

The management of industrial relations

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This paper examines the need for change in the framework of industrial relations and some of the issues suggested by the Government's Green Paper. It explores various management approaches to industrial relations, and suggests some areas of omission from the Government's present review.

Introduction

An occasional thorough review of the processes, structures and legislative basis of an industrial relations system is well worthwhile, and given the external environment of 1986, it is even more worthwhile, and well timed.

The review is particularly timely given the clear concern of employers that a central feature of the system, agreements, are no longer resolving disputes; given the concern of the trade union movement that the system is not looking after the low paid; and given the marked changes taking place in the organisation and operation of economic and industry policy in New Zealand.

No matter how worthwhile and timely the review, it must also be asserted that it is wrong to presuppose that re-assessment and evaluation must necessarily imply a need for radical change. I see nothing wrong with a careful evaluation which endorses the *status quo*, or as is my belief of what is needed in the case before us, an endorsement of a process of fine-tuning and evolutionary change.

The assertion that the system is as it was when established in 1894 is fine rhetoric, but not sustainable by examination. The system has been continuously changing and I would argue that the changes which occurred in 1973 and in 1984 were significant changes.

As far as wage fixation is concerned evidence seems to indicate that the system has not been allowed to work, rather than that it won't work. Rather than evidence of system failure, there is evidence that failure has been with the parties operating within the system.

We must applaud the resistance to pressure to produce immediate and partial change. A partial approach presents a danger of both a "knee jerk" reaction, and of ignoring many important areas requiring scrutiny and evaluation. A further argument for care, a slower approach, and for evolutionary change is that there is, at the moment, an absence of consensus between the major participants, trade unions, employers and government, and possibly within the groupings themselves.

Change can be imposed, but *ceteris paribus* it is the least desirable method, it ought to be the last choice strategy, and I do not believe we have reached that point. In an inappropriate environment and/or at the wrong time, marked and radical change can lead to further division.

We all can take some comfort from the fact that New Zealand is not unique in that it is questioning the fabric of its industrial relations system. Fundamental reviews of industrial relations have occurred in Britain, Canada and much more close, in space and time, Australia. In fact, the questioning, the review of performance, has been the norm in the industrial relations systems of most western democracies.

Comparative research in the industrial relations of the western democracies clearly indicates

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that the pressures of the late 1960s-1970s was for reform based on the centralisation of industrial relations, epitomised by an emphasis on highly centralised bargaining structures, with greater focus on the multi-employer, and the national level of bargaining. The most centralised approach being that of the "social contract" type.

In New Zealand legislative support for the national award and centralised determination continued during that period, and the registration provisions for voluntary settlement collective agreements provided for in the 1973 legislative changes resulted from a perceived need to bring fragmented bargaining within the formal centralised system. But at the same time there was an implicit acceptance of a need for greater individualism and diversity. In this area New Zealand was well to the forefront in sensing what was to become a trend in the industrial relations of the western democracies.

More recently the pressures for change in industrial relations have been in the broad directions of greater individual freedom and decentralisation of decision-making. In this sense there has been a change of emphasis from the general pattern of the 1960s and early 1970s.

Where there is explicit or implicit government agreement the process is proceeding faster (the USA, the UK); where *pro tem* government resistance exists the pace of fragmentation of bargaining structures is slower (e.g. Australia). Even in Sweden, for so long the epitome of the centralised model, the epitome of the tripartite, pluralist philosophy to wage determination and industrial relations generally, the acceptance of such a model has been seriously questioned. In this case it has been a challenge from the employers, first querying the system and then in 1984 refusing for the first time to participate in the negotiations of a centralised national agreement.

Australia, with the Labour government, the "Prices and Incomes Accord" and the recommendations of the Hancock Report is the key case in the maintenance of a highly centralised model. It is against the contemporary trend. But there could be local variables, local cultural factors, etc., which make that an appropriate choice.

There is a choice for New Zealand, we could resist further change. But the fact that evolutionary change has been occurring in the approach to industrial relations, that pressures for decentralisation do exist from the market and from other sectional groups, suggest that the real question we should be approaching is the direction, extent and speed of future change rather than the complete preservation of the *status quo*.

I have formed my own view of the general issues raised by the Green Paper, and on many of the more specific issues of detail. On the general issues I argue that *for the time being, in the immediate future*, developments should centre on:

First: A national award system, primarily focussed as a protection of minimum standards, and for groups which operate in areas of weak organisation, or as price takers/market followers.

