the *Remuneration Act* and its regulations. He used his powers as Minister in Charge of the Security Intelligence Service to obtain information with which to attack unionists involved in disputes over the *Remuneration Act* (*The Evening Post* 18 March 1980, p.5).

Established interest groups in New Zealand expect to be consulted on impending Government decisions which will affect them directly. This operates as an important check on the power of the Government (Palmer, p.15). But there was no consultation with union or employer organisations before the *Remuneration Act* was announced, and it was not referred to a Select Committee for the hearing of submissions. The Employers' Federation's request that the parties be consulted before regulations were issued was ignored, and the Government was criticized by the Statutes Revision Committee for failing to give written notice to the parties to the Kinleith dispute before it issued regulations (I. 5A, pp.4-5).

There is concern in New Zealand about the declining autonomy of Parliament (Palmer, p.40). R.E. Wylie, Vice President of the New Zealand Law Society, claimed that the Prime Minister had usurped the role of Parliament with his announcement of the *Remuneration Act*, by behaving as though the Government repealed laws, and by announcing that a wage

increase would be made by regulations under legislation which had not even been introduced into Parliament (*The Evening Post* 15 August 1979, p.25).

Most criticism, however, concentrated on the *Remuneration Act's* reinforcement of the trend towards government by regulation (Palmer, p.95-108). Black asserted that in a Parliamentary system regulations should be for machinery purposes only, and that when they go beyond that, they are the ideal instruments of despotism (1979, p.313). Yet the *Remuneration Act* gave the Government powers to override legislation by regulation.

The constitutional rectitude of the Prime Minister's apparent announcement of the *Remuneration Act* on national television and radio has also been questioned (Szakats, p.390). Two aspects of this aroused concern: that the Prime Minister appeared to be using the broadcasting media rather than Parliament to announce the introduction of a Bill; and that the Government was using the Broadcasting Corporation as a vehicle for political announcements rather than allowing it to operate as an independent branch of the media.

In fact, the Prime Minister made a Ministerial Statement to the House of Representatives at 7.30 p.m. on 24 July 1979, before broadcasting two hours later. This method of announcing policy is itself questionable however, because Standing Orders allow the Leader of the Opposition to make only non-controversial comments in reply to a Ministerial Statement (*Hansard*, 1979, p.1763). The Prime Minister's use of broadcasting time on 30 October 1980 to explain the repeal of the Act was certainly an abuse of the privilege. It was made two months after the announcement that the Act would be repealed. The broadcast was highly political in content, the Prime Minister admitting that it was being made in response to a challenge from an Opposition Member of Parliament to address the nation on repeal of the Act as he had on its announcement.

### Implications for the Conciliation and Arbitration System

The *Remuneration Act* and its regulations also threatened the basis of the conciliation and arbitration system, which the National Party had pledged to uphold in the 1978 Manifesto (pp. 27-28).

Writing in October 1979, Szakats argued that with the *Remuneration Act* such free wage bargaining as had ever existed in New Zealand, had come to an end. He pointed out that if both voluntary and conciliated collective agreements could be declared invalid by Government regulation, "the usefulness of bargaining and agreeing collectively or individually has effectively been destroyed" (p.394). It is little wonder that the union movement was so hostile to the Act.

In announcing its intention to replace the *General Wage Orders Act* after an application had been lodged with the Arbitration Court, the Government usurped the right of the Court to determine an application properly brought before it (Kirk, p.35). Coming as this did, after a series of amendments to the *Industrial Relations Act* altering the names and jurisdictions of the Court, it reinforced uncertainty and waning confidence in legal methods of handling disputed wage claims (*Industrial Relations Review* Sept-Oct 1979, p.37).

As Ken Douglas, Secretary of the Federation of Labour, pointed out at the time, the Prime Minister's announcement that the Government would not accept an 11 percent increase in drivers' wages, the day before the drivers' agreement was to be finalized in conciliation, could be interpreted as a breach of Section 146 of the *Industrial Relations Act* prohibiting the prejudicing of matters before a conciliation council (*The Evening Post* 11 September 1979, p.1). This hardly indicates Government respect for the conciliation system.

Nor was the Minister of Labour's statement that the Government might alter the Arbitration Court's decision on the drivers' case likely to convince the parties that the Government respected the Arbitration Court. Although the Government's acceptance of the Court's decision on 5 October 1979 was reassuring, there remained Section 6(6) of the *Remuneration Act*, which obliged the Court and Tribunals to observe the provisions of any

Remuneration Regulations. This meant that the Government could tie the Court's hands by issuing regulations which applied to a case the Court was about to hear. In the event, this did not occur during the brief life of the Act.

### Conclusion

In an effort to establish greater control over the economic, political and industrial relations systems through the *Remuneration Act*, the Government therefore over-stepped acceptable limits to its power and was in danger, at times, of destroying any remaining faith in the conciliation and arbitration system. The importance of checks and balances within a political system is illustrated by the fact that, in the face of criticism from the legal establishment, Parliament and the media, and pressure from the union movement, the Government repealed the Act. That the checks worked in this case does not, however, reduce the seriousness of the threat to Parliamentary and industrial democracy which the *Remuneration Act* and Regulations represented.

The *Remuneration Act* failed to give the Government more effective control of the economic, political and industrial relations systems. It was intended to keep wage increases at a manageable level; instead, they exceeded the Government's guidelines and inflation reached record levels. It was thought that the Act would rebuild popular support for the Government after the setback of the 1978 election; it failed to do this. It was designed to reduce the capacity of strong unions to take initiatives outside the conciliation and arbitration system; instead, it increased the determination of those unions to maintain their autonomy, and provoked an unprecedented political and industrial reaction. It was meant to demonstrate the Government's capacity to take firm action against non-conformist unions; instead, its use was interpreted as an abuse of Executive power and the Government was twice forced to concede defeat over the Act.

The Government itself is largely responsible for the reception the *Remuneration Act* and *Regulations* received. An Act which undermined the ground rules of collective bargaining and Parliamentary democracy was bound to be unpopular. By applying it inconsistently and in a discriminatory way, the Government discredited the Act further and ultimately rendered it useless.

However, it was the success of the unions' handling of the Kinleith dispute and the campaign against the Act which ensured that the *Remuneration Act* was repealed rather than merely disused. The importance of this for the future lies not so much in any change in the balance of power between Government and unions (the State retains all the powers it used in 1951, and more) but rather, in the experience it provided, the lessons it taught, and the boost it gave to the morale of the union movement in New Zealand.

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