

# Foreign Control Watchdog

PO Box 2258, Christchurch, New Zealand  
WATCHDOG 87, JUNE 1998

## MAI DOWN BUT NOT OUT

### The Struggle Continues

- Murray Horton

Throughout 1997, *Watchdog* publicised the dangers of the insidious Multilateral Agreement on Investment (MAI) and of the snowballing campaign against it, both in New Zealand and globally. Put very, very briefly, the MAI is a charter of rights, with no balancing responsibilities, for transnational corporations (TNCs), and it would be legally enforceable by international law. (For details on the MAI, see *Watchdog* 85, or contact GATT *Watchdog*, Box 1905, Christchurch. Ed.). We (CAFCA, GATT *Watchdog* and the indefatigable Jane Kelsey) started from a position of having to play rapid catch up in fighting an omnibus global agreement on foreign investment, an economic

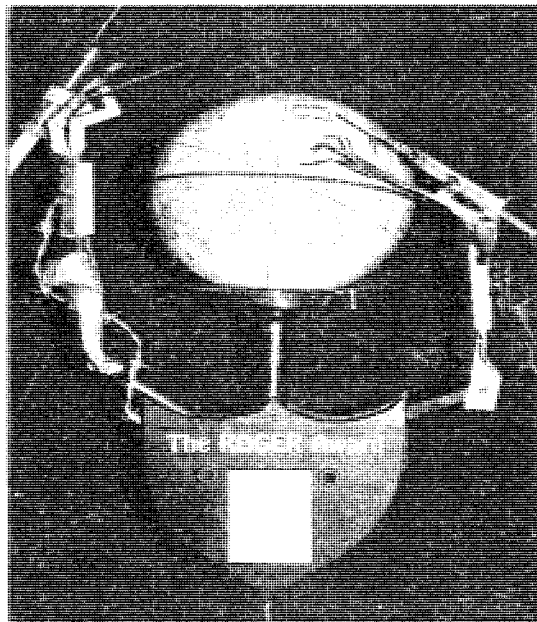
Final Solution, the ultimate (The Roger Award: 1997 winner was Tranz Rail. Story on Page 11) stitched up in 1997. An initial wet dream of the transnationals and their ideological servants in governments and bureaucracies throughout the world. The whole thing was being negotiated in total secrecy. All we had to go on was a leaked draft of the Agreement (a guaranteed cure for insomnia) posted on the Internet from Canada. But we had a feeling that this battle was different, that we could actually win this one. Call it the much hyped "backlash against globalisation" if you like. We prefer to call it common sense.

Regardless of what it's labelled, the fact remains that we (by now a much broader and more powerful movement in this country alone, not to mention the rest of the world) have fought the bloody thing to a standstill. It's not dead yet, and won't be until a stake

has been driven through its heart. But the MAI is definitely having a nice long lie down. Victories are so rare in our line of business, and almost never to be seen in the funereal pages of *Watchdog*, that we're in danger of not recognising one if it jumped up and bit us on the bum. So, fellow bumbitten, let's allow ourselves a modest celebration. To reverse the usual cliches thrown in our faces: There is something we can do about it, and we can beat the bastards. We have - but although the battle is won, the war is far from over.

Originally the MAI was to be all groundswell against it, plus the difficulties caused by the 29 negotiating countries (members of the Organisation for Economic Cooperation and Development - OECD) lodging 600 pages of "reservations" to protect their national interests, caused a 12 month delay until April 1998. In February 1998, the US announced that it would not sign it in its current form. Not for any progressive reason, but because it didn't go far enough to protect the interests of American TNCs. The Alliance had a sudden attack of

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premature ejaculation and claimed victory (they were the only Parliamentary party campaigning against it) but the Americans are past masters of playing hardball in international agreements (such as GATT), until they get their own way. It was too early for the Alliance, or anybody else to claim victory, but the writing was on the wall for the MAI.

The groundswell of opposition in New Zealand had become a tsunami. The Alliance had used the MAI to do what it does best - run a single issue campaign, with Jim Anderton barnstorming the country. The mainstream media became interested, with the *Listener* running two extremely good features by Gordon Campbell ("Investor rules, OK?"; 27/12/97 & "So sue us"; 10/1/98). The Government started tossing out diversionary bones to the dogs biting its ankles. In February, it announced that MPs would be able to debate - but not vote on - the MAI. A wide range of political opinion had been outraged by this complete lack of accountability to Parliament. This new process will apply to all major multilateral treaties in future. They will be tabled, sent to a select committee and then debated in the House. But no vote.

