

DISPUTE AVOIDANCE TECHNIQUES

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ABSTRACT: *The basic principles of dispute avoidance include the setting up of an industrial relations plan, the early identification of disputes, the minimisation of weaknesses that face an enterprise in the industrial relations area, the constant review of overall strategy and tactics, and the avoidance of short-term ad hoc decisions that are inconsistent with long-term objectives. These criteria are illustrated with examples from the transport sector, but dispute avoidance techniques would have universal applicability.*

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INTRODUCTION

In recent years attention has been drawn to Australia's mounting health costs and the need to look at alternative approaches to health care (Anon 1976, Anon 1977, Larsen 1976 and McHarg 1976).

Similarly, attention has been drawn to the high cost of industrial disputes, particularly in the transport and oil refining industries, and the need to find appropriate solutions to this problem.

Thus Nixon has called for a new solution to industrial disputes "There is one ... matter of concern to me that I wish to raise ... It is the huge cost burden which Australia presently carries which results from what appear to be the traditional way of settling industrial disputes - by strikes, black bans and demarcation stoppages ... I am quite sure every person in Australia is sick and tired of being personally inconvenienced and financially affected by industrial stoppages in one area of our transport system. Clearly it is time governments, industry and unions achieved an improvement of the industrial record in the transport area. Its high time that unions and management got together with governments and devised a system of settling disputes involving our sensitive transport industry which ensures stoppages do not occur in the future. To put it quite frankly - the country can no longer afford them" (1978, p 8).

The present paper outlines the framework of a new approach to this problem, one based on dispute avoidance philosophy. Whilst the approach is illustrated with examples drawn from the transport industry, a dispute avoidance policy could have universal applicability throughout the public and private sectors.

THE ELEMENTS OF A DISPUTE AVOIDANCE POLICY

Eight major elements can be identified in a dispute avoidance philosophy. (1) The first requirement of such a policy is to establish an industrial relations strategy, similar to the marketing or sales strategy of a firm. Ideally, such a strategy should form part of an overall corporate plan, whether the enterprise be a government department, public utility, or a private firm.

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1. I am heavily indebted to a special correspondent in the February 1979 issue of the National Bank Monthly Summary for these elements. I have attempted to illustrate the application of some of these elements.

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For instance, the Australian National Railways Commission currently is preparing a corporate plan aimed at moving the Commission from a heavy loss situation (in excess of \$60 million a year) to a break-even point within 10 years.

This objective by ANRC will be difficult to achieve because it will require an absence of political constraints on the freedom of railway management to raise charges, and agreement by a large number of unions on the need for a marked reduction in the Commission's work force through the rationalisation of workshop activities, the withdrawal of services and the closure of branch lines, the establishment of regional freight centres, and the mechanisation of labour intensive activities. Also because of the limitations imposed by the existing agreements for the transfer of the Tasmanian and South Australian (non-metropolitan) railways to the Commonwealth Government, on the freedom of the Australian National Railways Commission to take appropriate action.

The required amount of structural change within the Commission will have far reaching implications for industrial relations, and could result in numerous potential industrial disputes unless high priority is placed on the development of an industrial relations strategy within the Commission's corporate plan. If this is not done the Commission is certain to be faced with many costly industrial disputes as it attempts to shed labour and reduce costs.

The industrial relations strategy of any enterprise should be positive, and should be concerned with developing a climate of trust, mutual goodwill and understanding. It should specify a number of clearly defined objectives which the enterprise should monitor and evaluate in the light of feedback.

Objectives might include a reduction of x amount in hours lost, a reduction of x amount in accidents, a reduction of x per cent in the work force over x years through turnover and natural attrition, and adherence to standard hours of work with elimination of overtime wherever practicable. The industrial relations strategy also should contain a commitment by the enterprise to pursue a dispute avoidance philosophy per se.

The development of a climate of trust and understanding will require effective communication, both vertical and lateral. Vertical communication will be necessary to ensure that decisions by top management on the introduction of new technology, job security, gradings, redundancy, entitlements and classifications, are made known to all levels of the organisation. Also that the unions have channels open to top management for submitting and discussing suggestions and counter-proposals.

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Over the last eight years there has been an appreciable move by organisations within both the public and private sectors to establish joint management/union councils (Derber 1978). Three examples worth noting in the transport field concern the Public Transport Commission of New South Wales, the Tasmanian Transport Commission and the Australian waterfront.

