

Collective Bargaining in New Zealand Outside the Industrial Conciliation and Arbitration Act

by

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INTRODUCTION

A satisfactory system of governing industrial relations cannot be created overnight. It is a process of trial and error, reflecting the political systems and the development of the economic and political forces within the country concerned. It is also a process of evolution with new methods being introduced to meet changing conditions in industry. When the Industrial Conciliation and Arbitration Act 1894 (hereafter called the Act), was introduced into New Zealand to regulate industrial relations, it had two primary aims, (1) to ensure industrial peace and stability and (2) to encourage the growth and development of trade unions.¹ The method used to implement these aims was voluntary conciliation followed by compulsory arbitration. While this system has had critics, it has until recently received the support of both labour and management, and as a result New Zealand has enjoyed considerable success in achieving industrial stability.²

The first aim of the Act is now being threatened by the second. The stronger unions, having benefited from the protection provided by the Act, now feel they can stand on their own feet. The result of this development has been the emergence of increased direct bargaining which makes it necessary to re-examine the value of our present system.

While this system appears to have worked up to this point, there comes a time as with any system that attempts to govern human relations, when a change in the methods used is needed. Even within the present system adaptation has taken place to meet changing conditions; for example, the role of the Arbitration Court has changed from mediator to industrial legislator. The time has now come for fundamental changes and a complete revision of the present system.

¹ N. S. Wood, *Industrial Conciliation and Arbitration in New Zealand* (1963) provides a useful historical background.

² See Appendix.

This is evidenced by statements in the press from the Minister of Labour, Mr Shand,³ the President of the Federation of Labour, Mr Skinner at the Labour Party conference and the Federation of Labour Conference, both held in 1969, trade union officials, for example, Mr A. Kay, Auckland Labourers' Union Secretary,⁴ and by the increased number of stoppages last year.⁵

These criticisms not only stem from the inadequacies in the procedures provided in the Act, but also from changes taking place on the industrial scene. New Zealand's manufacturing industries are emerging from the subordinate position they held to New Zealand's primary industries, and this trend is likely to continue in the future. Also the larger unions are growing in strength and confidence. Another factor that is likely to affect future industrial relations, is the possibility of economic planning.⁶ This factor will be discussed later in the article.

Whatever the reasons for a change it cannot be denied that some reform is likely. The important question then, is what form this change will take. Since collective bargaining appears to be the most widely advocated method of conducting industrial relations in the future,⁷ this article proposes to examine the feasibility of such a system in New Zealand. In order to place the problem in some perspective, it is necessary to take a brief look at the present causes of discontent.

It is proposed then to:

- (i) Look at our present system in an attempt to isolate the main causes of the discontent.
- (ii) Look briefly at the possible future of industrial relations in New Zealand.

I. THE PRESENT SYSTEM

New Zealand's system of conducting industrial relations is unlike any other in the world, apart from Australia. While other countries

³ *New Zealand Herald*, 7 April 1969.

⁴ *Auckland Star*, 10 April 1969.

⁵ In an interview in the *New Zealand Herald*, 7 April 1969, Mr Shand said not since the 1940's had there been a greater number of strikes. He considered 1951, the year of the waterfront strike, to be in a different category.

⁶ *Report of Proceedings of the Plenary Session of the National Development Conference*, August 1968. Mr Marshall said the essential message being conveyed by the committee was that unless New Zealanders took positive concerted action to develop the economy the country would not be able to sustain the rate of growth to which it had become accustomed.

"The warning elevates this planning exercise from something which might be desirable to something which is essential." p. 49.

