

CHRONICLE

July 1993

A study published by Victoria University's Industrial Relations Centre found that just over 300,000 workers - less than a third of the total workforce - were covered by collective contracts or in negotiation for one, compared with 700,000 workers covered by awards or collective contracts in 1989-90. Union membership plummeted in two years from 603,118 to 426,160.

A Youth Coalition was formed by youth councils, church youth groups, trade unions and student groups to work for a minimum youth wage. They planned to survey young full and part-time workers and to lobby politicians by targeting electorate offices with displays of posters and by rock concerts.

Dairy industry employees, including process workers, engineers and electricians, negotiated a two percent pay rise from 1 September, followed by a further two percent rise in November 1994. The issue of public holiday entitlements in the wake of the recent court ruling was settled by absorbing days off in lieu in extra public holidays received by dairy workers.

Twenty-three engineers went on strike at Brake & Transmission New Zealand plants at Wiri and Glenfield. Most of the staff had individual contracts, but the strikers were determined to retain their collective bargaining strength. After eight days on strike the Engineers Union arranged a proposed settlement, the terms of which were not disclosed.

Staff at Affco New Zealand learned on 8 July that the company, one of the largest meat export companies in the country, intended to pay off up to 1,000 workers, out of a total staff of 3,800. At Horotiu, near Hamilton, 340 jobs were to be lost with the decision not to reopen the lamb and sheep chains. A further 280 jobs were to go at Waitara, in Taranaki, where the lamb chain was to close in October, 220 jobs at Moerewa, in Northland and smaller numbers in other works. About half the staff, 100 workers, were to be shed at Affco head office in Auckland.

The company also announced that it was unable to meet the cost of these redundancies, an estimated \$25 million, in one hit, but offered to drip-feed the payments over a period of three years. CTU President Douglas and meat union leaders negotiated with company representatives. "I think the workers feel quite bitter and angry that yet again they are the people expected to tighten their belts and carry the load," said Douglas. But, after securing independent financial advice, the union leaders accepted a deal which was endorsed by stopwork meetings. Dismissed workers got five options ranging from weekly payments of \$100 to \$150 to full payment, with interest, on 30 September 1996. In return the remaining workforce was to get some say in the management of Affco, while recognising "the

employer's right to manage and control its business. "Security guards struck at Armourguard sites, such as the Huntly power station and the Reserve Bank in Christchurch, in protest against the breakdown of their multi-employer contract negotiations. The employers offered a one percent pay rise in return for the loss of penal rates on public holidays. The guards asked for a base rate of \$9 an hour (instead of the current \$8.40) and protection of weekend pay rates. The employer's offer, said the Service Workers Union, would have resulted in wage losses of one to two percent and was "insupportable." Negotiations continued.

Sixteen-hundred employees of IHC, the Society for the Intellectually Handicapped, had penal rates for public holidays replaced by ordinary time plus a mandatory day off in lieu at a later time. In return they received a pay rise of 25c an hour and some extra annual leave and sick leave entitlements. Some 150 new workers hired on individual contracts were to be covered by the new collective agreement.

One-hundred and fifty front-of-house staff at the Everard cinema chain were offered wage rises ranging from 5.4 to 21.9 percent, according to the National Distribution Union. The proposed new salaries ranged from \$8 an hour for staff with less than three months' service to \$10.25 for staff with seven years' or more service. The deal included some reduction in weekend pay for those with less than a year's service and the introduction of youth rates for workers aged under 20 years, but included a new travelling allowance and a redundancy compensation package.

Pay talks for prison officers collapsed again on 1 July and next day industrial action started at all South Island prisons and at the Manawatu prison at Linton, involving a ban on transferring and receiving inmates. The action was due to extend to Auckland and other North Island prisons later and was expected to clog up the law courts in a matter of days.

