

## Industrial relations for New Zealand teachers

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### ABSTRACT

There have been major changes in both the educational and state sector contexts of industrial relations over the past few years, and it appears that these processes are by no means over. This paper deals with the industrial relations structure extant in 1988, the legal framework developed since that date and the consequent modification of practice of industrial relations in the Education sector, and notes the confirmation of the new structures in the Employment Contracts Bill. It draws on the theoretical perspective developed by O'Brien from within New Zealand (1990) and on the contrasting perspectives of Bacharach and Shedd (1990) and Mitchell (1990) emerging from the United States. The paper concludes by posing questions to be answered before a new model of industrial relations can be developed in the interests of effective educational and educative organisations in New Zealand.

### Introduction

There have been major changes in both the educational and state sector contexts of industrial relations over the past few years, and it appears that these processes are by no means over. In 1989 the Munro Report was commissioned by the Post Primary Teachers' Association (PPTA) in order to investigate the personnel provisions of 'Tomorrow's Schools'. However, since the passing of the Employment Contracts Act in 1991, the field of teacher industrial relations has shifted again. In early 1991 the incoming government commissioned a report on the role of the State Services Commission in future wage bargaining in the education sector, and the issues of direct bargaining between teachers and Boards of Trustees was examined for the first time.

The most detailed analysis of this field of study is an unpublished thesis by O'Brien (1990), entitled 'A Critical Analysis of the Reform of Industrial Relations for Primary Teachers in New Zealand'. The progression from 'Administering for Excellence' to 'Tomorrow's Schools' is traced by O'Brien and by Munro in terms of the progressive subordination of the learner through 1989 in the restructuring policy statements, and the dissonance between the stated policy objective of improved learning opportunities for the children of this country, and the application of managerialist theories to the practice of industrial relations in the schools sector of Education. A further progression was noted by the New Zealand Educational Administration Society (NZEAS) in its submission in 1990 on the Lough Report entitled 'Today's Schools'. The focus on clarified roles for principals and trustees as managers and employers led to the invisibility in their turn in that document of the teachers.

This paper represents my position as an educationalist-participant with a continuing involvement in policy issues of educational management and organisation. It is not the statement

of a position on behalf of the Ministry or the Minister of Education. The paper deals in turn with the industrial relations structure extant in 1988, the legal framework developed since that date and the consequent modification of practice of industrial relations in the Education sector, and notes the confirmation of the new structures in the Employment Contracts Bill. It draws on the theoretical perspective developed by O'Brien from within New Zealand (1990) and on the contrasting perspectives of Bacharach and Shedd (1990) and Mitchell (1990) emerging from the United States.

'Industrial relations' is defined by O'Brien (1990: 6) with dispassionate precision as 'the rules that govern employment'. In the final section of this paper I will suggest that this definition is not adequate in the educational field. The concept of 'educative leadership' in organisations, presented by Cheng Kai Ming and Macpherson (1991) in the recent CCEA Study 54, captures some glimpse of the ideal to which we could seek to move, given uncoupling for schools from a web of legislation and practice that has been increasingly cemented in place since 1987 by successive political administrations. The paper concludes by posing questions to be answered before a new model of industrial relations can be developed in the interests of effective educational and educative organisations in New Zealand.

## **The State Sector Act and the Role of the State Services Commission in the Education Sector**

The State Services Commission in its brief prepared for the incoming Minister of State Services in October 1990 located its role of negotiator of industrial relations, in the State sector generally, in the context of developments in industrial relations and in management in both the private and public sectors, over an extended period leading up to the passage of the State Sector Act in 1988. This section of the Paper draws extensively on those briefing notes. The context is also explored in detail from within Political and economic theory by Boston (1988 and 1991) and by Walsh (1991).