⁷ "Seemingly the era of direct militant bargaining has come upon the industry, egged on to no small extent by an F.O.L. Conference, F.O.L. resolutions, and the activities of the other unions." Mr Stewart, Employers' advocate, during the inquiry into the Electricians' strike, *New Zealand Herald*, 2 July 1969.

have left management and labour to conduct their own industrial relations, New Zealand has a system of compulsory conciliation and arbitration. The reason for this is found in our history.⁸ When the Liberal Government came to power in 1890, it was faced with serious industrial unrest. The primary cause of this was the 1890 Maritime Strike. There were other causes, such as the depression New Zealand had been experiencing at that time, appalling working conditions in factories, and the beginning of New Zealand's manufacturing industries. The government then decided the only way to prevent further unrest was to intervene with legislation. The aim of this legislation was not only to provide industrial harmony, but also to strengthen the unions, which after the Maritime Strike, were in a seriously weakened position. The procedures laid down in the Act have remained basically unchanged until today. The Act provides for all disputes to be referred to a conciliation council, under the chairmanship of a government-paid conciliator. If a settlement is not reached at this stage, the dispute is referred to the Arbitration Court, which imposes a settlement on both parties. The Court consists of a judge, one labour and one management representative. At present 90% of New Zealand's unions are subject to this system, with only the agriculture workers, government employees, and unions that have preferred to remain outside the system or have been de-registered, not subject to the authority of the Arbitration Court.

Theoretically, it appears the system should work. It ensures that both parties meet under an impartial chairman and in the event of a decision not being reached at this stage, there is provision for some decision being arrived at without the necessity to strike. Unfortunately, it is becoming increasingly obvious that these procedures are not being used. From interviews with union and employer representatives, there appears to be no one reason for this state of affairs. However, five main factors which contribute to the breakdown of the system can be isolated. They are:

- (a) That the procedure under the Act is too slow.
- (b) That there are insufficient numbers of trained and respected conciliators.
- (c) That the Arbitration Court's assessment of the evidence submitted to it during the hearing for new awards is unrealistic.
- (d) That the Arbitration Court is more concerned with fixing minimum wages and conditions than considering the individual case before it on its merits.

⁸ For a history of New Zealand industrial relations see H. Broadhead, *State Regulation of Labour in New Zealand* (1908); H. D. Lloyd, *A Country Without Strikes* (1900).

- (e) That it is time the unions were able to conduct their own negotiations, without the constrictions of the Act. This may be termed a demand for industrial democracy.

Before each of these reasons is discussed in detail, it is important to make a distinction between disputes that arise at the making of a new award, and those that arise during the currency of an award. Because of the way each of these disputes arises, they require different treatment. In the case of the former, the parties are more inclined to co-operate because they usually meet by mutual agreement. In the case of the latter, however, this attitude of co-operation is usually absent, as the matters under dispute are usually more contentious.

(a) The distinction outlined above is important when considering the time factor. In the case of negotiating a new award, the time provided under the Act appears adequate. Two months is the time given before the expiry of the old award. If steps were taken during this time, the parties should be able to assemble the case and arrange a conciliation hearing. It is suggested that unions tend to leave negotiations at this level to the last moment. While this may be true, it is considered that there is a real problem when a dispute develops during the currency of an award, and it is at this stage that the unions appear to criticise the present procedure. These disputes are usually sudden and require immediate attention. When it is considered that it may take up to two weeks to arrange a conciliation hearing, it is obvious that some other procedure is necessary. The method used at present is to rely upon the disputes committees set up on the factory floor. The procedure to be followed is usually set out in the award or in the works' rules. The usual procedures appear to be for the dispute to be referred to the foreman, and if the matter is not settled there, then it usually goes to a committee composed of union and management representatives under an independent chairman. If no decision is reached at this stage it is referred to the Arbitration Court, or, as has been happening recently, there is a strike or lockout. In many cases this procedure has also appeared unsatisfactory, either because it is too slow and uncertain (for example, it usually takes time for the parties to agree on a chairman), or because the parties simply do not want it to work. This latter point was made by Mr Andersen, Secretary of the Northern Drivers' Union. The strike weapon is often considered preferable as a means for bargaining. A more constructive attitude towards this time factor has been taken by the Freezing Workers' Union.