Second: Extensive and unremitting encouragement, both philosophic and legislative, for individualism and entrepreneurship in industrial relations. Inhibitions to independence of approach can be removed and procedures which facilitate such development enhanced. The emphasis must be on individualism and choice.

Third: All of this ought to be done within a framework of a social unity of purpose.

I could elaborate on this third point, and argue a case for re-affirmation of tripartitism as the best means of achieving a macro consensus, and a social unity of purpose. However, it is the second of these points that I want to develop. That is, the need for a rebirth of initiative, entrepreneurship, innovation, independence of approach in industrial relations, or to be blunt, a re-appraisal of the notion of management in industrial relations.

The real challenge of the Green Paper is not in the shape or form of legislative change (important as that will be), but in how the policy makers, the managers, in private industry, and the public sector, approach the management of industrial relations.

Management and industrial relations

In recent years management in industrial relations in New Zealand has essentially, generally, been reactive. It has been wrapped in a cocoon of protective legislation, a regulated industrial and economic environment, and when severe crises developed, the intervention of government, either directly or through legislative amendment, was par for the course. This was a period where the practice of industrial relations was left to the specialist, to the "fire fighter", the troubleshooter, who would move from crisis to crisis, from one lengthy meeting in a smoke filled conference room to another, who would make endless telephone calls, often moving so fast that the messages could not catch up. It was seat of the pants stuff; it was adrenalin pumping, moving from crisis to crisis.

armed mainly with the honour code of the true practitioner and a smattering of industrial law. Production managers complained, marketing managers complained, line management became more and more frustrated, finance managers added the cost, but they all failed to concede or conceive any responsibility for events or solutions.

New Zealand management was not unique in adopting this approach to industrial relations. It was also a fair, generalised description of industrial relations management in Australia, and many other western democracies during the 1960s and early 1970s.

In most industrial relations systems this was a period where the initiatives were with labour, and where the management of industrial relations was reactive. The better documented exceptions were the Scandinavian systems where a positive support for participative styles of management and for consensus tripartitism emerged as a driving force.

But things have changed, the external environment in most western democracies has changed, and such change has impacted on industrial relations, and on the management of industrial relations.

In part, this change is linked to the marked increase in competitiveness, and the changed nature of competition in the less regulated operational environment. Economic recession enhances this impetus. In part it is linked to perceived excesses of militant unionism, specifically militant political unionism. In part it takes succour from the more supportive political environment reflected in the movement to the political right: a shift of emphasis which is occurring at both the level of national politics and at the grass roots or community level. Within this environment we are witnessing a reassertion of the notion of "the right to manage", of "militant management".

In a jingoistic style the change can be synthesised as from reactive to pro-active, from defensive to offensive, or from retaliatory to pre-emptive management. And closely associated is the much more significant and positive step of the formulation and pursuit of a corporate strategy in industrial relations and human resource management.

It is possible, from observations of behaviour in overseas industrial relations systems, to identify different types of strategic approaches by management.

The first approach continues to seek accommodation with labour, with unions, but in so doing pursues positive new initiatives in that relationship.

The movement to green field sites with prior negotiation of labour contracts is one example, which is a reaction against certain types of union action, but not a rejection of unionism *per se*.

Key elements of deals of this kind (typified, perhaps, by agreements reached by Japanese firms in the automobile and electronics industry in the United Kingdom) include flexible use of labour, shop floor consultative processes, disputes procedures for both interest and rights disputes which involve no strike clauses and compulsory arbitration (in some instances the traditional form of arbitration, in others experimentation with "pendulum" or "last offer" arbitration).

Developments in concession bargaining is another example of new explorations within a traditional labour-management accommodation process. Concession bargaining can involve 2-tier wage structures (1 for existing employees, 1 for new entrants), or wage/job security trade-offs, as well as more conventional *quid pro quo* arrangements.

An extension of this type of strategy can also be observed, and can be identified as the development of a commitment ideology at the workplace but within a unionised environment. A commitment ideology is one where programmes are put in place to develop and emphasise areas of common interest, and the development of mutual trust.

Quality of work-life programmes, employee involvement, gain sharing, changed notions of accountability and associated rewards, job re-design and a change in emphasis from hierarchical control to team building, are all aspects associated with these developments. A point to be emphasised is that the absence of the union (or the castration of the union) is not an essential prerequisite to developing commitment strategies. It makes it harder, but a committed management can succeed.