The Justice Department threatened to suspend officers who refused to carry out their duties and the Government alerted the armed forces to take over the management of prisons, if required. The department could simply not pay out what the PSA wanted, said the Secretary for Justice; he was disappointed at the union's "reluctance to grasp financial reality." On 5 July the ban was extended to Auckland but that day, in last-ditch negotiations, the department made some improvements in its previous offer, including an undertaking to retain the transport allowance which it had proposed to buy out with lump-sum payments. On this basis the PSA cancelled the bans, subject to ratification of the package by meetings of prison officers and detention centre staff.

Workers at the Huntly and New Plymouth power stations approved an ECNZ pay offer of up to 2.5 percent in a 12-month contract, due to expire on 2 June next. The multi-site contract included a rollover of existing conditions.

The National Union of Railway Workers called for an independent audit of all safety aspects of the railway network and warned of strikes if nothing was done. New Zealand Rail denied the need for this, pointing to a reduction in derailments over the past 12 months, and threatened the union with legal action if it did not stop making public allegations claiming a decline in maintenance and safety standards. Later in the month the sale of New Zealand Rail to the American company Wisconsin Central was announced.

Wisconsin is a non-union company, but its president said the company was happy to work with unions in New Zealand. While unable to guarantee all jobs in the network, he thought the bulk of "manpower reduction" had been completed by New Zealand Rail.

Shipping employers combined with maritime unions in opposing the Government's Transport Law Reform Bill, which proposed to open New Zealand coastal trade to foreign-owned ships. Many government departments, according to confidential advice made public under the Official Information Act, were not in favour of an open coast policy. Among the few exceptions was a representative of the Treasury, who wrote in February last that "employing local labour is not a sound objective ... I can't see any reason for favouring New Zealand labour if foreign labour is more effective." The Seafarers Union issued an imitation \$31 note for Overseas Owned New Zealand ("as phoney as the National Government's Open Coast Policy") and sent a travelling roadshow to tour the country, consisting of a 4.2m trailer float (M.V. *Kiwi*) with its eight-member crew.

Workers at the Farmers Trading Company in Auckland launched a campaign of industrial action on 22 July in protest against company attempts to push for individual contracts. The campaign spread to Hamilton and Whangarei, but on 27 July the NDU called off strike pickets when the company agreed to further pay talks.

Auckland's Yellow Bus Company announced that most of its 1,008-strong workforce would receive a \$600 bonus on 16 August for productivity gains. Newcomers would receive \$50 for each month of service. The bonus was being paid only because "we are fighting for it", said a bus driver. A union spokesman welcomed the bonus as a move in the right direction but said many workers viewed it mostly as part repayment for what they had lost in last year's pay dispute.

August 1993

The CTU national executive confirmed its support of MMP as "providing greater opportunity for working people to have a say in the political system". The CTU also welcomed the Labour Party's social justice policy, believing that it would "swing the pendulum back towards a fairer New Zealand". The main issues in the policy that would be supported by unions, it said, were the removal of the six-month benefit stand-down, removal of the profit motive from the public health system, and changes in accident and housing policies.

The Alliance's industrial relations policy, released on 19 August, promised the repeal of the Employment Contracts Act and a return to a system of union-based collective bargaining for wages and working conditions.

Speaking to an occupational safety and health conference in Auckland on 17 August, Helen Clark claimed that employers reported only a fraction of work-related accidents to the Labour Department. The Labour Party, she said, was considering a law change which would allow workers to choose their safety and health representatives, who would be able to investigate complaints made by workers about safety and health and who would be protected by law against discrimination on the basis of their work.

Statistics New Zealand reported 55 industrial stoppages in the year ending 30 April, compared with 56 stoppages in the 1992 period. Fewer workers (36,427) were involved, but the number of working days lost (119, 836) was more than a third greater.

A three-day strike at Smith and Nephew New Zealand, an Auckland health products company, ended on 2 August. Workers gained a two percent wage increase plus an additional \$1 daily attendance bonus, equivalent to a total 3.2 percent pay rise.

Senior doctors and surgeons at Wellington Hospital held a stopwork meeting on 19 August, the first time hospital specialists had taken such action in a main centre. The dispute arose over the doctors' employment contract, because the Wellington crown health enterprise had refused to discuss a three-year old agreement to compensate specialists for rostered duties.