The pre-1988 framework for the State Sector derived from the State Services Conditions of Employment Act 1977 and the State Services Act 1962, which provided for the following:

- The Commission was the central employing authority for the Public Service and negotiated and administered conditions for all departments of state centrally.
- The Health Service Personnel Commission, and the Director-General of Education, exercised similar roles in the Health sector and in the Education sector.
- There were detailed legislatively-prescribed procedures for appointments, promotions, gradings, and disciplinary matters with specific committees and boards to carry through these procedures in the core public service and in the Education sector.
- Conditions of employment were centrally negotiated and national pay scales and determinations were the norm, the chief means of salary increase across the sectors being the Annual General Adjustment negotiated by the State Services Coordinating Committee with the Combined State Unions.
- Bargaining was restricted to a narrow band of "industrial matters" (remuneration, allowances and leave) and was primarily focussed on relativities, with compulsory arbitration able to be exercised by the Government Service Tribunal. In the view of the Commission this contributed to 'a highly legalistic process of management of conflict resolution rather than bargaining in the ordinary sense' (page 4).

In the period up to the passage of the State Sector Act in 1988 significant changes were made to bargaining arrangements in both private and public sectors, with passage of the Labour Relations Act 1987 and with changes in the private sector determining the nature of changes in the public sector. Key features of the private sector noted by the Commission in the 1990 brief were:

- the negation of the traditional concept of established occupational relativities as a basis for bargaining;
- removal of previous constraints on allowable subject matter for bargaining;
- elimination of second tier negotiations;
- removal of the Department of Labour from award enforcement;
- procedures for negotiation and disputes resolution.

In summary, the Commission noted, steps were taken in conduct of industrial relations away from the involvement of third parties and towards laying primary responsibility for industrial relations with employers and unions.

In his analysis of this period, O'Brien (1990: 20-22) emphasises the strategy of both New Zealand Education Institute (NZEI) and PPTA in ratcheting teachers salaries by use of the recruitment and the relativity provisions in the 1977 legislation, confirmed by a judgement for NZEI in the Court of Appeal in 1982, as the significant factor in leading advisers of the Government in the control departments to recommend legislative change. Officers of those departments continue to represent that the education unions have been able to maintain an anomalous position for their members to this stage, in expansive collective agreements which incorporate many aspects of the pre-1988 regulations.

In the State Sector, changes from 1988 towards a regime similar to the private sector had been promoted by:

- the creation of State Owned Enterprises with new procedures for industrial relations;
- the application of the Arbitration Commission and the Labour Court to the State Sector and the abolition of the Government Service Tribunals;
- an agreement in late 1987 with the PSA over reforms in public service bargaining arrangements to establish department-based documents instead of Service-wide occupational bargaining;
- the speedy introduction thereafter of the State Sector Act, which in 1988 with associated legislation, gave a formal legal imprimatur to these moves. The new framework of private sector arrangements would (with some exceptions) apply across the State Sector, including the Education sector;
- repeal of the State Services Act, the Health Service Personnel Commission Act, and the State Services Conditions of Employment Act;
- departmental heads empowered as industrial employers and comprehensive awards and agreements to be negotiated on a departmental basis;
- personnel processes significantly amended, and general statements of principle for guidance of employers provided in the Act concerning being 'a good employer', and being 'an equal opportunity employer'.

The Commission noted, as a significant divergence in the 1988 Act between private sector and State Sector provisions, the Commission's role in negotiation of collective conditions of employment in the State Sector as 'the employer party' (section 8 of the State Sector Act), although this role was to be exercised in consultation with each department Chief Executive (section 68) and could be 'delegated' to the Chief Executive (section 70). It was noted that, although the chief executive of a department, ministry or agency was deemed to be an employer with all congruent rights and responsibilities, the Government through the Commission needed to maintain a strategic involvement in wage negotiations and through the Cabinet Committee. on State Wages to which the Commission reported, a strategic overview 'albeit in a more devolved and non-interventionist environment' (p. 49).

In the Education sector, as observed above, the role of the State Services Commission in wage bargaining was established from 1988 with the passing of the State Sector Act, and with the abolition at that time of the structure and procedures previously applying of a range of Education

Service Committees. These were chaired by the representative of the Director-General of Education, joined by a representative of the State Services Commission, and by a representative of the education employers who would be bound by the agreement being negotiated, education boards, secondary schools boards, or teachers college councils or other parties, as the case might be.

In the 1988 State Sector Act, pending the results of the Picot Review and publication of 'Tomorrow's Schools', only 'the industrial framework' of the Education sector was restructured and administrative and personnel arrangements were delayed for later amending acts. The subsequent reports 'Before Five' and 'Learning for Life' provided the basis for two amendments of the State Sector Act in 1989.