A second type of management/corporate strategy observed in action is that where management by offensive action, seeks to isolate unionism from the workplace. It does this by utilising a range of weapons including the law, outbidding union rates, intense anti-union public relations campaigns, and the removal of plant to green field sites on-shore, or more frequently today, offshore. The development of a commitment ideology, as referred to earlier, has also been part of a positive strategy in many instances geared to preclude, or minimise, unionisation. American labour relations have always had a strand of this type of behaviour:

today we are seeing an accentuation of such activity there, and the spread of these approaches in other western industrial relations systems.

The third type of management approach observed can be categorised as "a planned offensive geared to achieve designated long term goals". Significant examples of this type of management strategy in the United States include the actions by President Reagan in 1981 in response to a strike by air traffic controllers. In that instance of declaration of the illegality of the strike was followed by the abolition of the union by decree, mass dismissals and the recruitment and training of new labour. Similar strategies based on mass dismissals have been utilised in other cases since then.

Continental Airlines was the first (others have followed) to use bankruptcy law to facilitate dissolution of individual employment contracts and terminate union-management collective relationships. Operations then re-commenced with non-union labour and re-negotiated contracts. Increased use of franchising and labour sub-contracting have also been positive strategies utilised to restore control to managements.

In the United Kingdom, the corporate strategy developed by Michael Edwards at British Leyland was perhaps the first major thrust to re-assert management rights; to regain control by a planned militant management offensive. More recently we have witnessed the action of the National Coal Board establishing long term goals (the right to control, particularly in respect to plant closures and technology), and then pursuing that goal by a militant management strategy. The central issue of that bitter strike was one of power, of control, of the right to manage. But of greater significance it was an action carefully chosen, and thoroughly planned by management.

British Rail has since developed similar strategies. The most recent specific instance relates to a decision (after some years of failed negotiation) to abolish unilaterally guards on most services. "If a guards' strike takes place we will shut down the entire railway system", was the management pronouncement. Management had made a decision to bear, if necessary, the brunt of major, costly, industrial disruption in pursuit of a longer term strategic gain. Confrontation, in both coal and rail, was seen as a way forward.

The cases of Eddie Shah and Rupert Murdoch in the British newspaper industry have been so well documented in the press that they need only a brief mention. But they are examples of this type of corporate strategy in industrial relations. However, the features of the Murdoch case: a windowless plant, barbed wire fortifications, massive police support, mass dismissals, take it or leave it negotiating, are such that they need be identified clearly so that you and I can assess whether such developments are worth the price.

In 1981 I published a study of industrial relations in the open-cut black coal mining industry of Central Queensland. A key finding of that study was that market and production technology constraints delineated the desired level of production and then the corporation, Utah Development Company, adopted a hard or soft line on industrial relations issues; that is, they settled easy or caused or took strikes, as and when required in order to regulate production to market requirements.

At that time I was subjected to severe criticism, criticism in the vein that this was not the way management behaved, and that such assertions were detrimental to the image of management. More recent events, some of which I have just outlined, in the USA and the UK suggest that in certain circumstances management will chose to act in that manner. Militant management strategies are re-emerging or spreading. Management does have, and is exercising choice.

New Zealand has not been isolated from these developments. There are obvious cases of corporate concern and corporate strategic planning in the industrial relations/human resource field. And there are operational examples of each of the strategy options I have identified. But for most of New Zealand industry the challenge lies ahead.

I have referred to 3 main categories of corporate strategy for purposes of exposition (there are, of course, variations on those themes). I do have a clear unequivocal preference. I believe that tripartitism, the notion of unions, employers and government (representing the community interest) working together is a more effective way of achieving social progress. I believe in the working through of industrial issues by managers and the representatives of workers. I believe in the accommodation process.

My policy suggestions are therefore based on a continued social and industrial role for each of the parties working within a framework of mutual interdependence, mutual recognition and respect, and seeking to refine and enhance the accommodation process within a pluralist democratic society.

And herein lies the importance of the Green Paper exercise. In a nutshell the exercise must produce a result whereby attitudes change, rather than one wherein these attitudes harden, and positions become more entrenched. If the latter occurs, I believe management will move more quickly to the second and third type of identified strategy.

In line with my choice of desired outcome, my hope of the Green Paper exercise is that it will opt for enhanced evolutionary change, building on the changes which took place in 1973 and 1984.