Ten workers employed at Bumper Replacements in Onehunga struck for three days in pursuit of a 23c hourly wage rise and a new skills-based pay system. They picketed their workplace, but returned to work on 23 August after accepting an 18c rise and the promise of a new pay system within six months.

The Service Workers and Engineers Unions both lodged claims with the Employment Tribunal to clarify the recent Court of Appeal's ruling on holiday pay. The Service Workers' claim concerned a former rest-home employee who had left his job, but who claimed payment for five days in lieu owed to him for working the Christmas-New Year period. The engineers' case was taken on behalf of 57 aviation workers at the Ansett engineering base in Christchurch who had been refused a paid day in lieu.

A two-day strike on 13 and 14 August by some 600 workers at Tasman Pulp and Paper's Kawerau mill cost the company \$3 million in lost sales alone, not including the cost of shutting down and starting up the mill and other production costs. At the centre of the dispute was the company's redundancy policy. "They want to get rid of 400 people and in the same breath they have a claim to use more casual labour", complained the union secretary. On 20 August production workers downed tools for a further five-hour stopwork meeting, but they resolved to resume negotiations with the company over proposed departmental contracts.

CEWU, the Communication and Energy Workers Union, sought urgent legal action to prevent Telecom from proceeding with further redundancies without meeting the consultation requirement of its national collective employment contract. On 24 August the Employment Court issued an interim injunction stopping Telecom from laying off certain team leaders and from offering individual contracts to some employees. The action had an immediate effect on the share market, where brokers reported heavy selling of Telecom shares in the United States because of a perceived threat to the company's restructuring. The company's chief executive, however, accused the CEWU of grandstanding and insisted the restructuring was on track and would continue to be so. Telecom applied to the Employment Tribunal for mediation on 14 and 15 September to settle its differences with the CEWU.

Membership of the PSA, the country's largest union, slumped to 58,644 in March, the lowest for years, but rose again in April to 75,040 after amalgamation with the Northern

and Central Local Government Officers Unions.

Prison and corrections staff voted to accept a new 17-month contract negotiated by the PSA. The voting was 1,719 in favour and 946 against, with Paremoremo prison, home of a breakaway prison officers' group, rejecting the document by 206 votes to 49. "The whole thing is a sham", commented a Paremoremo spokesman. "There has been very little movement". The contract included a 30 percent base salary rise in return for abolishing penal pay and security allowances, but did not include an overall wage increase.

Maritime unions reached agreement with the Union Shipping Group on 9 August on crew reductions and staffing changes on coastal tankers, to come into line with international standards. Staffing on each of the three tankers was to drop progressively from 27 to 21 and remaining demarcation was to be completely eliminated through further training and job sharing. The maritime unions also put before the Government a proposal for a single Australasian shipping market, which would allow Australian ships to ply the New Zealand coast. The executive director of the Shipping Federation said the idea had merit and the Minister of Transport promised to put the proposal before his colleagues.

Seafarers mounted a picket in Wellington on 12 August against the P & O vessel *Encounter Bay*, which had carried cargo across the Tasman Sea in contravention of the transtasman accord between Australian and New Zealand unions. The Government removed the MP for Onehunga, Graham Thorne, from the select committee on the Transport Law Reform Bill, after he expressed his opposition to the liberalisation of coastal trade. After opponents of the Bill had convinced the committee of their case, complained the executive director of the Shipping Federation, the Government had decided to "redo the majority".

When an Auckland businessman bought the Para retail chain from Brierley Investments, he announced plans to prepare the 43 outlets for sale to individual franchise holders. The staff were concerned about possible cuts and sought guarantees about redundancy provisions. The National Distribution Union failed to gain a collective contract from the owner and on 12 August, workers at three Para shops in New Lynn, Manukau and Henderson stopped work for two hours at mid-day. Further action was planned.