In terms of its broad statutory functions as a control department the Commission had a significant role to play in the development of the three reviews of the Education sector of 1988-90. It was also responsible for carrying through industrial relations negotiations, and for advising the Minister of State Services on the succeeding amendments to the 1988 State Sector Act to provide for the evolving administrative arrangements and industrial relations structures and procedures. In 1989, through its final months, the Department of Education through its Implementation Unit sought to install and equip boards of trustees to undertake the governance of New Zealand's schools, to become employers of the staff, and to be accountable for educational outcomes expected by the Government and the local community as set out in their School Charter.

The Commission in the 1989 wage round sought to negotiate into awards the following recommendations from the 'Tomorrow's Schools' report of August 1988:

- employment of top positions in schools to be based on individual contracts of service;
- flexible pay structures within the awards;
- personnel processes appropriate to the new environment;
- new appointments, discipline, competence and surplus staffing procedures.

In particular, the SSC and PPT A in 1989 did not reach agreement over contract employment and assessment of teacher performance and the issues were referred to the government for determination by legislation. In the negotiations with NZEI, principals were eventually left within award coverage but placed within 'a range of rates' subject to decision by the employing board.

The State Sector Amendment Act 1989 gave legislative effect to the settlements reached in the 1989 education sector wage round. It:

- made boards of trustees and kindergarten associations the employers of staff in their institutions;
- implemented government decisions on contract employment in senior positions in secondary schools;
- provided for establishing of codes of conduct and of criteria of assessment of teachers' performance;
- repealed laws with procedures no longer considered appropriate for appeals, for disciplinary and for other personnel matters;
- provided for appointment and personnel procedures in a form consistent with State Sector appointment and 'good employer' requirements;
- provided for use in the education sector of the grievances and disputes procedures of the Labour Relations Act 1987.

Late in 1989 the State Sector Amendment Act (No 2) 1989 extended the provisions of the Act to the tertiary sector bringing universities and the colleges of education and polytechnics for the first time under the same industrial and personnel legislative frameworks. The significant provisions were for:

- pay fixing for all employees to be conducted under provisions of the Labour Relations Act (the jurisdiction of the Higher Salaries Commission was removed from universities).
- chief executives to be employed on term contracts, which required approval of State Services Commission.
- employer powers vested in the chief executive in each institution.
- holders of other senior positions able to be employed on contract and taken outside of collective agreements, their contracts however requiring approval by the Commission.
- collective bargaining to be conducted by the Commission as 'employer party' until the end of 1991, with the responsibility then passed to the CEO of each institution, but exercised in consultation with the Commission, and with the Commission able to require its participation.

The 1990 wage round was low key, the Commission summary concluded concerning industrial relations in the Education sector, with a general desire by employers and unions, encouraged by the then government, to defer any further major addressing of reforms until 1991. Working parties were set up from each award settlement to address emergent issues prior to the 1991 round.

### The Employment Contracts Act 1991 and Its Impact on the State Sector Act

The 'Explanatory Note' to the Bill on its introduction to the House stated that the Employment Contracts Bill

- a. Provides for freedom of association;
- b. Allows employees to determine who should represent their interests in relation to employment issues;
- c. Enables each employee to choose either –
  - i. To negotiate an individual employment contract with his or her employer; or
  - ii. To be bound by a collective employment contract to which his or her employer is a party;
- d. Enables each employer to choose –
  - i. To negotiate an individual employment contract with any employee;
  - ii. To negotiate or elect to be bound by a collective employment contract that binds two or more employees;
- e. Establishes that the question of whether employment contracts are individual or collective or both is itself a matter for negotiation for the parties themselves;
- f. Repeals the Labour Relations Act, 1987.

In short, the principal aim of the Bill is to establish a new and efficient regime in relation to employment contracts in New Zealand.

The considerable body of submissions to the Select Committee, and the submissions of the teachers organisations and their prominence in the public debate, indicated that other perspectives were possible, particularly in Education.