My single, most important policy prescription is for management to show initiative and entrepreneurship in industrial relations practice and (initially) to continue to seek accommodation with unions. Given the changed externalities, given the lessons of experience from overseas systems, I believe a positive response will occur in most cases. I believe the trade union movement will adapt by becoming, for example, more pragmatic and less ideological, more business than class oriented, more forward thinking, and more professional, in research, organisation and operations. It will also emerge as a stronger movement.

If the union movement fails to respond generally, or in specific instances, alternative strategies of isolating the union, or confrontation industrial relations, will inevitably be chosen by managers.

Now that I have identified the need for strategic planning, a range of choices, and my own first preferred choice, I can proceed to refer briefly, but more directly, to the Green Paper and the associated debate.

The Green Paper

Some omissions

The Green Paper is a comprehensive document and the supporting volume 2, even more so. There are, however, several areas where the emphasis is not as great as I believe it should be. I mention 2 such areas. The first, is that of control in industry and industrial relations.

The Federation of Labour submission to the Minister prior to the release of the Green Paper argued a case for a widening of the definition of industrial matters. Question 13 asks "should union and employers be free to determine for themselves the scope of their negotiations?". But the FoL argument goes further and raises the issues of process — "... the traditional sacred cow of 'management prerogative'", say the FoL, "is as inappropriate as it is outmoded". The FoL paper introduces a need for concepts of industrial democracy.

Extensions of participatory roles involving unions are advanced in respect of the introduction of new technology, mergers and takeovers and in the area of health and safety. But the broad debate about participation of workers and/or unions in decision making is, unfortunately, not raised in the Green Paper, neither in terms of a philosophy of operation, or the context of procedures.

There is no doubt in my mind that these are critical industrial relations issues: the Federation of Labour has raised them, how central and significant they are to that body only the Federation of Labour can answer, but if experience from overseas is a basis for prediction, they must be addressed, if not now, then soon.

Economic context

The second major omission of the Green Paper itself, but not of the debate which is surrounding consideration of the Green Paper, is the economic context of industrial relations, and of industrial relations decisions and outcomes.

The emphasis of the Green Paper is on structure, process and the role of individuals, organisations and the legislation associated with these. It is only through the general Questions 1 and 2 related to the policy objectives, and the outcomes of the system that we have, by implication, an invitation to debate the economic context of the operation, both objectives and outcome, of the system. The concern for outcomes, especially economic outcomes, is only implicit in the balance of the document.

At least 3 significant economic dimensions of the debate can be identified for consideration. First, the impact on the supply and demand for labour, especially at the

disaggregated level, by region, by skill category, and by age, etc. Do wage differentials facilitate skilled labour mobility? Do wage differentials alter labour market choice of new entrants to training? What are the time lags? What orders of magnitude are involved? Do age wage differentials create more jobs, or simply alter the type of labour performing a specific job? These are just some of the questions which need be researched and debated.

A second economic dimension of the debate warranting consideration is the macro-economic effects of industrial relations settlements emerging from different processes on the general level of prices, employment, industrial performance, and economic growth. Are centralised or decentralised decisions more or less compatible with low inflation, lower unemployment, high economic growth? A third economic implication of industrial relations reform is the costs of changed patterns of industrial disruption. And here the costs can be real money costs or they can be the costs of opportunities foregone.

Expertise need be brought to bear on the issues, debate must take place. Personally I advocate a rekindled emphasis on tripartitism as an appropriate forum for debating the sort of issues I have raised and in particular for debating the economic context from which industrial relations cannot be divorced.

At this point I turn to consider some of the specific issues raised by the Green Paper.

The arbitration court

There has been a slow but definite evolution in the role of the Arbitration Court within the operation of wage fixing and industrial relations in New Zealand. In recent years, the process has been one which has taken the Court from a high, central profile in wage fixing to a more significant role in procedural, interpretative and application disputes.

I believe the Court should continue to evolve more in the direction of a Labour Court wherein a wider range of labour law and employment-related issues can be resolved. A Labour court would maintain the existing jurisdiction of disputes of rights, personal grievance hearings, and selected disputes of interest issues. It could also assume control of selected areas of law (injunctive powers, actions in tort, for example) used in labour disputes, but currently in the jurisdiction of other courts. A Labour Court could also integrate the roles of conciliation councils and the mediation service as various tiers within a co-ordinated operational structure.

