

REVIEWS

Raymond Harbridge (editor). *Employment Contracts: New Zealand Experiences*. Wellington: Victoria University Press. 1993. 253pp.

Just 20 months after the introduction of the Employment Contracts Act 1991, the release of this book serves as a timely reporting of experiences to date. The legislation that swept aside the state sponsored industrial relations system that New Zealand knew since the Industrial Relations Act of 1894 deserves careful monitoring, and the contributions in this text - from a range of prominent practitioners and academics - offer some valuable insights.

The first seven chapters provide a comprehensive overview of the Act. In Chapter One, Kevin Hince provides an historical perspective, outlining the fundamental shift from the time-honoured principle of conciliation to a bold new system of individual and collective employment contracts aimed at promoting an efficient labour market.

Chapter Two, by Pat Walsh and Rose Ryan, discusses the political build up to the Employment Contracts Act, beginning with the legislative process that led to the Labour Relations Act 1987. The authors justify this as a logical starting point because of a perceived failure of this 1987 legislation to promote enterprise and industry based agreements - an outcome desired by both unions and employers. As well, they acknowledge the political endearment to the neo-classical (competitive) model of the labour market which became prevalent from the mid-1980's. This chapter contains material that will be new to many readers as it is based on an analysis of government papers obtained under the Official Information Act as well as on interviews with politicians and government officials who were involved in the policy making process.

Bargaining is the focus of the third and fourth chapters. In Chapter Three, Raymond Harbridge draws upon labour market segmentation theory, developed by economists, in an attempt to determine whether a bifurcated labour market - as predicted by various commentators - is indeed developing. Harbridge's data provides strong evidence that a collapse of collective bargaining coverage has occurred under the new regime but that the basis of collective bargaining, in fact, still remains. Nonetheless, he contends that any "comeback" of collective bargaining will need to overcome considerable organisation difficulties if it is to be sustained. In terms of the familiar dual labour market model of segmentation theory - with its familiar primary labour market (containing higher paying, steady and generally preferred jobs with established working conditions) and secondary labour market (containing relatively low paying, unattractive jobs with poorer working conditions and few, if any, prospects for advancement) - Harbridge conjectures that secondary labour market workers may be worse off as a result of a heavy reliance on individual contracts of employment and the demise of collective bargaining. Workers in the service industries, retail, hotel and restaurants - where de-collectivisation is most apparent - are at greatest risk. Harbridge's analysis is not beyond

reproach: the link between de-collectivisation and secondary labour market employment is somewhat contentious. Furthermore, as the author concedes, the data set is incomplete (as there is no longer a public record of collective bargaining) and research has been hindered by "a great shortage of knowledge about what is actually happening in the labour market".

Peter Kiely and Andrew Caisley examine some of the more significant issues which have arisen regarding the legal status of bargaining under the Act, in Chapter Four, noting that there have been a wide variety of new legal developments as employers, employees and all others in the area adapt to the new environment. Topics include: sanctity of contract, the right to manage, the expiry of collective employment contracts and S19(4), strikes, lockouts and the bargaining process, partial lockouts, one person lockouts, picketing, authorisation and access. The authors end on a fairly positive note: the new legal environment is substantially different but the rules are comparatively clear, and the Employment Court is applying them "strictly and consistently". Thus, the opportunity and the challenge to develop new attitudes and approaches - from a sure basis - is being extended to all parties.

Harbridge launches a forceful attack on the legislation in the opening of the fifth chapter, which deals with collective employment contracts. He contends that the Act induces no "level playing field"; rather, it significantly shifts the balance of bargaining power further towards employers. Furthermore, the courts have done little to address imbalances. A key outcome, to date, has been a 45 percent reduction in collective bargaining coverage, which Harbridge sees as hardly surprising given the imbalance in bargaining strength and the general thrust of the legislation. The chapter is a provocative examination of the structure and content of collective employment contracts and Harbridge's conclusion is stinging: "Any concept of comparative employment justice has gone and the very disparate findings indicate that 'market rules' are the sole arbiter of employment negotiations. That for New Zealand is an astonishing turnaround".

John Hughes' chapter provides a detailed account of personal grievances under the legislation. The key definitions of the various types of grievance in the new Act remain unchanged from the Labour Relations Act 1987, thus making the personal grievances jurisdiction one of the few substantive parts of the former system to have survived relatively intact. Much of the discussion in this chapter is couched in legalistic jargon and will be of most interest to those with a specialist interest in industrial law.