The Employment Contracts Act was passed into law with effect from May 15 1991 with an accompanying State Sector Amendment Act 1991. This amending Act maintains the relationship of industrial relations legislation across both public and private sectors. It also maintains the role of the State Services Commission at the heart of industrial relations in the Education sector as 'employer party' responsible for conduct of negotiations of all collective contracts.

The amending Act substitutes a new Part VI, entitled "Application of the Employment Contracts Act" and a new Part VII, entitled "Education Service" . . Some sections of the State Sector Act relating to the Education sector have been left unaffected by the amendment. They are -

- Part V - Personnel Provisions (Sections 56-66) which apply to the State Sector generally; and

- particularly Part VIIA - Personnel Provisions in Relation to the Education Service (Sections 77A - 771F).

Sections 77 A to 771 continue to make provision for a personnel code for teachers over the following matters:

- the requirement on boards to operate personnel policies that comply with the principles of being a "good employer"
- the ability of the Chief Executive of the Ministry of Education to issue codes of conduct covering minimum standards of integrity and conduct for the education service
- the Ministry's ability to prescribe matters to be taken into account in the assessment of teachers' performance
- the Ministry's responsibility to promote, develop and to monitor equal employment opportunities policies and programmes
- the requirement for appointments to be made on suitability and for positions to be advertised
- the general requirement for boards to act independently when dealing with the appointment, promotion, demotion, transfer, discipline, or cessation of their employees.

Sections 771A to 771F deal with the appointments and conditions of service of chief executives of universities, technical institutes and teachers colleges, requiring consultation by any council with the State Services Commission before concluding any contract of appointment.

Section 182 of the Employment Contracts Bill provided for the repeal of Part VI B of the State Sector Act, legislative action undertaken by the previous Government to provide for contracts in senior positions in secondary schools. The new legislation now provides, in its general principles and application across all sectors for such contracts, and Section 75(2) as revised requires the Commission's concurrence in all individual contracts in the compulsory and pre-compulsory sectors.

The State Sector Act, as now revised to embody the principles of the new legislation, will continue to define procedures and responsibilities as they relate to the core public service, and in Part VII as they relate to the Education Service, and to impose certain procedures (Section 73). In the succeeding paragraphs I examine in turn the sections of Part VII of the State Sector Act as amended in May 1991.

In Section 74 the State Services Commission is given responsibility for negotiation of every collective contract applicable to employees in the Education Service. The Commission is required to consult the Ministry of Education and the employers or their representatives (The School Trustees Association) but actually conducts the negotiations. The Commission is answerable to the Minister of State Services. In practice there is policy input from Education at ministerial level and this occurs in the Cabinet Committee on State Wages chaired by the Minister of State Services, joined by a Finance Minister, and for education matters joined by the Minister of Education. The policy has been to date that officials from the Ministry of Education do not sit at the negotiating table, but since the 1990 settlements they have joined in a range of working parties set up by those settlements.

The employer party for a personal grievance or for a dispute of interpretation of a collective contract is the Chief Executive of the Ministry, or the board of trustees as appropriate (section 74A).

The Commission is able to 'delegate' its negotiating powers to an employer or to an organisation representing employers (section 74B). The delegation at some time of the negotiating power to an organisation such as the School Trustees Association therefore continues to be provided for in the Act. From January 1992 the Act requires that this employer role shall be delegated to the chief executives of universities, technical institutes and teachers colleges (section 74C). The School Trustees Association in the event of delegation would be required to consult with the Ministry and the Commission; tertiary chief executives are required to consult only with the Commission.

The one change achieved during the Select Committee procedure in the Education sector reduced the role of the Commission in negotiation concerning tertiary institutions. Prior consultation with the Commission on collective agreements continues to be required, but the Commission may no longer seek to be joined to negotiations which are in progress.

Section 75 allows the Commission to declare that all or part of the conditions negotiated in a collective contract in the Education Service are 'actual' conditions ie are not just minimum rates as has been normal practice in awards. This provision has not been invoked to this point but would constrain boards in spending public funds in the absence of any other budgetary control. (Section 75(2) as commented on above provides for concurrence by the Commission in all individual contracts.)

Section 76 details the procedures for the offence of 'attempting to influence an employer' and Section 77 provides protection from liability for a chief executive officer acting in good faith.

