



## REGISTERING INTEREST : INDUSTRIAL RELATIONS AND THE 'NEGLECTED DIMENSION' OF REGISTRATION IN THE MEAT AND WATERFRONT INDUSTRIES

**Bruce Curtis**

*Department of Sociology  
The University of Auckland*

**James Reveley**

*Department of Management  
University of Wollongong*

### Abstract

*Despite the centrality of registers to the arbitration system in New Zealand, very little work has been done on the role of registers in state-society relationships, and in the structuration of actors and interests in specific industries. This paper uses registers in examining the industrial relations processes and outcomes in two major industries - meat processing and the waterfront which historically have been central to NZ as a small state in a world market. Our paper focuses on what we call the 'neglected dimension' of registration - registration systems that operated outside the industrial relations (i.e. arbitration) system per se, but had considerable industrial relations consequences. Our argument is that in the meat and waterfront industries these registers were as important, if not more important, for industrial relations than the conventional arbitration system registers, surviving both changes in technology and the law. The focus will thus be on the 'unintended consequences' of the specific form of registration scheme that was institutionalised by the State in each industry. Further, in each case, the unintended consequences were central to attempts by state actors to reform the industries. Pressures to reform industrial relations practices in these industries were intertwined with the abolition of the industry-specific registration schemes. As a result, reform of industrial relations hinged on developments other than the Employment Contracts Act 1991.*

*Keywords: industrial relations, registers, registration systems, meat industry, waterfront industry, firms, unions, unintended consequences*

From its origins in the Industrial Conciliation and Arbitration Act (1894), the New Zealand State established a system of industrial relations that has been approximated only by Australia. Through this system, State-appointed agencies mediated power relations between employers and unions. In no sense did 'labour' and 'capital' confront each other unmediated, as already organised 'blocs'. Rather legal regulation constituted actors and interests. Walsh and Fougere (1987) argue that the law did not merely regulate and constrain already existing sets of actors and interests in the arena of industrial relations, it was crucial in constituting sets of actors and interests.<sup>1</sup> The primary way in which actors and interests were constituted was through registration systems, which resulted in the constitution of unions and employer associations as legal entities.

Despite the centrality of registers (and registration systems) to the arbitration system, very little work has been done on the role of registers in state-society relationships, and in the structuration (Giddens 1984) of actors and interests in

specific industries. Or, pushing it further, to understand registers as an institutional form of governance, one way in which the state secured relationships between sets of corporate actors (in the heyday of the regulated period). This paper is a first attempt at that task. It uses registers themselves as the 'unit of analysis', in examining industrial relations processes and outcomes in two major industries - meat freezing and the waterfront. These industries have been central to NZ as a 'small state in a world market' (Katzenstein, 1985). Because of their centrality these industries have been major targets for reform.

Our paper focuses on what we call the 'neglected dimension' of registration. By this we mean, registration systems that operated outside the industrial relations (arbitration) system per se, but which had considerable industrial relations consequences. These 'external' registration systems secured relationships between sets of actors within the industrial relations arena. Our argument is that in both the meat and waterfront industries these registers were as

important, if not more important, for industrial relations than the conventional arbitration system registers, surviving changes both in technology and the law.

Moreover, some of these industrial relations outcomes (and the types of relationships they secured) were neither intended nor anticipated by state actors. The focus will thus be on the 'unintended consequences' (Walsh and Fourgere, 1987) of the specific form of registration scheme that was institutionalised by the State in each industry. In each case, the unintended consequences led to attempts by state actors to reform the industries.

To the extent that registers existed outside the industrial relations system, pressure to reform industrial relations practices in these industries took place as much outside of industrial relations regulatory frameworks as within them. In each case, this involved the abolition of the industry-specific registration schemes. Simply stated, reform of industrial relations hinged on developments other than the Employment Contracts Act (ECA) 1991.

While the focus will be on industrial relations, conventionally defined, the use of registers as the 'unit of analysis' has broader implications. Historically, the two industries in question have been the site of historic tensions between capital and labour - between farmers and watersiders, between farmers and meatworkers (Turkington, 1976). The analysis of registers casts new light on the sources of this tension, and thus provides a new window through which to explore New Zealand state-society relationships in the post-war period.

### Registers in the meat and waterfront industries

In the meat industry, firms were registered. On the waterfront, workers were registered. Our contention is that these different forms of registration had similar effects. In both industries, what resulted was a particular configuration of actors and interests in the industrial relations arena that resulted from variously capital (in the meat industry) and labour (in the waterfront industry) being 'organised' through registration schemes that operated external to the industrial relations system. These configurations of industrial relations were largely unintended.