The Labour court would then exist to serve the needs of the principal parties, not to be intrusive in its own right, not to be present by statutory power, but available at the request of participants to aid and facilitate problem solving. A non-interventionist philosophy would encourage greater independence, operationally and procedurally, of the parties. Weaker participants may lean more heavily, stronger participants would be more prone to work out their own solutions. A distinction between awards (procedurally before a conciliation council) and agreements (independent of conciliation) would disappear. Conciliation and arbitration facilities would be available on request.

Career development, career structure, specialisation of the staff as well as support services would each be enhanced by an integrated structure. A separate discussion document would be needed to add flesh to this proposed development. And the expertise of others need to be added to mine to fully explore the nuances of such a body. I introduce the concept and some key operational principles.

The mediation service

The Mediation Service pre-dated the 1973 legislative distinction between disputes of interest and of rights, and initially its role was to emphasise prevention as well as cure: rights and personal grievance rather than interest dispute; and mediation rather than arbitration. Over time the reality has diverged from expectation.

The work of the mediators and the mediation service is not *per se* being criticised when I suggest that reality be recognised, and the de facto integration of role become an actual integration. In fact I have argued earlier for a single administrative structure, a Labour Court, encompassing mediation, conciliation, arbitral and selected judicial functions.

Registration/amalgamation

The notion of union registration is one which has been central to the New Zealand way. It has served as an essential protection for the concept of unionism, and a key recognition by the State of the legitimacy of unions. Monitoring of union rules, minimal protection of democratic form and elements of protection of the rights of individuals vis-a-vis the union are subsidiary, but important, benefits of registration processes.

A related question is whether historic rights given upon registration, exclusive coverage, for example, are still appropriate. I would suggest that minimal requirements would be a statutory prohibition on the registration of "new" craft or occupational unions, removal of any inhibitions and the provision of positive encouragement, where possible to amalgamation and rationalisation of unions along industry lines.

A major change suggested by some is that there should be a legislative requirement for the formation of alternative groupings of workers, at plant, site, locality level, for example. Such a course would create increased potential for inter-union conflict and membership battles, a feature of industrial relations we can do without. The initial choice may be a ballot between unions for representation on a site; but it will only be a matter of time before a third option, no union, appears, and the way is then open for the overt anti-unionism campaigns observed in some industrial relations systems, but in recent years not a significant feature of New Zealand society.

If lower levels of bargaining structure are to develop, and need be supported by organisational change within unions, my preferred options are: first, to allow unions to evolve structures which union members consider appropriate (legislation which inhibits change should be removed, encouragement applied where possible). Secondly, to encourage initiative by employers to in turn encourage additional structures to emerge by enhancing the potential of the existing provisions for composite agreements, and the further development of industry wide agreements.

The appointment of full time officers, perhaps initially with support funding from government, by central union organisations and by local trades councils, would be an entirely appropriate way to encourage the formation of inter-union groups to formulate and process policy claims in the form required by the composite site or industry wide agreements. Such officers could chair and co-ordinate at the union level, and assist in the processing of such matters at the negotiating interface.

Issues associated with union amalgamation have a close link to those involved in the discussion of registration. The questions are should amalgamation be promoted and, if so, what are the major constraints? Three points, leaving the judgment to be made by the reader: first, research has demonstrated that people, especially union officers, are a key obstacle to amalgamation. Policy provisions must accept this. Legislative change is not enough. Secondly, attempts to force amalgamation can lead to resistance by some of those affected, and the issue of the residual or breakaway, the small group remained to fight the system will have enhanced potential. Finally, and I think of most significance, tight legislative control of what is a union, how it should be structured, how it should operate, means that we have unions that are creatures of the system, born of and serving the system. And I believe that such a trade union movement, which to some extent has and continues to operate in New Zealand, is not in the long term interests of union members or of industrial relations generally.

The trade union movement is geographically fragmented, under-financed and under-resourced, and much of this is a product of historical dependence on a highly regulatory system. We can not reverse historical patterns overnight, but further legislative direction would compound the faults of the past and create further dependencies. We should restrict our interference to encouragement, to remove restrictions, to facilitate the directions chosen by those at the grass roots of the movement, the union members.

Disputes of rights and disputes of interest

The introduction of this dichotomy in the 1973 Act and the development of processes and structures based on this dichotomy (plus the related notion of the personal grievance procedure) were innovative changes. I believe this distinction is sound. The identification of 2 categories of disputes, the establishment of the terms and conditions of employment on the one hand, and the administration and interpretation of those agreed terms on the other hand,

is a significant distinction.

