meaning being, for the purposes of interpretation, equivalent to the intention. It is not permissible to guess at the intention of the parties and substitute the presumed for the expressed intention. The ordinary rules of construction must be applied, **although by so doing the real intention of the parties may in some circumstances be defeated. Such a course tends to establish a greater degree of certainty in the administration of the law."**

(Emphasis added. Jamieson J was quoting from **Halsbury's Laws of England,** 4th Ed, Vol 12 at 593).

Although the Court is aware that collective agreements are drawn up by laymen with the best of intentions but very little skill in the art of draftsmanship, that fact will not cause the Court to depart from "rules of construction which have grown up over many years and are largely designed to avoid confusion and uncertainty."

The lesson then, in these cases, is that parties to a collective agreement might do well to consult a legal practitioner experienced in industrial matters before and during conciliation. Ironically, such legal practitioners are rare in New Zealand, since the Industrial Relations Act 1973, s 78 (3), and its statutory predecessor, bars them from appearing in Conciliation Councils. New Zealand lawyers have no tradition of involvement in industrial disputes, have little expertise in industrial relations generally, and are not likely to acquire it. ⊙

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Notes on Industrial Legislation

EQUAL PAY AMENDMENT BILL

The Equal Pay Amendment Bill, which amends the Equal Pay Act 1972, is primarily designed to improve the procedures relating to the enforcement of equal pay. Clause 3, which amends section 4 of the Equal Pay Act, provides that where an instrument provides for the implementation of equal pay, the employer, on request of the employee or member of a group that is covered by the instrument, for example, an award or agreement, must supply all relevant information to enable the employee to enforce her rights under the instrument.

Clause 4, which amends section 6 of the principal Act, provides that where the rate of remuneration for females is fixed as a percentage of the rate for males, and between increment dates the rate for males is increased, the rate for females is to be increased by the percentage by which the male rate was increased. Clause 5 (3) which amends section 13 (1) of the principal Act, increases from 2 years to 6 years the period within which proceedings for the recovery of equal pay entitlements may be taken. This provision now brings the Equal Pay Act into line with the Industrial Relations Act which enables the recovery of wages to be made within a period of 6 years.

Clause 6 (2), which amends section 17 of the principal Act, provides that all employers must now keep records of particulars of all equal pay determinations made by the employer. Clause 7, which inserts a new section 17A in the principal Act, requires employers to give female employees written advice of increments in pay made for the purpose of implementing equal pay, and of all other increases in pay granted before the time when equal pay has been fully implemented.

While these amendments will go some way to ensuring an improvement in the enforcement of equal pay, the problem of ensuring an efficient inspectorate to check the records remains. The onus of seeing that the legislation is being implemented still primarily remains with the individual female employee.

INDUSTRIAL RELATIONS AMENDMENT ACT 1976

This short amendment to the Industrial Relations Act passed in August alters the existing legislation in three ways. First, section 123 is amended to include within the definition of a strike a reduction in the normal output or normal rate of work; secondly, the intent requirement of section 123 has been deleted, which has the effect of including stoppages over non-industrial matters not directed at the employer, within the definition of a strike; thirdly, section 128 relating to suspension of non-striking workers has been amended to enable an

employer who as a result of a strike is unable to provide work for other workers in his employment and who are not on strike, to suspend those workers without notice. Previously in such a case the employer had to give 7 days notice of such a suspension.

INDUSTRIAL RELATIONS AMENDMENT BILL (No. 3)

This amendment Bill makes several important changes to the Industrial Relations Act. First it makes several amendments to procedural and machinery provisions in the principal Act; secondly, it amends and inserts new provisions relating to union membership; thirdly, it provides new penalty provisions in the event of a strike or lockout.

It is not intended in the note to go into the provisions of the Bill in detail because the Bill is presently before the Labour Bills Committeee, which is hearing submissions from interested parties. The Industrial Relations Society has submitted an extensive submission on the Bill. It is also intended in the next issue of the Journal to provide a detailed analysis of the Bill, which by that time will have become law.

The matters which have caused interest in the Bill have been those provisions relating to union membership and penalties. The provisions relating to union membership include an amendment to section 103 of the principal Act which now requires unions to enforce the clauses in their awards and agreements relating to the unqualified preference clause, and the supply of lists of employees by employers. Whereas in the past the Department of Labour could undertake the enforcement of these clauses, now they are expressly prevented from doing so, and the unions themselves must take action to see all employees are union members, and they must also themselves bring action against employers who refuse to supply a list of employees.

A new section 101A has also been inserted under clause 16 of the Bill. This new section enables the Minister of Labour by notice to the Registrar, and after consultation with the Federation of Labour, to require a ballot to be taken of adult workers bound by an unqualified preference clause, so that they can determine whether or not they wish such a clause to continue in their award or agreement. The Minister is not required to give any reason for so requesting such a ballot to be taken.

The new penalty provisions in the Bill provide penalties for non-observance of dispute procedures and decisions of disputes committees (s 124A); penalties for a strike or lockout over non-industrial matters (s 124B); insertion of an uninterrupted work clause in awards or agreements in industries where there is a record of frequent strikes or lockouts (s 124C); an order by the Industrial Court to resume work where the public interest is affected by a strike or lockout (s 124D); penalties for strikes or lockouts in essential industries (s 125); and penalties for strikes or lockouts that affect export slaughterhouses (s 125A). ⊙

MARGARET WILSON

BOOKS

1973 Jubilee Speeches to P.S.A. 60th Anniversary Special Conference, published by P.S.A., Wellington, 1976.

This book will be of interest to all persons interested in the Public Service Association. It includes speeches delivered at the conference by J. P. Lewin on "The Association in Perspective," Doris Macdonald on "Education and Vocation in New Zealand," Wolfgang Rosenberg on "Overseas Investment in New Zealand," N. S. Woods on "Trade Unions in Modern Society," and Paul Munro on "Civil Liberties and the Civil Servants, a province for union action."

Inquiries about obtaining copies of this book should be made to the P.S.A. ⊙

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A Conceptualization of Industrial Conflict: The Forms of Industrial Conflict: The Economic Effects of Industrial Conflict, by Don J. Turkington. Industrial Relations Centre, Victoria University of Wellington, Wellington, 1976. (Price: 75c each).

The above three occasional papers on industrial conflict by Don Turkington have recently been published by the Industrial Relations Centre. They will be of great interest to all persons concerned with this aspect of industrial relations. Copies of these papers may be obtained by writing to the:

Industrial Relations Centre,
Victoria University of Wellington,
WELLINGTON. ⊙