The central form of registration that operated in the meat industry was the licensing of meat firms by the Meat Producers' Board. This registration system was intended to reconfigure the relationship in product-markets between meat firms and their farmer-suppliers. The registration of all firms was intended and operated to advance the collective interests of farmers, by fostering competition for stock in part by securing small firms. At the same time, in an indirect and unintended manner it secured organised labour in meat processing plants (freezing works). The reworking of registration (through the ending of licensing) and partial rationalisation of firms in the meat industry from the early 1980's has systematically eroded union strength.

On the waterfront, the occupational registration scheme, which had the immediate effect of decasualising the labour market, had the broader effect of positioning the collective labour market actors in particular ways. Moreover, this scheme had the unintended consequence of strengthening the unions and supporting the existence of small firms. These developments intersected in the 1970's, when several of the port unions became involved in establishing small new entrant stevedoring firms. In many regards, the most recent phase of the post-reform period can be understood as a reworking of the relationships between the union and small firms, since the abolition of the registration scheme in 1989.

### The meat industry: The registration of firms

Registration in the meat industry was secured through the Meat Producers' Board and was undertaken in the collective interests of farmers. This intervention was intended to favourably position farmers in product markets.

The Meat Producers' Board was established by Act of Parliament in 1923. The Board was constituted as an autonomous body, elected by farmers, and empowered to take control of all aspects of the meat industry. As a statutory agent the Board immediately proceeded to act in what it perceived to be the collective interests of farmers. The context for this was an unprecedented slump in prices paid for New Zealand meat in the United Kingdom and the mounting incursions of transnational meat firms into the industry. Farmers and the Board clearly believed that there was a link between the decline in prices enjoyed by farmers in markets for stock and meat and the growing influence of large, integrated, firms like Borthwicks, Vestey's, Swifts and Armour. Consequently, the Board intervened across the industry in an effort to curb the transnationals and to fortify those channels still external to the vertically-integrated firms.

The Board imposed an independent system of inspection in processing plants and storage facilities, and assumed control over the grading of meat exports. It also assumed responsibility for all aspects of shipping, including the negotiation of freight rates and the scheduling of shipments. The Board's strictures on inspection, grading and shipping were imposed on all cargoes leaving New Zealand, including those owned by farmers or their agents and by local and transnational meat firms. These initiatives have been described as a grand averaging scheme by which economies of scale and scope were prevented from transforming the industry and the character of farming (Curtis, 1993, 1996, 1998, forthcoming; Moran, Blunden and Brady, 1996).

The single most important component of the Board's interventions-in defence of farmers-was the licensing of processing plants and meat firms. This licensing acted as an exclusive registration of firms in the industry. It restricted their capacity to enter and leave the industry and provided guidelines on the level of throughput they could attain. In so

doing, the Board was avowedly opposed to any further acquisition and operation of freezing works by transnational firms.<sup>2</sup>

The Board used registration through licensing to constrain the transnationals and to forestall closures of outlying and marginal processing plants owned by local interests. For example, the Board made it known to the North American firm, Armour, that should it succeed in acquiring a freezing works in New Zealand, any output from this freezing works would be denied a meat-export license. The Board effectively ended the attempt by Armour to buy freezing works in New Zealand. By the same mechanism in 1929 the Board placed restrictions on the output of the freezing works already owned by Vesteys and Borthwicks. These restrictions were not lifted until 1952.

Further, the licensing of firms reversed the more common 'franchising' arrangements pursued elsewhere in industry by states and licensing authorities. The granting of a license by the Board to any firm did not guarantee that business a throughput, nor did the license secure an exclusive catchment or territory for the firm in which to buy stock. Rather, the granting of a license by the Board permitted the firm only to make offers to local farmers for stock in competition with other registered firms and businesses involved in the domestic industry. In this sense registration operated to capture and constrain the operations of capital.

An important motivation for registration was to enforce competition for stock by firms in each farming district around the country. Registration secured a multiplicity of firms in processing and export and, by protecting small firms, engendered competition. The intensity of competition for stock and the excess capacities owned by firms meant that issues of throughput were paramount to them. In other words, registration consolidated a mix of ownership and operation in the industry wherein all firms - large and small - were vulnerable to farmers acting as suppliers.

This vulnerability of firms to farmer-suppliers was underscored by the seasonal nature of the industry. Ultimately the length and timing of the operation of individual freezing works was shaped by external and highly seasonal dictates of pasture growth and husbandry. Consequently firms were forced to emphasise throughput and break even in the seasonal operation of their freezing works. Each killing season the amount of stock available for slaughter was more-or-less fixed and individual plants and multi-plant firms struggled to fill their books. Clearly this construction of the product market was to the considerable advantage of farmers.