In Chapter Seven, Tony Simpson starts by quoting the Chinese historian who allegedly told the French historian that it was far too soon to assess the influence of Napoleon on French history. Similarly, Simpson contends that it is far too early to predict the effects of the Act within the state sector. Nonetheless, he provides a useful historical background of industrial relations and personnel legislation in the state sector since the Public Service Act of 1912. The Employment Contracts Act is reviewed in terms of government's desire to improve efficiency in the public sector and enhance management accountability. But Simpson concludes that vigorous resistance to the Act within the state sector will continue and that new legislative initiatives - bearing a curious resemblance to the legislation of 1912, 1962 and 1968 - are a safe prediction.

The next three chapters deal with the Act's effects on employers. In the first of these, Peter Boxall examines the critical role being played by management in the contemporary New

Zealand labour market. Boxall stresses the key advantage to management - in terms of increased flexibility and thus greater responsiveness to changes in output demand - that a system of decentralised wage fixing brings. He contends that the basic structure of wage-fixing is broadly in line with the need for a more competitive economy but, on the downside, acknowledges the likelihood of declining fortunes of less skilled workers in the secondary labour market.

In Chapter Ten, Ian McAndrew reports on the process of developing employment contracts from a management perspective. He starts with a detailed discussion on the structure of employment contracts and includes a most useful profile of collective document structures based on his own empirical analysis. He concludes that there has been a diversification of employment contracting structures and processes during the first year of experience with the legislation, but that they have been non-random. The view of his co-authors - that the new Act is far more discriminating than its predecessors - is endorsed.

The final chapter on the effect of the Act on employers, by Peter Carroll and Paul Tremewan, describes some actual experiences of how employers and their workforces have encompassed the flexibility of the Act. The new pressures exerted on employers associations - resulting from the absence of national award negotiations - are then dealt with and various issues awaiting resolution are outlined. These issues include membership fees, advocacy staff, legal division, training, the industrial information service, occupational safety and health, wage surveys and marketing. The authors conclude that while the Act has been welcomed by employers, many of them have played a passive role by way of individual arrangements for their particular workplaces. But the change for employers associations has been dramatic: much of their traditional work has disappeared.

The final four chapters of the book are devoted to the effects of the Act on workers and their unions. Ken Douglas leads off with a chapter devoted to the effects of the Act on the Council of Trade Unions and its membership. He isolates three distinctive features of the Act that he sees as making it a centrepiece of government's broader economic strategy. First, he sees the Act as asserting the authority of management over the rights of workers. The second feature is the de-unionisation of the workforce and the third is the breaking down of negotiation to enterprise level. Douglas conjectures, however, that an enterprise based, de-unionised, management led revolution will not succeed in rebuilding the New Zealand economy. Nonetheless, he acknowledges that, in the current environment, organisations and the institutions created by them must change or decay: the CTU is actively pursuing the path of change. Here, there are clear parallels with the situation facing employers associations, as outlined by Carroll and Tremewan.

Janet Sayers deals with the effects of the Act and increased levels of labour market flexibility on women. She argues that the three main areas of concern for women workers are part-time work, union organisation and women's skill experiences. There is a strong consensus among commentators in this area that the Act will only serve to marginalise women's work in both the paid and unpaid spheres and Sayers fears that women are particularly vulnerable under the new scenario. She points to the fact that during the first year of the Act, union membership losses have been most significant in the areas of predominantly female labour in the less skilled private sector.

The effects of the Act on union membership and organisation are the subject of Chapter Thirteen. Here, Raymond Harbridge and Kevin Hince commence from the standpoint that, for a century, a central principle of the New Zealand system of industrial relations was legislative protection for unionism, albeit despite some political manoeuvring. The authors establish a case for careful monitoring of union membership and structure and provide base data (compiled for 1985) for union membership and density. The authors contrast these aspects of unionism under the previous Labour Government with the trends that have emerged since the passing of the new Act. They conclude that it is too early to predict with confidence the impact of the de-collectivising effects of the Act in terms of union membership. New Zealand unions are not seeking a return to the past and - in spite of a diminished aggregate union membership - are restructuring, reorganising and adopting a more competitive stance.

In the final chapter, Rosalie Webster presents a case study of the Engineers' Union operating under the Act. The main emphasis is on bargaining experience and she paints a picture of mixed fortunes. Overall, she concludes that bargaining has been an uphill battle; the Act is described as "regressive" - a retreat to the nineteenth century, when workers had little protection from exploitation.