The clear distinction between interests and rights has been one of the success stories of the North American industrial scene, in Scandinavia and continental western Europe. Britain is one bargaining system where the dichotomy was not maintained, and the experience there is not one to be emulated.

There has been a long, and as yet unsuccessful, quest for an acceptance of the distinction in Australia. The Hancock report is the latest to make a plea. Recommendation 103 reads: "That a distinction be drawn between interstate industrial disputes which lead to the making of awards, and disputes which are subsequent to the making of an award . . ."

Recommendation 106 reads: "That the legislation *require* all awards and certified agreements to contain a procedure for the resolution of grievances during the currency of the award on certified agreement". Australia 1986 — a recommendation — it was implemented by legislation in New Zealand in 1973.

I am aware of the Federation of Labour position that the distinction is occasionally blurred, and that it restricts trade union action. I accept this as an initial policy position of a trade union seeking to maximise freedom of action and maintain the initiative in industrial campaigns. However, I would suggest that unions have much to gain in terms of organisational stability if they can distinguish approaches and roles of officers based on this dichotomy as a central, if not immutable, principle.

A clear, defined, role for an appropriately trained local union officer (the delegate) in the processing of disputes of rights is a significant building block of a strong grass roots organisation of that union. It also has benefits for the employer in the improved potential for settling the dispute as close as possible to the source. The balance is strongly in favour of retaining the distinction.

Clearly steps can be taken to enhance the working of the existing system. There is a strong view favouring stronger encouragement for the parties to define their own procedures, borne out of and shaped from local needs and conditions. Again this is something which can be encouraged by legislation, but which can only take off at the initiative of the parties.

Local procedures could also enable the parties to make their own (local) provisions for private mediation/arbitration services in rights dispute. Mutual acceptability, specific knowledge, immediate availability would be criteria the parties could bring to the selection process. Individuals or panels could be provided for in the agreed procedure.

Whilst there may be a sound philosophical, as well as economic, rationale for a private service based on a shared user-pays concept, it may be that, given the long history of dependence on the state, that a central fund may be needed to underwrite such ventures. Such a fund would diminish in importance as the intrinsic merits of the proposal develop, and as the union movement (as it must eventually, and preferably sooner rather than later) increases its resource base.

Length and duration of awards

I would argue that the 12 month rule is a sound initial attempt to create a climate of stability for those who exchange rights and obligations under awards. In fact there are cogent arguments for supporting the development of innovative bargaining which extends the life of awards or agreements. Longer term documents, with agreed contingency provisions (escalator clauses, agreed and specified re-opening provisions etc.) ought to be encouraged.

Whilst the legislation can guide and encourage in this area, and it should not inhibit, it is the parties who need to be innovative. Again an argument that the existing system needs oiling rather than radical reformulation.

Independent contractors

Question 11 asks whether the definition of "worker" should be widened to include "labour only contractors". There is also the issue (not explicit in Question 11) of the person who contracts for labour and the provision of equipment (a truck, a vacuum cleaner, a computer, etc). The distinction between "contracts of service" and "contracts for service" is at the heart of this query. It can also be seen as a form of "micro-privatisation". Many countries have witnessed a rapid increase in this form of employment relationship. Carpenters, drivers and

fishermen are referred to in the "Green Paper". Cleaning, mining, catering, computer software and service and rubbish collection are amongst areas of spread that I have observed elsewhere.

The Green Paper refers to the debate in terms of economic efficiency versus the potential for under-cutting awards. We should also recognise that one of the major tactical uses of independent contractors in overseas situations has been in association with legislation prohibiting secondary action (secondary boycotts, sympathy strikes, for example), in combatting restrictive picketing, and in overt strike breaking. Also present in these situations has been an increased use of the general court system (via injunctive action, and actions in tort) as a weapon in industrial disputation.

In my view the answer to this question must stem from a value position and an understanding of the intent of the initiating party. Honest attempts to improve commercial efficiency may need to be supported, occasional and judicious use of the injunction and similar civil actions may have specific roles in specific instances as a legitimate tool in the armoury of the industrial relations negotiations. But the emphasis is on intent, on the honest attempt, on the occasional and judicious use.

If the intent is, and I argue from the extreme, to so weaken unionism as to render it ineffective, and to substitute "judicial" norms for industrial norms in dispute resolution, then I would regard it as inappropriate in the society in which I live, and hence must be resisted.