Barrington (1991: 66-7) summarises the NZEI submission to the Select Committee, noting the concern that potential decentralisation of bargaining permitted by the legislation involved the prospect of:

'teachers being involved in face to face conflict with their communities; [with] negative effect on the ability of principals to perform their vital and primary function of educational leader in the school [and] confusion in role between professional school leader and employers agent.'

He commented that the Bill in its then current form (in April):

'maintains the existing relationship with the State Services Commission as the employer party in wage negotiations ... it provides for the possibility of delegation of the bargaining [down] to boards of trustees. As [this power of delegation] exists in current legislation, it is unlikely in the foreseeable future that the State Services Commission powers will be delegated.'

The concerns of the Institute are clearly linked to an ongoing campaign directed at the related issue of the local management of schools, the bulk funding of salaries to school boards. Without this procedural device in place, it may be noted, devolution of bargaining to school level would be without appropriate fiscal accountabilities in place on the board as a negotiator of the wages and salaries of its staff.

The 1991 wage round, concluded by May 15 and so under the 1988 legislation, was again a quiet one, marked by a 'nil for nil' settlement, no increase in salaries and a roll over of existing conditions, with the role of the unions in negotiating 'collective agreements' and acting as 'bargaining agents' with access to their members maintained.

The Minister of Education stated shortly after at the national conference of the School Trustees Association that there is in existence a framework for future negotiation of significant change in the interest of effective and responsive schools. The stance of the State Services Commission as 'employer party' in the 1992 wage round will indicate the extent of the change desired by the government in industrial relations in the Education sector.

## **Application of Political and Economic Theory to the Changes in Industrial Relations**

In the next section of the paper I refer briefly to the analysis of O'Brien (1990: 33 et. seq.) setting the new structures and roles put in place from 1988 within political and economic theory. O'Brien identifies that it is 'new Right' ideology underpinning the Treasury statement of 1987 that:

'By capturing virtually all available state redistribution of resources for itself, the State institutional educational sector is ensuring that the potential of the family resource is in many cases not fully realised, particularly among the disadvantaged.'

He observes that Lange in April 1988 confirmed a more moderate approach to education reform by stating the government's view that Education was not a commodity to be left to the forces of the

market. Other parts however of the Treasury's plan to improve efficiency in Education and to minimise the cost to the State of its 'intervention', reported O'Brien, did flow through via the Picot Report into 'Tomorrow's Schools', in particular:

'maximising 'consumer' choice and information; maximising flexibility and responsiveness to consumer demands; ensuring that management, accountability and incentive structures cohere and relate to output targets rather than input goals.'

O'Brien then proceeds to an analysis of the changes in industrial relations in terms of public choice theory; principal/agent theory; and managerialist theory. He identifies these latter two as theories from micro-economics.

**Public choice theory** seeks to show the difficulties politicians have in directing bureaucrats to manage public funds in the 'public' interest. Bureaucrats, it is contended from within this theory, identify the public's interest with their own:

'Public choice theory favours the re-establishment of the authority of elected politicians through a number of different techniques. One technique, which seems at odds with all the usual rhetoric associated with reform of educational administration, is the centralisation of authority' (p. 35).

In support of this explanation O'Brien cites the removal of intervening layers of bureaucracy, the linking of the school directly to the Minister at the centre by the School Charter, and in industrial relations the removal of responsibility from the Ministry of Education to a control department.

**Principal/agent theory** has the basic objective, in the analysis of O'Brien, of ensuring that 'implicit and explicit constraints can be used to ensure an acceptable level of performance by both parties, ensuring that agents pursue the interests of their principals' (p. 37). There is a thrust therefore towards contracts and to measures of acceptable performance.

The government must be concerned as the owner and the funder of schools that every Education dollar is spent effectively. A wide gap had been established by layers of bureaucracy between government as principal and its agents in schools. Contracts to maintain compliance for the delivery of a specified service by the ultimate agents in the school constitute a difficulty however because of inadequate measures of educational standards, and the time lapse between inputs and outcomes - of student qualifications or entry into further study or the work force.

There has been extended effort to establish contract relationships between the Minister as principal and the board as agent, the board as principal and the principal as agent, the principal as principal and the teacher as agent. The micro-economic model raises questions however for parents as trustees, able to perceive themselves as clients of the State at the level of the school rather than as principal or owner; and for teachers working with learners rather than as agents delivering a service *to* clients.