In January 1969, the Auckland Freezing Workers' Union, R. and W. Hellaby Ltd and the Federation of Labour negotiated an agreement setting out in detail the procedure to be followed in the event of a dispute arising. The emphasis throughout this agreement is placed

upon work continuing while negotiations are taking place. The success of this agreement, however, depended upon "a spirit of goodwill and co-operation."⁹ It was this spirit that appeared to be lacking in a dispute that arose shortly after the agreement was signed. The dispute involved the admission of delegates from other freezing works to the Auckland plant, and resulted in the agreement being, in effect, ignored. Although high hopes were held for the success of this agreement,¹⁰ it appeared that both parties have a long way to go if they are to put their laudable intentions into practice.

It will be seen that the time problem requires more than just a change in the procedure. It is deeper than that, requiring more a change of attitude than of legislation.

(b) The problem relating to a lack of trained conciliators was mentioned by all those interviewed in connection with this article. At present the Act provides for only four conciliators. Section II of the Act provides for others to be appointed if the occasion arises. This can only be done by the Governor-General, and apart from the time factor involved in appointing these men to meet an emergency, there is also the problem of finding suitable people acceptable to both parties. Use is made of members of the Labour Department and it appears they are helpful in getting the parties together.¹¹ However efficient these men are, the problem remains that there are not enough of them and the need for these men in the future is going to increase if collective bargaining is introduced.

The solution to this problem is education. This involves training men and women in all aspects of industrial relations. The way to attract suitable personnel to this type of work is to ensure they are adequately paid and are accepted by both parties. Mr McAven, Chairman of a Port Disputes Committee, emphasised the importance of these men and women being thoroughly acquainted with the industry in which they are employed. In this way they can not only mediate in disputes, but since they have the confidence of the parties, often they are able to prevent a dispute before it arises. The waterfront industry, which holds a unique position in New Zealand's industrial scene, appears fortunate in acquiring mediators who have the respect of both parties. This is probably due to the fact that they are drawn from within the industry.

At present there appears to be an unwillingness on the part of industry to employ outsiders to assist them in their industrial relations. This is illustrated by the exclusion of lawyers from the Arbitration

⁹ *Agreement between R. and W. Hellaby Ltd, Auckland Freezing Workers' Union and the New Zealand Federation of Labour*, 30 January 1969.

¹⁰ *Auckland Star*, 31 January 1969.

¹¹ Mr Pelvin of the Labour Department made this point when interviewed.

Court, except if both parties agree to their appearance, which is rare in practice. This unwillingness, combined with greater use of direct bargaining, means industry itself must provide a solution to the shortage of trained conciliators. Since the principal aim in industrial relations should be to prevent strikes the answer appears to be obvious. Both management and the trade unions must employ men and women who are trained not only in the practical side of the industry, but also in such subjects as industrial psychology and economics. In this way, it is hoped that when the foreman, personnel officer and union official meet initially to discuss a dispute, they will have at least a basic appreciation of the various points of view involved. It is realised that in some cases it is impossible to settle a dispute at this level and that it is necessary to call in an impartial conciliator. In situations such as these, New Zealand could well follow the example of Sweden, where the conciliators are drawn mainly from the universities and paid by the government. Whatever the future of New Zealand industrial relations is, one thing is certain: more trained conciliators must be found.

(c) and (d) These factors can conveniently be treated together as they both reflect the growing dissatisfaction with the Court's position in governing industrial relations. When the Arbitration Court was first conceived it was envisaged as a body to settle disputes between parties who were unable to reach a settlement in a conciliation council. This function of the Court, however, has gradually shifted from that of mediation to what may be termed legislation. This change was first apparent at the beginning of the century when it started setting down criteria for fixing wages, the "fair wage" policy.¹² By embarking on this course the Court lost much of its flexibility and began to develop what was in effect a system of precedent; that is, it tended to look to previous awards as a guide instead of considering the case before it on its merits. The Court was in effect setting down minimum standards that were to apply to all awards. The result of this was a formalising of the Court that led to the impression that it was just an extension of government, a point that was made by Mr Andersen when interviewed.