Because intent can only be appreciated on a case by case basis the initial position would need to be determined by reference to past experience and then monitored over time. Recent British and American experience suggests that independent contractors have been used to subvert unionism. My initial position is that labour law must be extended to cover such developments.

Conclusion

I have sought throughout the paper to identify some key policy issues which need to be confronted. I have also made some suggestions for change in micro elements of the system. I have raised the query that the alleged failure of the system has been less due to any inherent weakness in the system than in the approach and attitude of the parties. I have taken a policy position that, for the time being, a national award system need remain, that continuing evolutionary change is the way ahead, and that the encouragement of initiative, individualism and entrepreneurship in industrial relations planning and practice, is essential.

I would add 2 further suggestions which should facilitate developments:

(1) First, the need for a clear statement of intent. A key, intrinsic but often overlooked clause in any agreement emerging between unions and management in a mature bargaining relationship is the "statement of intent". That statement represents an agreement on the purpose, objectives, hopes and ambitions that the parties have for the contract. It is also a critical statement for those who come afterwards and have to administer and interpret the contract. In that case it provides guidance and enlightenment and enables administration and interpretation of the document to enhance the relationship rather than undermine or contradict that relationship. Perhaps the key thing in a review of the industrial relations systems is in fact a "statement of intent", both in terms of the goals of society and the goals of the industrial relations system. Questions 1 and 2, enhanced by questions about basic goals of society, are an excellent starting point. But for all of its merits the question is whether the process of a Green Paper, submissions, position paper, legislation, is now the appropriate process to identify an agreed statement of intent. Shouldn't there be at this stage, soon, a much more intensive, open, face-to-face involvement, negotiation, between the principal actors, unions, employers and government (in the role of representative of the electorate)? If we can get agreement as to the "statement of intent" so much else will follow.

(2) A second point intended to facilitate the operation of the system is made unashamedly, despite its advocacy of a vested interest, by a vested interest. First, there must be more and better research in respect of labour market issues, and second, there must be more and better industrial relations training of the operators within the system.

I could, if called upon, enunciate the need for, the role of, the structure of, and the ongoing benefits which would flow from the establishment of a designated agency charged with, *inter alia*, co-ordinated and ongoing research into labour market, economic and social issues. Such an agency could be an extension of existing organisations, within a government department

or independent, but co-ordinated guidance of research priorities would be a must. I believe that developments based on the Industrial Relations Centre could meet this need.

With respect to industrial relations training I believe that the move to establish the Trade Union Education Authority is a correct one, although I seriously question the potential isolation of the Authority from the mainstream of educational expertise in New Zealand. The role of the Employers Association Training Board could also be enhanced.

Industrial relations training is best viewed as a pyramid, with at the base, large numbers, the job delegates, the supervisors, requiring training in their role and function, perhaps independent of one another. Successive levels of training needs can be identified with the requisite demand (the throughput) declining at each level. Closer to the top of the pyramid a smaller number of middle level and senior executives in management, government and unions require more intensive, specialised and functional training. And the further up the levels of the pyramid the more important it is that the training be conducted jointly, not separately. The core of a consensus, tripartitism based industrial relations system must be reinforced at this point.

The Trade Union Education Authority and the Employers Association Training Board, suitably revamped, are best suited to working in the bulk, repetitive training needs of the lower levels of my illustrative pyramid.

But the significant gap of industrial relations training for middle and senior levels, middle and senior management in private industry, the public sector and in unions, must be developed jointly; and the existing educational network is the best home for such developments.

I would assert that the Industrial Relations Centre at Victoria University, must be required to, and given the necessary support to, develop its role in continuing education and training of practitioners at the middle and higher level of the training needs pyramid. The role and responsibilities of the Industrial Relations Centre, in this respect, can be worked out by all interested parties.

It is possibly not unexpected that I should place a premium on education and training. I may have been convinced to "low key" my arguments in this area were it not for my observations of the past wage round, particularly in the public sector, and particularly the performances of some extremely senior personnel.

I believe that a strategy review of events in the banking industry, health industry, teaching and other areas would endorse the point I am making. There have been significant deficiencies in both forward planning of industrial relations strategies, and at the operational level. Education and training cannot obliterate these deficiencies overnight, but it can help, it will help, in the long run. Industrial relations reform, of itself, is not enough.