The Public Transport Commission of New South Wales established a Joint Council to operate in this field in 1974. Although membership is restricted to nine (the Chief Commissioner, one other Commissioner, and seven employee representatives nominated by the unions), union representatives are encouraged to bring to meetings specialists from the unions or elsewhere who may assist in the deliberations. Similarly, the Public Transport Commission have officers attending as advisors, depending on the nature of the agenda for the particular meeting.

The New South Wales P.T.C. Joint Council originally met on a monthly basis, but in 1978 the Council met only once, in March. According to Taylor "Joint Council representatives (have been provided) with full and frank information concerning present and prospective operations of the N.S.W. Public Transport Commission. This has allowed for the maximum involvement of the workers' representatives in the scrutiny of measures proposed to be introduced in the industry. It has ensued that the workers and their representatives have an understanding of these measures and the opportunity to make suggestions and recommendations on actions and standards acceptable to them". (2)

In Tasmania the Commissioner for Transport agreed to hold regular meetings with a combined railway unions delegation, following an approach by the unions towards the end of 1970, after the appointment of a new Commissioner. The first meetings were held on 15 February and 26 March 1971, and thereafter usually were held once a quarter. The meetings were suspended between 4 December 1974 and 18 March 1976, to allow the State Secretary of the Australian Railways Union to have frequent discussions with the Staff Superintendent and the General Manager of Railways on the proposed transfer of the Tasmanian Railways to the Commonwealth Government.

In addition, arrangements were made for the Combined Railway Unions Committee to send a deputation to the General Manager of Railways on individual problems relating to day to day railway operations as they occurred.

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2. Letter from R.C. Taylor, National Secretary, Australian Railways Union to V. Dyason, General Manager, Australian National Railways Commission, 3 July, 1978.

On 8 October 1975 the Commissioner received a request from the Secretary of the Combined Railway Unions Committee for a resumption of the former quarterly meetings between the railway unions and the Transport Commission. The Secretary stated "We believe that these meetings were an asset to both parties as problems could often be solved before they had a chance to grow and get out of hand. It is felt that a valuable line of direct communication has been lost and we ask for your earnest consideration of this request."(3)

The Commissioner agreed to the request, and the formal meetings resumed on 18 March 1976. The last meeting was held on 3 February 1978, after which these meetings ceased with the transfer of full responsibility for the management of the Tasmanian Railways to the Australian National Railways Commission, as from 28 February 1978.

An analysis of the minutes of the meetings of the Combined Railway Union Deputations reveals that over 500 items were considered at the formal meetings between 1971 and 1978. These ranged from apprenticeship training to the issue of protective clothing. The majority of items dealt with wage claims, safety and working conditions, the transfer of employees to the ANRC, the modernisation of facilities, and job security. Decisions were given at the meeting or subsequently by letter and, where appropriate, management policy was explained to union representatives, as illustrated by the following extract from the minutes of the meeting of 26 January 1978 :

"Item 1 - Employment of Fitters - Hobart

Mr. Gyselman (Assistant State Secretary A.M.W.S.U.) expressed concern at the reduction in the number of fitters located at Hobart. The Commissioner outlined the policy of the Australian National Railways Commission in this matter, and explained that in accordance with the recommendations in the Joy Report the Out Depot at Hobart would be closed and all repair work on locomotives and rolling stock would be undertaken in the Launceston Workshops. Two fitters would be retained at Hobart to carry out essential maintenance to enable locomotives and rolling stock to be turned round".(4)

It is significant that during the seven years the Combined Railway Unions Deputation met with the Transport Commission in Tasmania, there was no strike over any of the items raised by the unions.

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3. Letter dated 8 October 1975 from G. Ringland to the Commissioner for Transport.
 4. Notes on Union Deputation to the Transport Commission at Hobart on 26 January 1978, p 1.

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In December 1977 the Australian stevedoring industry was reconstructed, and the opportunity was taken to establish Federal and Port Co-ordinating Committees (Docker, 1978; Field, 1978; and Speyer 1978).

As Docker has pointed out, perhaps "the most unique aspect of the new arrangements, and one which distinguishes this industry from most others, if not all other major industries, is the provision for consultation at port and national levels between the Federation, representing the employees, and the organisation of employers. Formal jointly representative committees have been established and given legislative sanction in amendments to the Conciliation and Arbitration Act. The functions of these committees are extensive and relate to any matters concerning the operation of the general agreements covering the industry. The basis of operation of these committees is the reaching of a consensus between the two parties. No decision of a committee is possible without such a consensus. Apart from purely routine administrative matters and the biennial contract negotiations, the Federal Co-ordinating Committee is virtually the working determinant of the industrial affairs of the industry. Subject to Federal oversight, the Port Co-ordinating Committees fulfill a similar role at port level."(p 3)

Lateral communications will be necessary to ensure that full information is available throughout particular levels of an organisation.