Similarly, the registration of firms and the practices it engendered was advantageous to meatworkers and their union. In short, firms in the industry had many of the features of weak employers (Fox and Flanders, 1969). Firms were equally vulnerable to the actions from the unions which might disrupt their efforts to secure adequate levels of throughput (product) each killing season. Although the specific relationship remains unclear, the additional pressures

of seasonality in processing undoubtedly shaped the predisposition of meatworkers to go on strike. While the resulting patterns of industrial disharmony were for some time a topic of considerable interest to scholars and industrial relations practitioners, of greater significance to the collective labour market actors were rules of seniority.

Seniority was central to the form of control garnered by the meatworkers unions over the registered firms. As a union practice it utilised the formalisation of a queuing arrangement for jobs. These rules guaranteed employment for workers across killing seasons. Without any rules of seniority meatworkers faced the prospect of minimal security in their employment from killing season to killing season, while their elected representatives could have been singled out and effectively blacklisted. Seniority secured a form of unionising within plants as well as regulating the labour market. Hence, the union's fostering of rules of seniority for employment in freezing works meant codifying and stabilising not so much the right to work as the rules governing who had access to work and their tenure in a killing season.

The meatworkers' unions won control over seniority, and closure of the labour market, on a plant by plant basis. This culminated in the National Award of 1958 which formalised rules of seniority throughout the industry and ratified the union's informal control of the labour market and, in particular, of the practices of hiring and firing. This dominance by the union was to last into the 1980's. It was undone in large part because of the end to licensing by the Meat Producers' Board in 1981.

During the 1970's and 1980's the meat industry encountered increasing problems stemming largely from the saturation and closure of product markets in the European Community. An important aspect of this was the retrenchment and / or collapse of the vertically-integrated, transnational, firms. Swifts exited the industry in 1973, Borthwicks in 1981, and Vesteys in 1994. Interestingly the first redundancies in the industry occurred in 1973 with the closure of plants owned by Swifts. Conversely there was mounting pressure from 'new entrant' firms to establish and expand processing capacity (Hartley, 1989). Further, there was the more general problem of excess processing capacity in the industry.

The end of industrial licensing in 1981 allowed new and existing firms to establish greenfield sites in which the 'traditional' role of the union was less clear. At the same time, technical innovations in processing provided an additional impetus for reductions in the numbers of workers in plants. These pressures combined to force the meatworkers union onto the back foot. By the end of the 1980's the union had been decisively defeated and was no longer able to operate effectively on a national or regional level. The National Award, which had been the mechanism by which the union had levered up pay and conditions in outlying plants, had more or less become a fiction.

The ECA added to the disintegration of the meatworkers'

union(s). In a number of cases, new entrant firms were able to impose individual contracts on the workforce and to exclude the union. More commonly, the focus of union activity has become the survival of individual plants. In the context of intensified competitive pressure and what is commonly regarded as a contracting industry this introduces a dynamic for union activities to ratchet down pay and conditions (labour costs) in an imagined trade-off for job security.

The fragmentation of the union has coincided with a recasting of seasonal employment. In a number of cases meat firms have successfully challenged the notion of a distinct killing season. Rather they have opened and closed plants on a weekly or monthly basis as stock is available. Certainly the traditional arrangements by which plants remained open and the workforce employed regardless of whether stock were available for processing have ended.

This recasting of seasonality directly impacts the rights of seniority enforced by the union. While the traditional arrangements of 'last-on first-off' still prevail in the industry the disruption of seasonal employment introduces the likelihood of casualisation.

### **The waterfront industry: The registration of labour**

Although registers are mentioned in most international studies of the waterfront (e.g. Jensen 1964; Turnbull and Sapsford 1997), the discussion is largely restricted to their role in decasualising the waterfront labour market. However, the specific form of occupational registration scheme that was institutionalised by the State in New Zealand had an effect broader than that of merely decasualising the labour market. Registration positioned the collective labour market actors in particular ways, and had the unintended consequence of strengthening the unions and supporting the existence of small firms. Whilst the occupational registration scheme was located outside the province of industrial relations, strictly defined, like the firm registration scheme in the meat industry, its effects nonetheless impacted substantially on industrial relations.

The occupational registration scheme that was institutionalised by the State in modified form in 1953 (after the 1951 waterfront dispute) established an exclusive register of waterfront workers at every port in the country. The scheme was administered by the Waterfront Industry Commission, which operated labour engagement bureaux at each port. From these bureaux, registered watersiders were allocated to employers on a job-to-job basis.