This impression unfortunately has not been eradicated by the method by which the General Wage Orders are made. Perhaps the General Wage Orders Act 1969 will help to restore the respect the Arbitration Court must have if it is to function effectively. In fact, what government appears to have done is to renounce its function as legislator in this field, and to have given it to the Arbitration Court.

This development of the Arbitration Court was perhaps inevitable,

¹² N. S. Wood, *Industrial Conciliation and Arbitration in New Zealand* (1963).

when it is realised that the awards are frequently made between unions and employer associations. An example is the New Zealand Motor and Horse Drivers' Award, which is made between the New Zealand Road Transport and Motor and Horse Drivers and their Assistants Industrial Association of Workers, and the New Zealand Transport Alliance, New Zealand Carriers' Federation and New Zealand Associated General Contractors' Federation (Inc.), and not between the union and the individual employer. While it is not denied that there is a necessity for such industry-wide awards, the fact remains they must be framed in general terms, which often do not consider conditions peculiar to a particular place of employment. It is in an effort to cover this latter situation, that some form of direct bargaining must take place. The Arbitration Court, then, is concerned to see that workers in every industry have a minimum protection.

The value of this protection is recognised by the trade unions. They also realise, however, that these awards must be supplemented by further agreements that set out actual working conditions and real wages. The necessity for such agreements is also recognised by management, particularly in the area of wage fixing. If the Arbitration Court refuses to fix real wages, then negotiations must take place outside the procedure provided under the Act. As far as the Arbitration Court is concerned the trade unions have a genuine cause for complaint, and it is at this stage of the present procedure that there must be some reform if it is to survive.

(e) The desire for industrial democracy—the fifth cause of discontent—is a result not only of the factors already outlined, but also of the realisation, by the stronger unions in particular, that the industrial scene is changing. They realise that they must present a strong united front to management, which, with the increasing amalgamation of companies, is becoming more organised in its stand against union claims. This point was perhaps best illustrated by Mr Andersen, Secretary of the Northern Drivers' Union. He gave as an example the introduction of containerisation. The company involved here will not only control the shipping side of the operation, but will also control the companies transporting the cargo to and from the docks. The Northern Drivers' Union in future will be faced with bargaining with an organisation which will have the strength and resources to withstand pressure from the unions for longer than previously. The unions feel that they can bargain effectively in the future only if they negotiate directly with the employer, and can rely upon the strike weapon without the restrictions placed on them by the Act—for example, the possibility of de-registration or the imposition of fines.

An aspect of industrial democracy that requires study in New Zealand is the extent to which the individual worker participates in

the running of the factory. The importance of such a study is illustrated by a case study that was conducted by the University of Liverpool.¹³ This research revealed that the majority of workers at a particular factory in England were not interested in participating in trade union activities, joint consultation committees, or even in promotion. The reasons for this attitude, such as the influence exerted by management and foremen, new techniques in production, age, duration of employment with the company, and job security, were also investigated. A survey of this nature at factory level is valuable because it looks behind generalisations concerning industrial relations. Industrial strife may be prevented by discovering why a man is satisfied or dissatisfied with his employment. Concentration on prevention of industrial stoppages should always be the primary concern of those involved in industrial relations.

II. FUTURE REFORMS

From the above section, it is obvious that there must be some reform in our future industrial relations if a state of anarchy is to be avoided. The question is, what form this is to take. There are three possible courses open at present:

- (a) Retention of the system provided under the Act, but with some reform relating to the position of the Arbitration Court.
- (b) A continuation of what in effect is happening at present, that is, retention of the Conciliation Councils and the Arbitration Court, but also recognition of some degree of collective bargaining.
- (c) A complete abolition of the present system of voluntary conciliation and compulsory arbitration, to be replaced by collective bargaining. It is proposed to deal briefly with (a) and (b) and to concentrate on the future of collective bargaining in New Zealand.