School support staff, including teacher aides, librarians, office workers, nurse aides, physiotherapists and technicians, held a series of meetings organised by the NZEI to discuss renewal of their employment contract. Non-teachers had not had a pay rise since 1991 and faced low pay rates and limited career opportunities, said an NZEI spokeswoman, who called for greater recognition of their skills. Their multi-employer contract, which expired at the end of August, was settled for a further 12 months, but with only modest improvements.

September 1993

The Labour Party released a confidential memo by the Employers Federation which urged other Top Tier organisations to defend the Employment Contracts Act by discrediting Labour Party election policies. This, said the employers, was "a major strategy for high stakes". The Labour members of the parliamentary select committee which had investigated

the Act also issued a highly critical report on 21 September, a day before the official report of the committee was due.

Auckland business leaders, representing the local Chamber of Commerce and Industry, the Manufacturers Association, Federated Farmers and the Employers Association, joined forces in issuing a pre-election brochure in defence of the Employment Contracts Act and government speakers also defended the Act. The Minister of Labour claimed that New Zealand's improving economy and international competitiveness were largely due to the Act. The Prime Minister, speaking to the Employers Federation's annual convention in Auckland on 29 September, called the Employment Contracts Act the glue of economic recovery. The legislation, he claimed, had retained or created more jobs than almost anything else.

The Engineers Union sponsored large advertisements in the daily press urging the return of the right to sue negligent employers. The advertisements accused the Government of abolishing lump-sum compensation and thereby negating the original agreement between the Accident Compensation Corporation and the wage and salary earners of New Zealand. The accident compensation scheme, said the union, is now one of the worst in the developed world. "They have ruined the scheme to the point where there is no real compensation", claimed the Engineers' Secretary Rex Jones. The campaign was meant to bring the matter to public attention before the general election, but the Minister in charge of accident compensation, Bill Birch, said the union campaign was driven by the Labour Party, of which Jones was a past president.

About 1,000 Affco workers who were to be made officially redundant on 1 October, were told that the company could not meet that date as it was still working on a debt rationalisation package acceptable to its major investors. Until they were made officially redundant, workers could not be paid redundancy or receive superannuation payments.

According to the Service Workers Union, 2,000 employees of KFC's 80 fast food outlets were to receive a one percent wage rise on 15 December, with a further one percent payment next August, under a two-year employment contract. The new starting wage was to be \$7.42 an hour, while trained workers were to receive \$7.99 or \$8.25, depending on skill levels.

Six security guards employed by Armourguard at the Huntly power station returned to work on 10 September after a week-long strike. Armourguard had cut allowances worth up to \$90 a week after renegotiating its contract with the Electricity Corporation; the Service Workers Union was trying to meet with the two companies to solve the dispute.

A survey of public hospital patients between 1990 and 1992, commissioned by the Nurses Organisation, showed that the efficiency of the area health board system had improved rapidly, with the amount of time a patient stayed in a hospital bed decreasing by 12.5 percent, while the number of public beds increased by 6 percent. At the same time the nursing workforce had become smaller, hospital budgets had decreased and, despite heavier workloads and improved efficiency, nurses' pay had been cut by 11.4 percent on average in this period.

After talks chaired by a mediator, Telecom and the Communication and Energy Workers Union agreed on a consultation process and a type of employment contract. The union's executive officer said he was satisfied that its concerns about recent Telecom dismissals had been addressed. The CEWU confirmed that it had lost more than \$2 million through membership resignations caused largely by redundancies. More than 10,000 members had been lost and a financial adviser had been called in to help the union out of a financial crisis. The PSA gave notice of a 24-hour strike on 17 September of health and administrative workers at Capital Coast Health and Hutt Valley Health, over the breakdown of employment contract negotiations. The notice was cancelled at Capital Coast Health after the two sides reached agreement in a secret deal. At Hutt Valley Health, the strike went ahead and members voted to continue the action indefinitely with a work-to-rule. The dispute was settled within a week with the central issue, the hiring of new staff with inferior wages and conditions, settled to the staff's satisfaction.