The occupational registration scheme abrogated the traditional rights of firms as employers - principally their right 'to hire and fire' (Edwards, 1979: 16) - in a way that meant that individual firms were not significant actors in the labour market. Competing firms were forced to cooperate through the local Port Employers Association and to yield decisions over the supply of labour to this organisation. The waterfront labour market thus was organised around the legally defined 'occupation' of wa-

terside work, rather than around firms, taking a "labour-market wide 'occupational' form" (Stinchcombe 1990: 262).

While the occupational registration scheme resulted in significant costs to firms (Reveley 1997), there were also substantial benefits. Firms involved in stevedoring were guaranteed a supply of labour for the length of each job, which relieved them of the need to employ their own workforce directly. The main advantage of this scheme, from the employers point of view, was having a collectively funded, guaranteed supply of skilled labour on hand to meet their fluctuating daily labour requirements. This provided space for small firms operating on short-term or insecure contracts, in a fluctuating service product market, where the cost of permanently employing labour would otherwise have been prohibitive (Reveley 1996).

Far from firm size being an independent variable in relation to the labour market, as it is often regarded (e.g. Fligstein and Fernandez, 1988), there was a strong sense in which - at least in the case of small firms - firm size was a dependent variable in relation to the labour market. It was dependent on the occupational registration system that the labour market was organised around. Firm size was as much a function of the type of labour market as the type of labour market was a function of firm size.

The second unintended consequence of the bureau system of occupational registration, is that it strengthened the unions (the National Waterside Workers Union having been smashed in 1951, and replaced by 26 new port unions). This system both protected and empowered the new unions, and provided security of employment to their members. Union membership was compulsory (and remained so after compulsory unionism was abolished in other industries) in that all registered watersiders were required to belong to the local port union. Moreover, 'preference' in performing waterfront work was granted to this occupational group.<sup>3</sup> Formal joint control of register numbers gave the unions the ability to restrict the size of the workforce, and the size of their own membership. Waterfront unionism thrived in this institutional environment, and by the late 1950's the port unions had regained much of what had been lost, in terms of wages and conditions, in the aftermath of the 1951 dispute (Reveley 1996: 162-3).

Moreover, the unions' control of the labour supply continued to strengthen (despite the existence of formal 'joint control'). Part of the unions' response to technological change in the form of containerisation - which exerted downward pressure on register numbers - was to restrict and then eliminate supplementary (i.e. non-registered) casual labour. The limitation on casuals was established through the Waterfront Industry Conference, a conciliation forum specially constituted in response to containerisation.

In line with the agreement to restrict casuals, subsidiary registers of 'approved' casual workers were created at ports throughout the country in 1970-71. From that time on, there existed two registers at each port: the bureau register, and the union-sponsored subsidiary register of supplementary

casuals. Like the bureau register these subsidiary registers were 'exclusive' in nature, and were adeptly used by the unions as 'organising tools' to effect labour market closure. Through the use of these registers, the unions accomplished the transformation of a series of legislatively defined local labour markets, organised around statutorily enacted bureau registers at the port level, into a sealed national labour market (Reveley 1999, forthcoming).

To recap, the two main unintended consequences of the occupational registration scheme were that it strengthened the unions (leading to a union-controlled labour market) and supported the existence of small firms. These effects of the registration system intersected in the 1970's, when several of the port unions became involved in establishing small new entrant stevedoring firms, in the form of joint ventures. Thus the 'space' that the bureau system provided for small firms supplied a significant opportunity for the unions - to set themselves up in business. Certainly, small firms posed no threat to the unions, and in a number of cases, through the joint ventures, the unions materially benefited from the existence of small firms.

During the 1970's and 1980's a whole host of pressures for reform built up (Reveley 1997). Foremost among these the level of union control over the labour market, which resulted in the industry becoming stuck in a 'halfway house', without the labour efficiency afforded by permanent employment or the labour flexibility afforded by the ability to use supplementary casual labour. This was compounded both by the level of control that watersiders exerted over work practices, and the fact that voluntary redundancies did not keep pace with the decline in work associated with containerisation.

This concatenation of pressures ultimately led to abolition of the registration system in 1989. One of the principal effects of this reform, is that it abolished an institutional framework that, paradoxically, supported both unionisation and the existence of small firms. It also disrupted networks that closely linked unions and small firms themselves. In many regards, the most recent phase of the reform process can be understood as stemming from a reworking of the relationships between the union and small firms, in the context of the ECA 1991.