(a) Retention of the present system, without any change, would only create more problems in view of the present attitude of the unions. They are ready for some reforms, whether they are within the present system provided by the Act or a complete abolition of the present system. If the Act's procedures are to receive union support in the future, not only will the image of the Arbitration Court as an extension of government have to be changed, but also some effort will have to be made to satisfy the union demand for some direct bargaining with employers. The responsibility of creating a workable system in the future rests both on the legislature and on labour and management. The legislature can assist by providing more conciliators (who in turn could ensure quicker procedures at this stage), and by seeing that the

¹³ J. A. Banks, *Industrial Participation—Theory and Practice* (1963).

Arbitration Court returns to the role for which it was originally designed, that is, as a mediator. If the legislature makes these changes, labour and management must be prepared to use them. The present system already provides the opportunity for these parties to meet without the intervention of a third party (that is, by negotiating industrial agreements). Where these agreements are used they appear to have met with considerable success. These agreements are particularly useful in large companies where there are several unions represented. A representative at Forest Products Ltd (Penrose), explained that his company has negotiated between twelve to fifteen industrial agreements which have proved very successful. These agreements provide ruling rates and conditions suitable to the place of employment. Union and management representatives meet together without a third party and negotiate the new agreement, which is then registered with the Arbitration Court. One of the advantages of registering with the Arbitration Court, as pointed out by the representative of Forest Products Ltd (Penrose), is that the agreement continues in force until a new agreement is negotiated, thus ensuring the workers continuous protection. This protection is lost if the agreement is not registered and the continuation of the agreement is entirely at the discretion of management, as has been evidenced by the agreements with the Pulp and Paper Workers' Union, which is not registered under the Act. One of the main advantages of industrial agreements is that they enable the unions and the individual employer to meet regularly and thus develop some form of co-operation and understanding. The success of the method is dependent upon the co-operation of the union and management, and could probably only be successful when used in larger factories where there is strong union organisation and a management trained in industrial relations. Even though these agreements may provide some answer to the problem of ensuring negotiations within the system, they do not completely solve the problem of eliminating bargaining outside the Act. As was admitted by a representative of Forest Products Ltd (Penrose), even in these agreements there are some matters that must be negotiated separately, for example, production bonuses. Management is reluctant to include these in an agreement that is binding on both parties under the Act. Management appears to want to maintain a degree of flexibility in this area, where the situation may change within the currency of the agreement.

It is difficult to avoid the conclusion that there is a need for some form of direct bargaining outside the Act, and any changes that are made in the present procedures which ignore this fact are not coming to grips with the basic issue. Therefore, the answer appears to lie in one of the other courses stated.

(b) If the system under the Act cannot be strictly enforced, the legislature has the alternative of maintaining the present structure of Conciliation Councils and the Arbitration Court, but at the same time recognising and accepting collective bargaining as a means of obtaining a settlement, if the statutory procedures fail. This procedure has the advantages of ensuring some means of control over industrial relations, and the fact that it has naturally evolved from the present system, without any suggestion of imposition from a third party.

What is happening, at present, is that the award or industrial agreement is negotiated under the Act's procedures, and then the unions approach the employers to set ruling rates and actual working conditions suitable to the individual place of work. As has already been seen, these agreements outside the Act cover not only ruling rates and conditions, but also disputes procedures,¹⁴ bonus schemes (for example, Forest Products Ltd's scheme and the Completion Bonus Scheme at the Glenbrook Steel Mill, and the Project Agreement, which was negotiated during the construction of the Glenbrook Steel Mill). This Project Agreement is worth examining in some detail, since it was considered a breakthrough in direct bargaining. It was concluded between all the unions on the site and the different employers involved in work on the site. Usually on such a large project as this a composite agreement is negotiated and registered, but on this site there appeared to be some difficulty in getting all the employers to agree to this method. Some overall agreement, however, was necessary to control the number of wildcat strikes. The agreement covered questions relating to wages and conditions and placed emphasis on disputes procedures, similar to those negotiated in the agreement between the Freezing Workers' Union and Hellaby's. Like this latter agreement, however, it did not succeed in curbing strikes. It appears that while labour and management are able to co-operate in negotiations for these agreements, they are unable to make them work.