Parliament rose without passing the Transport Law Reform Bill, which contained the controversial shipping provisions. The Minister of Transport, Rob Storey, announced that the Government was opting for a "transit approach", allowing overseas ships already coming to New Zealand as a normal part of their trade to carry cargo from one New Zealand port to another. The Shipping Federation described the announcement as "another futile attempt to salvage the wreck of the transport minister's policy".

Auckland CTU President, Bill Andersen, and local MP, Bruce Gregory, led a march of more than 100 people in Kaikohe on 8 September, in support of nine staff members of the Kaikohe New World Supermarket who had picketed the store for four weeks. While other supermarkets had raised wages by between two and four percent, the Kaikohe owner refused to pay more than an inflation rate of one percent and described the staff demands as greedy. The NDU supported the picketers financially and threatened to organise shoppers' buses from Kaikohe to Kerikeri if the dispute was not settled.

October 1993

The Manufacturers Federation issued a pamphlet *Vote for Growth*, calling on the two major political parties to retain the Employment Contracts Act. The Prime Minister, speaking in Auckland on 19 October, claimed that "kiwi generosity" had re-emerged under the Act. National's labour laws had brought out "all sorts of incentive schemes, bonus schemes, staff care schemes", he said. "New Zealand is on a roll and a kiwi generosity of spirit has come to the fore again".

In a booklet sent to employers, the Employers Federation claimed that pledges by Labour and the Alliance to repeal the Employment Contracts Act would hit business confidence, competitiveness and employment and would "seriously undermine advances made in recent years". The credibility of Labour's pledge to repeal the Act, which it had described as "odious", was somewhat dented when two Labour MPs, David Caygill and Chris Laidlaw, told the Wellington Chamber of Commerce on 19 October that the Employment Contracts Act had introduced a degree of flexibility into wage bargaining and that Labour planned few changes when it repealed the law. The Alliance leader Jim Anderton suggested that Labour spoke with two voices, telling workers that the Act was a "real disaster" and

businessmen that it would make only a few changes.

The latest survey of executive salaries by the PA Consultants Group showed that in the year to September, 66 percent of top executives and 69 percent of general salaried staff had received pay increases. 10.4 percent of top executives and 7.6 percent of general staff had received increases of more than 10 percent.

The Employment Court on 1 October awarded \$75,000 in legal costs, plus \$3,200 for other costs, to four Air New Zealand ground stewards and catering staff, in addition to an earlier award, in June, of damages. This was less than 50 percent of their actual costs (the applicants had sought 75 percent). The case was important, said the judges, not only for the company, which had lodged an appeal, but for the 150 or so airline employees whose cases were still to be determined.

The Court of Appeal, on 11 October, rejected an appeal by the Waikato Area Health Board against an Employment Court decision that it had to pay meal allowances to a junior doctor. The Board had stopped providing free meals on 30 May 1988, but after a grievance hearing, the Employment Court ruled that the agreement providing free meals had to continue until 1 April 1990. The appeal was a test case affecting resident hospital doctors in ten former area health boards.

The Service Workers Union won an important test case when the Employment Court fined the Southern Pacific Hotel Corporation \$4,000 for repeated breaches of the Employment Contracts Act. The chief judge described the right of entry by authorised bargaining agents to workplaces at any reasonable time as an important buttress to the Act's freedom-of-association principles. The breaches by the Corporation, he said, were intentional in the sense that they were repeated and committed "not from any good motive but for self-serving reasons". The Court also fined the corporation's human resources manager \$1,200, calling him "the architect of the non-compliance". A union spokesman said on 3 October that the decision raised hope for tens of thousands of workers who had been deprived of effective union representation in many industries.

Nurses in the Nelson-Malborough area walked out of hospitals for three days on 19 October to protest the breakdown of their contract negotiations. At issue was the employer's refusal to raise wages. Some 1,000 Otago-Southland nurses struck for two days on 26 and 27 October, and nurses in South Canterbury, Wanganui and the Wairarapa voted for 48-hour strikes in early November. On 29 October the Nurses Organisation held a national day of action in defence of the public health system, including a noon march on Parliament. The day had a much wider focus than failed contract negotiations, said a nurses' spokeswoman. It was aimed at sending a clear message to all political parties that the survival of a tax-funded public health system was a vital election issue. The Prime Minister dismissed the protests as union-inspired pro-Labour rallies.