The second requirement for a dispute avoidance policy is the need to avoid short term ad hoc decisions which are not consistent with the long term objectives of the industrial relations strategy.

The third requirement is to identify potential disputes as quickly as possible, by monitoring early warning signals. Such signals could be picked up through the operation of joint management/union councils.

The fourth requirement is to identify disputes as low down the organisational structure as possible. This will require the provision of on-going industrial relations training to foremen, supervisors and above, and the delegation of power to deal with disputes at the grass roots level.

Responsibility for the identification and solving of industrial relations problems would need to be written into the job description or duties statement of the staff concerned. The adoption of a dispute avoidance approach also would have important implications for the selection of staff. For example, in appointing lower level management, the ability of staff to be sensitive to the needs and aspirations of people would be a key requirement.

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The fifth requirement is to minimise the number of weaknesses that face an organisation in the industrial relations area. For instance, organisations could make a conscious effort to assist in reducing the number of unions and State awards which they have to work with, and could work towards achieving an industry wide union and a single Federal award.

In 1968-69 the British Railway Board undertook a drastic restructuring of its pay structure for railway staff. Nineteen grades of workshop supervisors were replaced by four new grades, twenty-two grades of station master were replaced by five new grades, and thirty-three grades of supervisor were replaced by four new grades.

The need to avoid disputes was cited as one of the reasons for the new pay structure (British Railway Board, 1967). "There is a constant pressure to obtain relativity between one group of staff and another in terms of earnings as opposed to basic rates. Yet there is no sound concept of what that relativity should be. The net result is the worst possible bargain for the railway industry. It is a prospect of an accelerating spiral of earnings without any clear relationship to productivity accompanied by a constant threat of industrial unrest as one group vies with another to maintain or acquire an attractive place in the earnings ladder. Employees suffer because inequalities are never cured. The most any group attains is a temporary advantage at a price of unrest, jealousy and unfairness. Unrest leads to low morale, lack of confidence in the industry and a growing sense of insecurity. Unions suffer because they are endeavouring to satisfy one group of members knowing that the outcome will not be a solution but a mere shifting of the problem. The industry suffers (because) it repeatedly faces the profound and lasting effects which disputes, arising from wage inequities, have upon its business" (p 1).

Although the action taken by British Rail was of considerable benefit, railway administrations in Australia have only recently turned their attention to the possibility of simplifying their existing complex pay structures and classifications.

In New South Wales the Public Transport Commission has proposed a restructuring of rail classification for unskilled and semi-skilled workers. At present rail employees in New South Wales come under two main awards, the Railway Miscellaneous Grades Award (which has 255 classifications) and the Railway Metal Trades Grades Award (which has 162 classifications). The Public Transport Commission believes that by applying a broad-banding approach, the existing 417 classifications could be reduced to 31 (17 in the Miscellaneous Award and 14 in the Metal Trades Award).

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As an example of the broad-banding approach there is a group of some 30 classifications where the wage rates vary from \$116.20 to \$118.00 per week. By broad-banding, all 30 classifications would carry an award rate of \$118.00. (5) Broad-banding could offer advantages to the railway industry by enabling work to be allocated to any employee within each of the limited number of classifications.

Considerable scope exists elsewhere in the government railways for a simplification and rationalisation of pay structures. For instance, in December 1976 the Australian National Railways Commission had 52 separate classifications of permanent way staff. However, it is possible that broad-banding may lead to only a temporary reduction in industrial disputes. (6)

It is important that attention also be given to the formation of industry wide unions. In West Germany 16 industry based unions control nearly 80 per cent of the total labour force (Blomeyer-Bartenstein), whereas in Australia there are more than 320 unions. For instance, there are 27 unions involved in waterfront operations, whilst the Australian National Railways Commission is involved with the following unions :

Australian Railways Union

Australian Workers' Union

Australasian Transport Officers' Federation

Administrative and Clerical Officers' Association,
Commonwealth Public Service

Australian Public Service Association (Fourth
Division Officers)

National Union of Railwaymen of Australia

Association of Railway Professional Officers of
Australia

Association of Professional Engineers, Australia

Amalgamated Society of Carpenters and Joiners of
Australia

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5. The proposal has been deferred until the Public Transport Commission can find the resources to meet the estimated implementation cost (\$400,000 - \$500,000).
 6. This was the experience of the Public Transport Commission of New South Wales when it introduced a single rate for all tradesmen employed at the Balmain ferry services workshop. The number of industrial disputes fell temporarily, but then increased because of demarcation issues.