If collective bargaining is to continue in the future in this form, employers must accept it as a legitimate means of settling disputes, and be prepared to co-operate to make it work. This co-operation can be achieved only by experience in negotiations of this nature, and through the education of both unions and management, so that there will at least be a basic understanding of the problems facing them. Apart from the need for education, New Zealand must accept the necessity of the legal right to strike. If the necessary co-operation can be achieved, there is no reason why the number of strikes should significantly rise. At present union leaders appear to accept that they

¹⁴ *Agreement between R. and W. Hellaby Ltd, Auckland Freezing Workers' Union and the New Zealand Federation of Labour*, 30 January 1969.

already have the right to strike,¹⁵ and are making efforts to try and curb strikes. The penalties at present provided and administered under the Act offer little if any deterrent. As was emphasised by Mr Andersen, the right to strike is the workers' only bargaining weapon, and they are prepared to use it if the necessity arises, regardless of the present penalties.

It should be noted at this point, that the desire for collective bargaining is voiced by the stronger unions, who feel they have the resources to face the employers alone. The weaker unions and those engaged in essential services—for example, firemen—realise that they need the protection of the Act. A possible solution to this problem of satisfying the needs of both the stronger and the weaker unions within the same system, is to give the stronger unions their own procedure under a special Act as was done in the waterside industry. Such a system could only work where most of the workers are situated in the same area, working under one employer, as in the coal mining industry, the railways, and the waterside industry. It could perhaps work with the freezing industry, which is one of the stronger unions that is prone to frequent stoppages. It is difficult, however, to see how it could succeed in the transport industry where workers are scattered, because the success of this system depends largely on the personal contact between workers and management and the conciliators. This was emphasised by Mr McAven, Chairman of the Port Conciliation Committee, who is in constant contact with both parties and is familiar with the waterfront industry.

In the immediate future, it seems the only solution is to combine the Act's procedures with direct bargaining and to make special arrangements for industries with special problems. This is probably only a transitory stage, until labour and management can reorganise themselves so that they can conduct collective bargaining at all levels. Collective bargaining will now be discussed.

(c) "Collective bargaining may be defined as negotiations about working conditions and terms of employment between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more representative workers' organisations on the other, with a view to reaching agreement."¹⁶ If collective bargaining is to be fully effective certain conditions must exist. They are:

- (1) That there be a favourable political "climate". Unless government and public opinion are convinced that collective agreements

¹⁵ *Auckland Star*, 5 February 1969, Mr Russ, Secretary of the Carpenters' Union said, "The new agreement does not take away the workers' right to strike, but sets out detailed steps they must go through first."

¹⁶ International Labour Office, *Collective Bargaining—A Workers' Education Manual*. p. 3.

are the best method of regulating industrial negotiations, the system is doomed to failure.

- (2) That there must be strong unions. This involves:
 - (i) Statutory protection of the workers' right to form and join unions and their right to non-interference by employers. These principles have been incorporated in the National Labour Relations Act 1935 (U.S.). In addition to the above-mentioned rights, there is also a legal duty to negotiate in good faith about wages, hours, and conditions of employment, as well as a guarantee of the unions' right to strike. If New Zealand is to accept collective bargaining, similar legislation will be essential.
 - (ii) Internal unity. A union executive who does not have the confidence of the members of the union cannot successfully negotiate with management.¹⁷
 - (iii) Recognition of the unions by management. Once the union executive has the confidence of the workers, management must be prepared to negotiate with them as the workers' representatives.
- (3) That there must be a willingness on both sides to "give and take." Collective bargaining presupposes a desire to reach an agreement which necessarily involves the co-operation of both parties.
- (4) That there is a right to strike. "Collective bargaining is of little value without the right to use those economic weapons of strike, boycott and the picket line."¹⁸ Even in those countries where collective bargaining is used, it has been found necessary to impose some restrictions on strikes. In the United States of America, for example, the Taft-Hartley Act 1947 outlaws secondary boycotts, jurisdictional strikes and mass picketing. New Zealand would probably find it necessary to introduce similar legislation.