The looming imminence of the May by election in Taranaki/King Country suddenly caused New Zealand First to rediscover all their old Opposition populist speeches that they'd gaily abandoned upon agreeing to be the Coalition Government with National (see *Watchdog 84, "Winston's Petered Out", for a detailed analysis of NZ First's previous pronouncements on foreign investment. Ed.*). The Treasurer, NZ First leader Winston Peters, had previously been a staunch defender of the MAI and indeed of the Treasury line on foreign investment and everything else. In April, the party caucus came out against the MAI, calling for an end to negotiations, not a mere postponement. Party president, Doug Woolerton MP, called it a "dead duck", presumably shot from a mai mai (*Press, 22/4/98*). This was at the same time as its National partner was calling for just such a postponement. So NZ First joined the Alliance as the second Parliamentary party to oppose the MAI (but it did them no good in Taranaki/King Country, where they were annihilated, finishing sixth, behind National, ACT, Labour, the Alliance and even the Christian Heritage Party. They did beat the Greens and the Legalise Cannabis Party, however).

The strength of the New Zealand anti-MAI campaign can be judged by the revelation that two countries campaigned hardest for the OECD negotiations to be suspended, because of domestic political uproar - France and New Zealand. France is no surprise, as it has constantly challenged American hegemony in previous deals, such as GATT, and has fundamental reservations about the MAI's adverse impact upon its cultural industry, amongst others. But New Zealand had been one of the staunchest MAI proponents, with one of the most extreme negotiating positions (mirroring exactly the prevailing madness of successive

governments, a sort of "I'll cut my head off first if you promise to cut yours off next" madness. A headless and brainless sort of madness, labelled Rogernomics). We really have got the buggers rattled.

### OECD Postpones MAI Negotiations

The OECD Ministers duly met, in Paris, in late April. And, to nobody's surprise, they agreed to delay any further MAI negotiations until October 1998, which pushes the whole process back into 1999. But the MAI is not dead. There is yet another draft, which in some particulars is nastier than previous versions. The OECD and its most ideologically extreme members, such as New Zealand, have not written it off. They have concluded that they haven't done a good enough job in selling the message to a highly sceptical global public, and will launch a major public relations campaign to make us see that the MAI is all for our own good. This conclusion is very familiar to New Zealanders - every time there is yet more public outrage against this country's "reforms", successive governments have concluded that we haven't understood their message well enough and, consequently, more millions of our tax dollars must be spent in a further effort to convince us that white is black. The OECD's "charm offensive" has already produced a paper entitled "The Benefits of Globalisation".

It is most likely that the MAI will be taken away from the bumbling OECD and go back into the World Trade Organisation (WTO), from whence it first emerged. GATT Watchdog's Aziz Choudry (the country's best informed researcher and campaigner on the MAI) publicised another disturbing development: "The alarm has already been sounded internationally that a de facto MAI may be set up within the International Monetary Fund. The Interim Committee of the IMF Board of Governors (in April) issued a communique affirming its intention to add a new chapter to the Bretton Woods Agreement by making the liberalisation of capital movements one of the purposes of the IMF and extending its jurisdiction for this purpose. All IMF member countries, including New Zealand, would be forced to accept the capital accounts liberalisation provision of the MAI which forces governments to remove barriers to international capital flows. The IMF would be able to dictate the extent of the controls a country may maintain, the rate of the capital account liberalisation and changes in macroeconomic policy.

"The MAI must not be allowed to slink back underground only to resurface in the OECD or in some other forum. GATT Watchdog - and others who have fought the MAI within New Zealand and internationally cannot afford to let that happen. We will continue to fight the MAI until it is truly dead and buried" (press release, 22/4/98; "Latest Government MAI Moves A Facile Facesaving Exercise - It Ain't Dead Yet, Warns GATT Watchdog").