In a mid-term review of their controversial two-year employment contract, staff of Auckland's Yellow Bus Company received a 1.5 percent pay rise, equivalent to an extra \$6.40 a week for drivers. They had lost \$80 a week when the contract began last year and the President of the Tramways Union commented sarcastically that drivers were "swinging from the rafters in delight" about the rise. It did not make up for rising power bills and

other added costs such as health charges, he said.

The Tramways Union instructed lawyers to seek a court injunction against the Auckland Regional Council to prevent the cancellation of lifetime free bus passes issued to retired transport workers. The council's chief executive said the passes had entitled the holder to travel only on council-owned buses, but the council no longer held shares in the bus services. Many bus drivers, it was reported, still accepted the free passes despite an instruction to confiscate them.

Invitation to contributors

1. **Articles:** The editors welcome articles for publication in the *Journal*. They also welcome shorter more speculative pieces for the Commentary section, research notes, practitioner pieces that need not be research based, and contributions to the Legal Forum. All papers are subjected to a refereeing process before an editorial decision is made.
2. **Submissions:**
For all categories detailed below, authors are required to submit four hard copies and, if possible, a copy of the manuscript on disk in Wordperfect 5.1 or ASCII. Categories are:
 - (a) **Articles:** Academic papers which should not normally exceed 6,000 words. An abstract of 50-100 words should be included.
 - (b) **Commentaries:** Shorter more speculative pieces, also with abstract.
 - (c) **Research Notes:** Should not normally exceed 3,000 words. Content more descriptive and less analytical than articles.
 - (d) **Practitioner Papers:** either descriptive or analytical pieces, normally not to exceed 3,500 words, on any subject of wide interest to the readership. An abstract should be included.
 - (e) **Legal Forum:** Analysis, discussion and debate on recent industrial relations cases and statutes.
 - (f) **Comments/Replies (on published articles):** Before making a submission, the author of a comment should first communicate with the article author to ensure there are genuine disagreements or points at issue. Should not exceed 1,500 words. If accepted for publication the article author will be given the right of reply. (To not exceed 1,500 words).
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1. **Style:** Articles must be submitted in the *Journal's* style. For guides on style, authors should consult a recent issue. Particular attention should be paid to the method of citation and the style for lists of references (including the citation of legal cases and references).
2. **Footnotes:** The first footnote should be asterisked and contain: the authors's position(s), affiliation(s) and any acknowledgements.
3. **Quotations:** Quotations longer than 35 words should be indented. Short quotations should be enclosed in double quote marks and run on in the text.
4. **Tables and diagrams:** Tables and diagrams should be numbered consecutively in arabic numerals and their place in the text indicated clearly. (a) **Tables:** Tables should follow the style of tables in recent issues of the *Journal*, N.B. Tables must contain horizontal ruling only. (b) **Charts and diagrams:** Authors are responsible for preparing the final copy of any charts and diagrams. These should be drawn to a professional standard with black ink on white paper. The headings, labels, etc. should also be drawn professionally or prepared on a computer and reduced to a size suitable for inclusion directly into the final text. The original plus one reduced copy must be provided and it is the responsibility of authors to ensure that the changes and diagrams are proof read *prior* to submission.
5. **References:** References should be listed in full, alphabetically at the end of the paper in the following style:
Anderson, G. (1991), The Employment Contracts Act 1991: An Employers' Charter? *New Zealand Journal of Industrial Relations*, 16(2): 127-142.
Fox, A. (1974), *Beyond Contract: Work, Power and Trust Relations*, London, Faber.
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Sulong, S. (1965), *Aspects of Trade Union Government in New Zealand*, MA thesis, Victoria University of Wellington.
Walsh, P. and Ryan, R. (1993), The Making of the Employment Contracts Act. In Harbridge, R. (ed.), *Employment Contracts: New Zealand Experiences*, Wellington, Victoria University Press.

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