If the "climate" is right for collective bargaining, the question that then arises is what form it will take in New Zealand. Will it be confined to industry-wide agreements or will it be confined to agreements between the union and the individual employer? While there is a need for centralisation in industrial relations, the British experience has shown a need for local or "factory" agreements to cover problems peculiar to particular industries.¹⁹

¹⁷ This point was made in *In Place of Strife—Policy for Industrial Relations* (1969; Cmnd. 3888).

¹⁸ A. Cox, *Labour Law in the United States* (Voice of America—Forum Publication), p. 3.

¹⁹ Alan Flanders, *Industrial Relations* (1965), p. 47.

The necessity for industry-wide agreements is obvious. Once the Arbitration Court and the award system are abolished, the workers are deprived of the minimum standards that were laid down by the Arbitration Court. One method to ensure that the workers receive a minimum of protection is for the government to legislate for minimum wages and conditions. This type of legislation is not new in New Zealand, as is evidenced by the Minimum Wage Act 1945 and the Factories Act 1946. Legislation in this area, however, may prove unsatisfactory when the rapidity with which wages and conditions change is compared with the time it takes to change legislation. The benefit of such legislation would lie in its recognition of the fact that the worker is entitled to a reasonable return for his labour, and that he should have safe, adequate working conditions. The main responsibility for ensuring that the worker receives adequate wages and working conditions, will rest with those who negotiate the industry-wide agreements.

These industry-wide agreements would be negotiated by Federation of Labour and Employer Association representatives. These two bodies would have to be reorganised to ensure that they have the confidence of all their members. It is proposed that all unions and employers should join these bodies, which would act as agencies not only to conduct negotiations for industry-wide agreements, but also to employ experts to conduct research on such matters as cost of living and economic conditions in the country as a whole, or in a particular industry, for use in negotiations. Apart from this function these bodies could conduct education programmes among their members to train them not only as skilled negotiators, but also to give them a basic understanding of each other's problems. The need for education in this area was expressed by Mr N. Pelvin, the retiring District Superintendent of Labour in Auckland.²⁰

An obvious extension of this idea of understanding each other's problems is to set up some form of joint industrial councils, ideally in each factory, but if this is not practical, at least in each industry. These councils would not encroach on the unions' work but would be more concerned with issues relating to production, techniques, organisation, development and planning. This method has worked in Sweden, and also in some industries in the United States of America. Apart from having the specific benefit of solving problems within the industry and perhaps preventing strikes, they have the advantage of giving the workers and management an opportunity to meet regularly to solve problems relating to production which indirectly affect labour as well as management.

These industry-wide agreements would be insufficient by themselves

²⁰ *Auckland Star*, 8 August 1969.

since it is impossible to eliminate negotiations at the factory level.²¹ To prevent these local negotiations resulting in wildcat strikes, the central labour and management organisations should recognise their importance and assist if required, to ensure a satisfactory agreement is reached. This system is working at present where advocates from the Employers' Association and the Federation of Labour assist both at the Conciliation proceedings and at the Arbitration Court. An example where they can assist in collective bargaining was seen in the Freezing Workers' Agreement with Hellaby's where the Federation of Labour was instrumental in concluding the agreement.

Negotiations at the local level should be conducted by the individual employer and the union representative at the factory where possible, since these parties have a greater understanding of local conditions. (It would be desirable in this system if there were a greater number of industry or factory unions rather than craft unions. This question involves many complex problems which are beyond the scope of this article). If negotiations at this level should fail and advocates from the central organisations cannot assist, it should be compulsory that a mediator be called in. If it is obvious to the mediator that no agreement can be reached, then, and only then, should the strike or lock-out weapon be used.

At this point the question of the enforcement of collective agreements becomes relevant. Although in the United States of America these agreements are enforceable in the civil courts, this method of enforcement has been rejected in the United Kingdom on the grounds that it is too uncertain.²² Although in the United States of America this legal right exists, it is rarely used as the parties prefer to follow their own disputes procedures and accept the decision of the arbitrator as binding. In Sweden, the enforcement and regulation of these agreements appear to be left to the central organisations. This method is in accord with the procedures discussed previously. The only danger with this method is that unless the central organisations can control their members and prevent wildcat strikes, the government would probably be forced to enter this area to ensure that the economy as a whole would not be endangered.