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Martin Khor, Director of the Malaysian based Third World Network, has already warned of the dangers of the WTO taking the MAI under its wing. Firstly, that would bind over 130 countries to it, not just the 29 OECD members, thus ramming all the disadvantages of globalisation down the throats of the Third World. Secondly, the WTO is, by definition, a trade body. Allowing it to assume responsibility for a global investment treaty would be dangerous. The WTO is far from being a democratic or transparent body. Khor called for the NGOs that had waged the MAI campaign to include the WTO in their sights ("A Call To Oppose Moves To Transfer An MAI-Type Treaty To The WTO"; 5/5/98).

### **People's Internationalism Trumps Corporate Globalisation**

Nonetheless, some celebration is in order. One truly remarkable feature of this campaign thus far is its international nature, and the role of the Internet in that. It has attracted the attention of the mainstream media:

"High powered politicians had reams of statistics and analysis on why a set of international investing rules would make the world a better place. They were no match, however, for a global band of grassroots organisations, which, with little more than computers and access to the Internet, helped derail a deal. Indeed, international negotiations have been transformed after this week's successful rout of the MAI by opposition groups, which — alarmed by the trend toward economic globalisation — used some globalisation of their own to fight back.

"Using the Internet's capability to broadcast information instantly worldwide, groups such as the Council of Canadians and Malaysia-based the Third World Network have been able to keep each other informed of the latest developments and supply information gleaned in one country that may prove embarrassing to a government in another. By pooling their information they have broken through the wall of secrecy that traditionally surrounds international negotiations, forcing governments to deal with their complaints.

"We are in constant contact with our allies in other countries,' said Maude Barlow, the Council of Canadians' chairwoman. 'If a negotiator says something to someone over a glass of wine, we'll have it on the Internet within an hour, all over the world'. The success of that networking was clear this week when ministers from the 29 countries in the OECD admitted that the global wave of protest had swamped the deal. 'This is the first successful Internet campaign by non-governmental organisations,' said one diplomat involved in the negotiations. 'It's been very effective'.

"The irony in this outcome is that the OECD, which has been an ardent advocate of globalisation and has done much research into its effects, did not recognise that advocacy groups would use cyber-globalisation to

further their own ends. OECD secretary-general Donald Johnston conceded that the OECD was caught flat-footed: 'It's clear we needed a strategy on information, communication and explication'... (*The Globe and Mail* [Toronto], 29/4/98; "How The Net Killed The MAI: Grassroots groups used their own globalisation to derail deal"; Madelaine Drohan).

And the media had no doubts as to the significance of the OECD's defeat (temporary or permanent) on the MAI:

"...Does it matter? Postponing the agreement may make little difference for the maligned MAI is a paper tiger. Trumpeted as a historic initiative in 1995, flawed preparatory work and bitter disagreements among negotiators have thwarted its main aims anyway, such as relaxing national investment restrictions.

"Nonetheless, the unexpected success of the MAI's detractors in winning the public relations battle and placing governments on the defensive has set alarm bells ringing. 'This episode is a turning point,' says a veteran trade diplomat. 'It means we have to rethink our approach to international economic and trade negotiations'.

"The central lesson is that the growing demands for greater openness and accountability that many governments face at home are spilling over into the international arena. That makes it harder for negotiators to do deals behind closed doors and submit them for rubber stamping by parliaments. Instead, they face pressure to gain wider popular legitimacy for their actions by explaining and defending them in public.

"There are signs these trends could affect many international economic agreements, including those involving the World Bank and International Monetary Fund. But nowhere are the lessons of the MAI affair likely to be studied more intently than at the World Trade Organisation. Born out of the General Agreement on Tariffs and Trade (a highly technical body), the WTO is emerging as the pre-eminent forum for global economic rule making....

"Nonetheless, striking the balance between wider public consultation and capitulation to lobby groups will not be easy. Some diplomats fear that if they concede too much they will be unable to resist demands for direct participation by lobby groups in WTO decisions which would violate one of the body's central principles. 'This is the place where governments collude in private against their domestic pressure groups,' says a former WTO official. 'Allowing NGOs in could open the doors to European farmers and all kinds of lobbyists opposed to free trade'.

"He and other trade experts fear the result would be to paralyse the WTO's effectiveness as an engine for freeing trade and turn it into a happy hunting ground

for special interests. However, free trade advocates are aware that the MAI affair is likely to mean they will have to fight harder to keep the WTO's mission intact. 'The NGOs have tasted blood,' says one. 'They'll be back for more' (Financial Times [London], 30/4/98; "Network guerrillas: How the growing power of lobby groups and their use of the Internet is changing the nature of international economic negotiations"; Guy de Jonquieres).