**Managerialist theory** stresses the need of organisations to set objectives and develop incentives to ensure that managers better achieve the organisations goals. Strategies to achieve these are identified by O'Brien (1990: 39) as decentralisation, deregulation, and *delegation*. Managers must be able to use their own judgements and be accountable. Managers must be able to work out their own solutions within the goals and objectives of the organisation, rewarded by appropriate incentives. Delegation of authority, however, requires concise definition of the organisations mission and goals.

Managerialist theory can be in conflict with public choice theory, in emphasising devolution as opposed to central control. Devolution of aspects of school management for operations can be in conflict in a State-funded Education system with the need to maintain centrally decisions on the capital investment in buildings, or in maintaining an adequate supply of trained teachers. Managerialist theory can result in the teachers and the learners behind the classroom door becoming invisible, assessed only by inadequate proxy measures. Concise definitions of tasks and



accountabilities are problematic for schools which are institutions with multiple and conflicting goals.

Tensions are today apparent in educational management because of an incomplete adoption of the total package of administrative restructuring envisaged in 1987-88. The review of the role of the Commission early this year was occasioned by its negotiation in 1990 of award settlements that entailed run-on costs in the subsequent financial year of \$15 million. These would be a charge against Vote: Education, and failing corrective action in the Supplementary Estimates, would require savings elsewhere in the Vote. Clearly the accountabilities and principal/agent relationship of Commission and Ministry required further investigation and the role of the Minister of Education as a principal was in danger of being compromised.

Education officers were aware at that time that they had earlier needed, because of their fiscal accountabilities, to intervene in March 1990 in the procedures for primary principals ranges of rates, to prevent a potential blowout of at least equivalent dimensions made possible by the wording of the relevant agreement. This document had been concluded by the Commission with NZEI and with the trustees organisation, but was to be paid for by the Ministry from its Vote. The NZEI response was to cite the Ministry, not the other parties, in a Dispute of Rights.

It is possible however, that not just practices but the model itself requires deeper analysis. Papers developed in the United States are studied in the next section as a means of reflecting on New Zealand experience. Fuller New Zealand theoretical analyses may be found in Boston (1988 and 1991) and Codd (1990).

## Alternative Approaches to Labour-management Relations

**The Politics of Reforming School Administration** (Hannaway & Crowson, 1990) contains selected papers from the 1988 conference of the United States Politics of Education Association. In Part 1, state-level reform initiatives are studied, and in Part 2 the micro-politics of schools, while Part 3 addresses the politics of reforming 'the profession', defined as the 'cadre of school administrators', a concept from the United States tradition of educational administration. Papers by 'Bacharach and Shedd 'Power and Empowerment: the constraining myths and emerging structures of teacher unionism in the age of reform' and by Mitchell 'Alternative Approaches to Labour - Management relations for public school teachers and administrators' are located in Part 3, at an intersection of fields of policy reform.

The editors note the conference stood at an intersection of *top-down* policies, mandated reforms, and *bottom-up* policies of encouraging professionalism and self-managing schools, successive waves of education reform proposals, or reform rhetoric. Considerations of industrial relations and teacher professionalism and/or unionism are thus located in the publication within a nexus of ambiguously interacting policy initiatives.

Both papers ground their analysis in a history of union types, the development from craft unions to industrial unions, with special cases noted of artist unions and professional organisations, and parallels are sought with education.

The present system of collective bargaining in public education was patterned largely after bargaining in the industrial sector of the economy reflecting the top-down management ideology ascendant when teacher unions first won recognition. There has never been anything but an imperfect match between that management ideology and the basic work processes and public expectations in most school systems. (Bacharach and Shedd, 1990: 140).

Teacher unions are the result of conflict in the schools, not its cause ... Teacher unions grew in power and prestige in the late 1950s and early 1960s as teachers began an urgent sometimes frantic effort to generate stability and security in a period when schools were being simultaneously made responsible for scientific and economic superiority, and singled out as the focal point of a national struggle to secure basic civil rights for minority citizens. (Mitchell, 1990: 161).