Employment Contracts: New Zealand Experiences is an important book and one that will be referred to for many years to come. For the most part, the tone is provocative and some may feel it is a little lacking in balance of views presented. If there is one area where it disappoints, it is that there is no contribution from a labour economist. This seems odd, given that several of the authors lean on economic models of the labour market in their analysis, especially segmentation theory. A labour economist's perspective on this key area, dealing in greater detail with the theoretical underpinnings, would have enhanced the book as a whole. Nonetheless, editor Raymond Harbridge is to be commended for collating a large volume of material and organizing it in a systematic way. The book represents an initial robust attempt at what, hopefully, will be continuing research and monitoring of a new reality in industrial relations: a reality which rejects the traditional New Zealand notion of social partnership.

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Russell Lansbury and Duncan Macdonald (editors). Workplace Industrial Relations: Australian Case Studies. Melbourne: Oxford University Press. 1992.

Case studies are a valuable means of enhancing our investigation of industrial relations, for they help us to explore below the surface of the public rituals and national decisions. As Vic Taylor notes in the book reviewed here, "the richness of the data often provides stimulation to examine many more ideas raised" (p.32). The studies in this timely volume are no exception. With the focus of public policy on industrial relations in Australia and New Zealand at the level of the enterprise, plant or workplace, case studies below the institutional and industry level can provide much needed material to guide our research.

The editors in their introduction have posited several general and important questions, which the authors address in their case studies. These are related to the influence of arbitration systems, the degree of control exercised by head office over the management of industrial relations, the nature and basis of attempts by management to "incorporate" employees and the nature of unionism at plant level and the ways in which unions constrain managerial decision making. The final thematic issue treated is the nature and extent of management's efforts to increase efficiency and productivity, and the links between these efforts and the centralised decisions over second tier bargaining and award restructuring that provided in Australia for decentralised industrial relations, but without the harshness and hastiness of the New Zealand experience. Clearly the questions constitute a tall order.

Nevertheless, each case study is structured to deal with these questions, at least briefly, and all offer insights into the ways in which the broad brush of national industrial relations is writ at the level of the plant. Lansbury and Macdonald's broad introductory sweep explains and justifies the basis of the modus operandi of the book, as well as offering a thumbnail sketch of each case study. There follow the six case studies, presented in British fashion with nom-de-plumes for each case study organisation. These are all competent and contain a wealth of description of the processes and events. Vic Taylor's lively analysis of "Receptacles" is followed by Rimmer and Underhill's clever study of "Paintco" which offered some extremely useful insights into the complexities of managing industrial relations at plant level. Given the massive growth in employment in the service industries such as tourism, and the relative scarcity of research into these kinds of economic activity, Benson and Worland's study of "Hotel International" provides just the kinds of insights which good case studies should generate. Griffin and Isaac's study of Comel (electronic component manufacturers), which had recently been restructured, illuminates the effect of these kinds of changes down at plant level industrial relations, while Lansbury and Macdonald's Automakers, and Bamber and Runciman's "Foodco" are competent demonstrations of the tensions and coping strategies in modern "workplace" industrial relations.

Every review has a few quibbles. My first is that it is time industrial relations academics dealt with the semantics of differentiating between the enterprise or firm, the plant or site, and the workplace. Sloppy interchangeability of terms can only muddy analytical waters, which are clearly already sufficiently complicated of themselves. Semantics are the basis of my second quibble too. Several studies use the term "background" to introduce significant contextual influences on plant industrial relations, and continue to treat such influences as mere background. Perhaps it is my early academic training from one of Australia's leading,

and arguably most particular labour historians, but the contextual determinants for employer action and union reaction are intrinsic to the fabric of industrial relations, and should be treated as such. Thirdly, it needs to be noted that the case studies in this volume are not quite representative of Australian industrial relations. All deal with well unionised sites where unionism is at very least tolerated, and even valued, exceptional rather than representative in these times. The fact that all plants are unionised and unions are recognised by management as bargaining parties explains why the role of unions is given an arguably unduly high profile in the case studies, but it is probable that these circumstances are a relative rarity, given the declining levels of union density in Australia. Perhaps the firms in these case studies recognise or value unions because most are perceived as operating in relatively stable or growing markets, another factor which differentiates these case studies from current norms.

But these are criticisms which should not detract from the importance of the book. It is a timely and up-to-date project, which offers valuable data and analyses from highly competent academics. As such it is a worthwhile addition to the bookshelves of all who seek to understand what happens to national industrial relations agreements and decisions once they leave page one of the daily newspapers. Rather, the criticisms highlight the importance of the need for rigorous case study research.