### Maori Reject MAI

Maori were among the first to recognise the implications of the MAI and, back in 1997, when the MAI campaign comprised a lonely band, they got stuck into it in no uncertain fashion. Opposition came from the flaxroots up and surfaced within the ranks of Maori MPs from all parties. As a sop to its Treaty partner, the Government offered a series of seven consultative hui, around the country. These hui - at Awanui, Hamilton, Rotorua, Gisborne and Christchurch - overwhelmingly rejected the MAI. The hapless officials from Te Puni Kokiri (Ministry for Maori Development) and Ministry of Foreign

Affairs and Trade (MFAT) got an earbashing wherever they went. The Christchurch hui was typical. It "vehemently" rejected the MAI and, by a huge majority, described it as "insensitive to Maori culturally and damning politically and environmentally" (Press, 29/1/98). Aroha Reriti-Crofts, of the Maori Women's Welfare League, complained that she had known nothing about the MAI until information about it had anonymously arrived at her home. "If I do not know about MAI, 350,000 Maori women do not know. Today we were given three hours to decide our future. That is not long enough. Where is the consultation with the pakeha community? Why have they not been consulted? There are a lot more of them to tangle with. That is why" (ibid).

Te Puni Kokiri policy manager, Aroha Mead, said: "Many smaller communities have had negative experiences associated with foreign investment. The hui expressed a belief that it was better to take a precautionary approach to foreign investment" (PSA Journal, April 1998). Maori were not convinced that the Treaty of Waitangi would be subject to a permanent reservation

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PHOTO: DOMINION

(The Hiko arrives at Parliament on May 5th 1998 - From The Christchurch Press 6/5/98)

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but would instead be "rolled back", as required by the MAI. Maori had already experienced the mass unemployment caused by previous foreign investment - they see the MAI as lengthening Maori dole queues.

Maori took the initiative and launched a hikoi (protest march) against the MAI. This was aimed at emulating the famous 1975 Land March, led by the late Dame Whina Cooper. The leader this time was Saana Murray, a respected kuia in her 70s from the Far North. It included veterans from the 1975 march. The organisers had a very clear grasp of the MAI.

#### **"MAI and the MAORI**

- \* MAI was developed without consultation with Maori, the indigenous people of Aotearoa
- \* MAI does not recognise the rights of Maori, or the Crown's obligation to honour the Treaty of Waitangi.
- \* MAI means that foreign companies can challenge any laws or regulation that have been passed or might be passed to protect Maori interests.
- \* MAI will turn Maori cultural and intellectual property rights into an "investment right".
- \* MAI will put special Maori treasures such as flora, fauna, traditional medicines, and human and animal genetic materials, onto the open market.
- \* MAI makes no allowances for Maori rights to broadcasting, language, education, health care, spiritual and cultural practices or anything else that we might consider important.
- \* MAI means more foreign investment, which in turn will make us even more exposed to economic problems offshore - such as the current Asian crisis.
- \* Although Aotearoa's financial, communications, media and transport infrastructure was built primarily on the basis of resources stolen from Maori, most of it is now largely in transnational hands. MAI will put whatever is left, on the block for the highest bidder.
- \* In the NZ economy, Maori have traditionally been the worst treated of all employees. MAI will allow foreign companies to set even harsher working and wage conditions.
- \* Maori have always fought for the preservation of the natural world. MAI will over-ride hard won environmental protections.

#### **"MAI and the TREATY of WAITANGI"**

- \* The Treaty of Waitangi was signed on 6 Feb 1840.
- \* The Treaty gave the Crown the right to govern.
- \* In return, the Treaty charged the Crown with guaranteeing Maori their sovereign authority over their fisheries, their forestry, their lands and other treasures, such as intellectual property rights.
- \* MAI does not recognise the Crown's Treaty obligations.
- \* MAI requires the NZ Government to settle all Treaty grievances with haste, so that when foreign investors come charging in under MAI, there will be nothing left to stop them getting control of Aotearoa's

resources.

- \* Maori refusal to participate in the Crown's Treaty Settlement Process, is a major obstacle to the imposition of MAI.
- \* The Treaty is a guideline on how we should live as two nations in one country.
- \* The Treaty must continue to protect future Maori generations, and guide Aotearoa's future as well.