Mitchell affirms that worker organisations will 'match the logic of the work', and seek to 'match the power of employers', and seek to 'handle workplace relationships'. In his view, the industrial union model is understandable in United States schools only in terms of the latter. It is disfunctional to seek to employ the techniques of industrial unions of the unskilled within a work force called upon to exercise responsibility, evaluation and choice in its everyday organisation of its workplace. The workers and the employing boards do not have a conflict of interest engendered by the profit motive. Militant unions 'became strongest in urban centres where conditions of alienation and abuse were most severe'. Teachers are looking therefore, in Mitchell's analysis, for job security, personal dignity and rudimentary fairness in their daily working relationships with school administrations, and alternative labour-management relations would build from there.

Bacharach and Shedd similarly talk of the 'half-logic of industrial unionism', but equally of the tension for management required to rely on the efforts of individual teachers in situations of intense decision-making pressures in the classroom, but required to effectively co-ordinate the efforts of such teachers to ensure the educational progress of each learner. Industrial unionism leaves job design and allocation of duties, ie decision-making, as a management prerogative. The industrial model is thus not a good fit for an education organisation or for teachers.

Increasingly, research is suggesting rigid separation of management and labour roles is not a good model for industrial and commercial organisations either. Conditions of multiple purposes in service organisations, unpredictable situations demanding quick responses, constant interaction with others and direct contact with the customers require organisations to give their white-collar employees latitude to exercise discretion and judgement in the planning, execution and assessment of their work (Perrow, 1972; Peters & Waterman, 1982, cited by Bacharach and Shedd, 1990: 147). Research suggesting analogous change in the management of blue-collar occupations is also cited by Bacharach and Shedd (1990: 151). Past assumptions on separation of planning from execution presume long production runs and methods stable over extended periods of time. For the United States this is no longer the case and competition from countries such as Japan emphasises the value of 'quality circles' and procedures of continuous improvement by the work groups on the factory floor.

Bacharach and Shedd develop a theory of power and empowerment based on analysis of the 'labour and product markets' of public education, its 'work processes', and its 'management systems', as the means to redesign labour relations and union and management roles. In passing they comment on the false dichotomy between teacher as 'professional' and teacher as 'bureaucratic employee'. The factors that generate teacher discretion generate simultaneously the need for teacher co-ordination; the ability of each teacher to perform effectively relates to the working conditions established and enjoyed by all; the role of bureaucratic employee is an inadequate conceptualisation of the teacher role, but the mark of teacher professionalism will be the drive not for autonomy but towards responsibility for the performance of one's fellows.

Bacharach and Shedd propose as structures of 'industrial relations' that are likely to emerge:

- comprehensive negotiations on structures and rules for joint decision-making, developed away from the bargaining table
- capacity to reopen negotiations during the course of a contract
- development of a hierarchy in the profession, probably reflecting the craft situation, or higher education, and based on levels of professional skills and attainment rather than on specific sets of duties (teachers, interns and master teachers)
- re-definition of the teacher's normal day and year.

Mitchell proposes as a way to alternatives in 'labour-management relations':

- bargaining process changes involving different time schedules, different and more inclusive sets of participants, and different ways of handling contracts clauses

- new budget development procedures and new mechanisms for exchanging budget and finance information among the parties to negotiations
- changes in ongoing working relationships between district managers and the local teacher organisations aimed at creating trust
- changes in the form of agreement reached at the conclusion of negotiations, a trust document replacing the conventional contract.

In summary in the United States researchers are seeking models to allow teachers and managers to break from the union-industrial employer model and tightly enforced contracts of fixed term. In New Zealand despite the new choices available of individual contracts and encouragement in the private sector towards enterprise bargaining, in the Education sector centralised collective bargaining has been maintained, in a transitional situation, and with a control agency as the governments protagonist. At issue is the sustainability of this situation.