The abolition of the Waterfront Industry Commission in 1989 resulted in a shift to direct employment by firms involved in stevedoring. For the first time in almost 50 years, firms became the organisational form that employed and managed waterfront labour. Small firms which invariably could not afford to hire permanent labour, including most of the aforementioned joint ventures, almost completely disappeared from the waterfront. The dramatic alterations in employment arrangements also broke down the national labour market, and resulted in major changes to the terms and conditions of work and work practices. To be sure, significant elements of the labour supply aspects of the previous union-controlled labour market continued for a time, in that the union continued to enforce restrictions on the labour supplied to employers (Reveley 1997). The union

succeeded in restricting casual employment through a 'casual ratio', and also kept not only permanent watersiders but also the bulk of casuals unionised, effectively restricting employers to using union labour and limiting downward pressure on labour rates.

However, in the absence of the registration scheme, and in the presence of the ECA 1991, there has been a shift from a union-controlled labour market, to one in which employers increasingly define the contours and character of the labour market. As in the meat industry, the main effect of the ECA has been to reinforce the demise of the union, which ultimately stemmed from the abolition of the registration system.

Intensified competitive pressure, together with increased potential under the ECA to compete on the basis of labour costs, has meant that employers are increasingly challenging the union's remaining control over the labour supply by using casuals in preference to permanently employed watersiders. In the last four years, the number of casual workers has increased dramatically on the conventional wharves at ports throughout New Zealand,<sup>4</sup> and the level of unionisation of casuals has declined (Reveley 1999).

Until recently, no company had successfully circumvented the union and set up a totally non-unionised workforce. However, this situation changed with the emergence of two small new entrant stevedoring companies at the Port of Tauranga (the country's largest export port) that employ non-union workforces comprised solely of casual and part-time employees.<sup>5</sup> Opportunistic small firms, operating now as stand-alone labour market actors, mark the greatest threat that the union is currently facing. It is the uncoupling of the links between unions, unionisation and small firms - formerly secured by a registration scheme - that represents the most recent phase of waterfront reform.

## Conclusion

Registration of firms in the meat industry and labour in the waterfront industry constituted actors and sets of relationships in the arena of industrial relations. Like the registration schemes associated with the arbitration system, the legally enacted registration schemes were not merely constraining - in the sense of regulating existing sets of interests - they created sets of actors and interests and shaped the relationships between them. These forms of registration lay outside what is typically regarded as the ambit of industrial relations and in both cases generated very significant unintended consequences. The most significant of these was the empowerment of the union. In both cases, the elimination of industry-specific forms of registration heralded restructuring of the industry and its industrial relations. In this respect, the ECA merely added to industry-specific dynamics for change.

We argue that much of the specificity of change is missed insofar as the ECA is conceptualised as exclusively paradigmatic of the industrial relations arena. In this respect, a focus on registers and other 'resources' (Walsh and Fougere,

1987) as constituting collective labour market actors and their relationships emerges as being very important. If nothing else, this sort of appreciation shifts attention from narrow and at times legalistic interpretations of industrial relations to the richer considerations of governance and its institutional forms. Similarly, such a shift encourages research that transcends abstracted arguments about unions, firms and the character of labour markets (Fligstein and Fernandez, 1988; Gospel, 1992).

### Future research

The authors are interested in researching the changing nature of work, management and industrial relations in Australasia. They are continuing research into the transformations of the meat and waterfront industries. Further attention needs to be given to the re-configuration of industrial relations actors and identities in the two industries after the demise of registration. In particular, there is a pressing need to examine union strategies and the prospects for organised labour.

### Notes

- 1 The arbitration system was as much about the making of groups and the structuring of relationships among them as it was about the setting of wages or conditions' (Walsh and Fougere, 1987: 192).
- 2 "This Board will look with an unfriendly eye upon: (a) The purchase by overseas interests of any freezing works in New Zealand. (b) The acquiring of any interest in New Zealand freezing works by overseas interests. (c) The erection of new freezing works in New Zealand by overseas interests" (Hayward, 1972: 162).
- 3 However, non-registered casual watersiders could be employed, as a supplementary source of labour, when registered watersiders were not available.
- 4 To date, casual employees are only used to a limited degree within the country's four container terminals.
- 5 The companies are International Stevedoring Operations (ISO) and Independent Stevedoring Limited (IS).

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### Authors

Bruce Curtis is a Lecturer in the Department of Sociology, The University of Auckland, Private Bag 92019, Auckland, New Zealand.  
E-mail: b.curtis@auckland.ac.nz

James Reveley is a Lecturer in the Department of Management, University of Wollongong, NSW, 2522, Australia.  
E-mail: james\_reveley@uow.edu.au