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Electrical Trades Union of Australia
Vehicle Builders Employees Federation of Australia
Operative Painters and Decorators' Union of Australia
Federated Moulders' (Metals) Union of Australia
Plumbers and Gasfitters Employees Union of Australia
Building Workers' Industrial Union of Australia
Australasian Society of Engineers
Federated Ironworkers' Association of Australia
Amalgamated Metal Workers and Shipwrights Union
Australian Federated Union of Locomotive Enginemen

These unions could be replaced by one industry union for the railways, with three divisions, comprising (a) locomotive crews, (b) all other wage employees and (c) all salaried staff.

Many unions also have State branches. Thus the Transport Workers Union not only has a Federal Office, but also State branches in New South Wales, Victoria, Queensland, South Australia, and Western Australia. All require separate recognition, different awards and individual negotiations.

A similar pattern can be seen with many unions and this means that employers and their organisations may have to deal with hundreds of union power centres.(7) It also makes for protracted negotiations(8), conflicting decisions between Federal and State branches, and provides the opportunity for demarcation and other types of disputes.

For example, in August 1977 Tasmania's northern ports were closed to A.N.L. cargo because of a dispute between the Transport Workers Union and the Waterside Workers Federation over who should moor and unmoor ships at the A.N.L. terminal at Burnie, and who should handle cargo in the general wharf area.

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7. Prior to amalgamation with the Australian National Railways Commission, the Tasmanian Governments Railways (a small system) had to deal with 10 unions and operate under 7 awards.
8. The Chairman of the Association of Employers of Waterside Labour reported recently that the biennial negotiations with the Waterside Workers Federation for a new award were completed in May 1978, but negotiations with all other associated unions were not completed for another five months, and then only with considerable difficulty. See L. Norman, "Movement Towards a Single Waterfront Union", The Australian Financial Review, 19 October 1978.

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A different and far more costly type of dispute occurred in October 1978, when a strike by several dozen container terminal maintenance fitters, who are outside the Waterside Workers Federation, brought the whole Australian waterfront to a standstill. The fitters halted work at two terminals in Melbourne for 4 - 5 weeks, but when waterside workers in Melbourne were stood-down there was a national stoppage by waterside workers for four days in protest.

Since then there have been some moves to try to form a single stevedoring industry union. According to Docker (1978) "It would clearly be to the advantage of the industry, and the community, if there was one waterfront union with which employers and governments had to deal and through which a national agreement could be reached which would settle employment codes for the whole waterfront labour force. There is no objective reason why maintenance tradesmen, shipwrights, tally clerks, administrative clerks, crane drivers, refrigeration attendants, and any other group of specialised workers who comprise the total waterfront labour force, could not be members of the main union - the Waterside Workers' Federation. As a result of recent disputes, the Federation's Federal Council has instructed its officers to do everything possible to bring this about." (p 6)

Sixth, particular attention should be paid in industrial relations to job security. In 1977 the Federal Arbitration Commission dealt with 182 disputes caused by the dismissal of employees. This was the second largest category of disputes handled by the Commission. In the United States unions and management are giving special emphasis to job security (McIsaac).

Seventh, as much notice as possible should be given of intended changes (such as the introduction of new shifts, the relocation of employees, and the introduction of new technology), to allay suspicion, rumours and fears of the consequences of change.

Eighth, contact with governments should be increased, especially the Federal Government, to assist the continual review and adjustment of industrial relations strategy.

CONCLUDING REMARKS

Unsworth (1978) has suggested that "In the interests of creating a co-operative and productive society in the future, more attention and emphasis should be given to bringing unions and employers together in a spirit of conciliation rather than continuing with an excessive reliance upon arbitration to solve all the problems of Industrial Relations" (p 14).

This could be done through the adoption of a dispute avoidance philosophy on industrial relations. The bare framework of such a philosophy has been outlined in this paper and is put forward for discussion. It is hoped that others will take up the challenge and build on the framework to achieve implementation of satisfactory dispute avoidance techniques.

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