## Summary

This paper has only alluded in passing to the debate, to this moment while trialling proceeds best described as unresolved, on bulk funding of salaries to boards of trustees of New Zealand schools. The models hinted at by outline proposals in the Picot Report and in 'Tomorrow's Schools' (Barrington, 1991: 58-59) were developed by Ministry of Education working groups into at least six models, direct and indirect funding, cash or cashless, and per pupil formula-based on staffing profile-based. An indirect, cashless and profile-based system would mark the least radical shift from arrangements presently applying, and its obverse the direct, cash to the board, formula-driven represents the most radical change. These complexities, and issues of transitional equity, were not explored in 1989; they are proving difficult to resolve in 1991 in the light of the Government decision to opt for the trial of a radical model.

In industrial relations in Education we currently face the following dilemmas:

- We have a model shaping negotiations that appears to march to a drum-beat different to a rhythm for educational reform linked to literature on effective schools.
- The model in its present implementation allows the possibility of fiscal blowouts.
- Equally it has prevented discussion at the negotiating table of issues of *educational effectiveness* (see Capper & Munro, 1990: 159).
- Alternatives to the centralised bargaining system could be developed at school level, but could provoke disfunctional confrontation in the school as learning community, in the view of NZEI as quoted earlier in this paper.
- Alternatives at the centralised level could be directed at educational as opposed to more generally industrial/commercial models, but provoke in unions seeking to match the power of the employer party a response that is disfunctional to the purposes of teaching and learning.

The review of the role of the State Services Commission concluded in March 1991 was bounded in its consideration of structures and roles by tight timelines, and by current legislation which was for the time being confirmed in an Employment Contracts Bill yet to be reported back to parliament. The review examined in turn, as candidates for the 'employer party' role, the Commission, the Ministry of Education, the School Trustees Association, and individual boards of trustees. It examined these parties in terms of their access to information, their incentives and accountability, their expertise and the symmetry of employer-employee relationships. It concluded that at a time of incomplete transition to a new management model, and in the face of a wage round possibly to be conducted under new legislation, a change in the governments agent at the bargaining table was inappropriate, but that the review should be resumed after the wage round had been completed.

This paper has suggested from overseas material possible different framing of the issues. It is a scoping paper seeking to gather relevant information and to map the field within which strategies can be developed and it is written by a participant to invite further comment from within the research community.

The key questions in establishing any new model appear to be:

- What inputs at school level and in what form serve the purposes of all parties wishing to develop the school as a learning organisation?
- What actions at national level will contribute to their acceptable and equitable allocation?
- What structures would recognise the role of the State as principal funder, and the power of employers, and the work relationships?
- What is the logic of the educational labour and product markets, the work processes and the management systems?
- What issues should be on the table, at national and at local levels?
- Who should be at the table, at national and at local levels
- What alternatives to the bargaining table should exist for resolving differences concerning 'the rules of work'?

The analysis of 'organisations as learning systems' and the concept of 'educative leadership' of Macpherson (1991) and of Duignan (1990) would suggest support for the view that the present structures are needlessly conflictful and so dysfunctional. (See commentary by Walsh, 1990: 9 on the 1989 negotiations). Their research goes further however to suggest the possibility of export to other organisations of the educational and *educative* model of organisational effectiveness.

'The organisations learning system - the way knowledge is generated and cumulatively built up in an organisation - can either promote or inhibit growth and development within an organisation. Effective ... decision-making requires organisational learning systems that encourage reflection, criticism, assessment and negotiation ... Leadership involves being critically educative, ... involves the notion of power, but not *power over*, rather *power to*.' (Duignan, 1990: 337-8).

For leaders to claim accurately they are educative means they must first be able to maintain and develop a culture that promotes enquiry, values problem solving, welcomes criticism and encourages participation and learning about the organisation. Second, they must be able to show that openness to criticism and an ability to learn from mistakes has become the basis for more valuable leadership action and cycles of reflection and decision-making (Macpherson 1991: 29-30).

We need such leadership in schools, and in the work relations affecting teachers, trustees and the state (You may extrapolate as you wish from the Education sector to the broader fields of the State Sector service organisations, and to organisations generally.) Possibly, in reframing the debate on 'the rules governing employment', to apply them to effective and educative organisations generally, we have the basis for establishing in the current discourse new teacher-learner and teacher-principal-trustee relationships in the world of 'Tomorrow's Schools'. We could then set about designing the procedures that would set rules for establishing inputs into schools, including staffing and salaries, that would support those desired effective and educative relationships within schools, and between schools and their communities.

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