It is convenient at this point to examine the government's position in this procedure. "As a method of wage determination the present weakness of collective bargaining lies mainly in its competitive, sectional character, in the difficulty the parties have in taking a broad enough view of the consequences of their bargains."²³ With the

²¹ Alan Flanders, *Industrial Relations* (1965), p. 49.

²² Great Britain, *Royal Commission on Trade Claims and Employers' Associations* (1965-1968. Cmnd. 3623.) (The Donovan Report).

²³ Alan Flanders, *Industrial Relations* (1965), p. 49.

possibility of the introduction of a form of planned economy, the government is going to be more concerned with industrial stoppages that are likely to prevent production targets being attained, and with the inflationary effect of wage negotiations. How it will intervene is difficult to predict. Naturally it will wish to avoid any suggestion of the imposition of restrictions, unless it is forced to impose them in the interests of the economy. The answer lies in the central organisations ensuring that the interests of the economy are taken into consideration at all levels of negotiations. A good liaison between the central organisations and the government would be essential. There is the added difficulty of these bodies, particularly the Federation of Labour, being regarded as an extension of government and thus losing the support of their members. This is not an easy problem to solve and will probably depend to a large extent on the personality of the industrial leaders.

In effect, what is proposed if collective bargaining is introduced in the future, is a three-tier system. This involves government at the top in a supervisory capacity only, the central organisations negotiating industry-wide agreements that are concerned with setting down minimum standards, and finally the individual agreements at factory level, which work within the framework of the basic agreement. Enforcement of these agreements will be the main concern of the central bodies with government entering as a last resort. Subsidiary to these agreements will be the joint industrial councils whose main function will be to achieve greater co-operation between labour and management.

CONCLUSION

Throughout this article it is stressed that our present stage of industrial relations is just part of a gradual process of evolution. We have reached the stage where the stronger unions consider it is time that they were freed from the bonds of legislation when negotiating industrial agreements by collective bargaining. This method of conducting industrial relations would mark a major departure from the traditions of industrial relations in New Zealand. For this reason it is considered that at present the unions in particular are ill-prepared to conduct full collective bargaining. While collective bargaining could well be the future of industrial relations, labour and management should concentrate at present on improving relations between themselves, and thus gain government and public support for the eventual abolition of compulsory arbitration.

It is time the legislature faced the fact that the Act is no longer the answer to all our industrial problems. Having recognised this position, it should encourage collective bargaining. It can do this first, by defining the trade unions' status and rights, and second, by providing

for more trained conciliators. Third, it can abolish restrictions on the right to strike, which at present serve little purpose other than to antagonise the unions. Fourth, and most important, it should try to encourage co-operation between labour and management through education. This can be best effected by setting up schools and research units, financed by government but run by labour and management organisations. The basic problem in industrial relations today is a lack of understanding and co-operation which can only be solved through education.

APPENDIX

FIGURES SHOWING INDUSTRIAL STOPPAGES IN NEW ZEALAND
DEPARTMENT OF STATISTICS: PRICES, WAGES, LABOUR (1967)

Year	Total Industrial Stoppages	Average Duration (Days)	Working Days Lost per 1,000 Wage and Salary Earners
1920-1930	52.2	7.97	
1930-1940	38.8	7.97	
1940-1950	110.0	3.57	
1951	109	31.78	1,985.23
1953	73	1.99	31.69
1955	65	3.25	81.41
1957	51	3.24	42.18
1959	73	3.14	42.74
1960	60	5.73	49.98
1961	71	4.96	52.04
1962	96	5.18	124.79
1963	60	6.09	68.64
1964	93	3.58	81.36
1965	105	2.73	25.5
1966	145	3.19	111.97
1967	89	6.42	158.08
1968			182.00