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Tom Dwyer. *Life and Death at Work: Industrial Accidents as a Case of Socially Produced Error*. New York: Plenum Press. 1991. xv + 318pp.

Tom Dwyer writes from a background of extensive experience in the occupational health and safety field in a number of countries, including New Zealand, France, Great Britain, the United States and Brazil. With interest in occupational health and safety recently intensified in New Zealand with the advent of the Health and Safety in Employment Act 1992, the publication of Dwyer's research findings comes at an appropriate time. Some will be familiar with his earlier writings, especially that published in this journal ten years ago.¹ Dwyer was moved to undertake his research by the comments of earlier researchers who have raised doubts as to the effectiveness of the traditional approaches to prevention. With the present concentration on the new legislation, a consideration of Dwyer's thesis will provide a stimulating reminder that, despite the importance of regulation and enforcement, there are many other factors to be studied. These must be considered and, where desirable, acted upon if we are to reduce the toll of disease and injury in our workplaces. On the other hand, regrettably in New Zealand today there is little evidence of any desire to consider prevention strategies other than the traditional approaches to occupational health and safety.

Dwyer, after covering the development of employment from craft to semi-mechanised, then to continuous process, examines three aspects: reward, command and organisational, to which he adds a fourth element: that of the individual member, viz. that autonomy for action left to the individual member within the context of the social relations of work. He then sets out to examine four hypotheses:

1. Social relations of work produce industrial accidents.
2. The greater weight of a level of social relations in the management of workers' relationships to the dangers of their jobs, the greater the proportion of accidents produced at that level.
3. The greater the degree of autocontrol by workers at a level, the lower the proportion of accidents produced at the level the worker action seeks to control.
4. The greater the degree of managerial safety management at a level, the lower the proportion of accidents produced at the level the management action seeks to control.

In addition, hypotheses relating to conventional perspectives on safety were also examined, namely the standards or regulatory approach, the cost-benefit method and system safety. In endeavouring to determine the validity of these hypotheses, Dwyer makes use of comparisons between the accident record of workers on the night shift as compared with that of the day shift. Of particular interest to New Zealand readers is that, despite the research Dwyer has undertaken overseas, the case studies examined were all New Zealand plants. The facts revealed in detail about these three plants will be seen as typical of many New Zealand factories.

¹ A new concept of the production of industrial accidents: a sociological approach, *New Zealand Journal of Industrial Relations*, 8(2): 147-160.

Safety professionals who have been emphasising the need to get to the basic causation of accidents, if preventive strategies are to be effective, will find much to interest them in Dwyer's views. For example, identifying and controlling hazards as required by ss. 7 to 10 of the Health and Safety in Employment Act 1992 may not also be seen to relate easily to the elements on which Dwyer has concentrated. He concludes that the "results both question the validity of traditional approaches and validate the hypotheses drawn from sociological theory." He maintains that "effective accident prevention is produced by workers who exercise autocontrol at all levels and by management, which in absence of worker orientations favourable to autocontrol, engages in safety management as defined sociologically." While he concedes the difficulty in arriving at a firm conclusion on evidence from a limited study, nevertheless the facts outlined and the conclusions are of particular importance today in the light of the new legislation. Clearly there is much to be gained from further research, and it is important that research consider the wider horizons that Dwyer has opened.

It is, therefore, all the more regrettable that so much reliance is still being placed on strategies about which there could be considerable doubts, especially if they are practised to the exclusion of other approaches. This is heightened in situations where there is so much tunnel vision, with so many stressing their own particular strategy, often to the exclusion of others.

Emphasis is currently being placed on the new experience rating provisions of the Accident Rehabilitation and Compensation Act 1992, though overseas research casts doubts as to its effectiveness. This along with Government's assertion that greater worker participation "compromised good management practice and responsibilities" thus "encouraged the potential for confrontation." Dwyer's conclusions indicate that it could be most desirable to review the current approach giving consideration to sociological views.

Dwyer also established the positive part that the presence of a strong union may play. But his research was undertaken at a time when it was possible for a union to play a considerable part in prevention, and where unions had a right of entry to workplaces where they had members. Additionally, under a much more favourable employment situation, workers were not so cautious about speaking up in their interests if they thought safety was being compromised. All of which not only confirms the need for a great deal more research, but also suggests that current attitudes and procedures should be re-examined. This will also call for the necessary concomitant statistical and other data. The only difficulty I see is that some who are not familiar with the sociological approach may be deterred from making a detailed study of this text, from which they would gain a much wider perspective on what is involved in their task of preventing occupational disease and injury.

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