#### **"The TREATY of WAITANGI - PROTECTS US ALL"**

- \* MAI will put whatever is left, on the block for the highest bidder.
- \* Maori, unions, environmental groups, and people who care for the future of this country, will not be able to take cases against foreign companies under MAI.

The Treaty should be used as a guideline on how we should live as one nation in one country.

The Treaty will continue to protect the future of both Maori and Pakeha generations and be a guide to Aotearoa's future.

The Treaty is a major obstacle to MAI: 'a thorn in their side'... (Statement from Te Kotahitanga Hikoi; *Ngaa Kaiwhakanekeneke News* 130, 30/4/98).

Called at short notice, there was no way it would rival the Land March for size, but it had a core of up to 40. Leaving the Far North in April, it imprinted itself on the national consciousness when it tried to cross the Auckland Harbour Bridge a la 1975. TV news led their bulletins that day with footage of the extremely heavyhanded police response, which featured quite unnecessary violence and 16 arrests (the first MAI campaign arrests). It was a PR disaster for the cops - they arrested a 13 year old boy, and TV broadcast pictures of crying kids as their mothers were carted away. Labour MP and leading free trade enthusiast, Mike Moore, said: "It's a pitiful joke seeing (activist) Mike Smith and the usual suspects on the Auckland Harbour Bridge" (*Press*, 23/4/98) and went on to repeat the falsehood that "One in three jobs is based on (foreign) investment" (it's actually about 18%, maximum. Don't let the facts get in the way of a good story, Mike).

Undaunted by the Harbour Bridge fracas, the hikoi marched south. It issued a May Day statement describing the MAI as "an internationally sanctioned declaration of war on the working people of the world" (1/5/98). On May 5, several hundred strong, they reached Parliament. 11 Alliance MPs greeted them but none of the NZ First MPs from the Maori seats. Annette Sykes, protest organiser, said: "By their absence the Maori MPs have lost the Maori vote today because they cannot even come here and meet the Maori nation that wants to talk to them" (*Press*, 6/5/98). The police restrained themselves from attacking anyone this time (although they have made a recent habit of bashing protesters

in Parliament grounds. Perhaps the Maori ones looked a bit too tough).

The Maori opposition to the MAI has a life of its own, and spans all shades of Maori political opinion. As in so many previous campaigns, the Maori movement has led the way. Pakeha New Zealanders are indebted to them for their early recognition of the threat, clear analysis of the issue, and resolute action on all fronts. Kia kaha!

### Think Globally. Act Local Governmentally

One area where the MAI campaign has been particularly successful has been that of local government. The Americans, no slugs when it comes to hypocrisy, have placed all "sub national" government on their list of reservations, whilst simultaneously ramming the MAI down the throats of the rest of the OECD. Other countries, such as Canada, delegate a whole raft of important policies and economic sectors to sub national government, and can see the dangers in the MAI.

Hence, some of the very first important opposition to the MAI came from Canadian provincial governments, such as British Columbia. They were followed by local governments. In April 1998, for example, Saskatoon City Council (Saskatchewan) and the Toronto City Council both passed resolutions against the MAI. That same month, the wave moved into the US, when the San Francisco Board of Supervisors did likewise, not only targeting the MAI but any similar international agreements which would adversely affect local control of San Francisco funds and economic development.

Now, these North American local bodies did not suddenly decide to come out against the MAI all by themselves. They did so because local campaigners went to see them, told them of the MAI's implications for local government and convinced them that this issue has everything to do with them. More than that, that they could do something about it by effectively declaring themselves to be MAI free zones.

Local government was one sector targeted early on by the New Zealand campaign. In September 1997, Jane Kelsey produced a paper entitled "The OECD Multilateral Agreement On Investment: Implications For Local Government". GATT Watchdog circulated this widely to local bodies throughout the country. In Waikato, Doug Lever singlehandedly got the Huntly, Raglan, Taupiri and Ngaruawahia community boards to declare themselves MAI free zones, and the Waikato District Council Policy Committee resolved to ask all local MPs to ensure that the MAI be openly debated in Parliament and be subject to public involvement.

In Christchurch, CAFCA made the local government angle our speciality. In December 1997, Bill Rosenberg and GATT Watchdog's Leigh Cookson appeared before a joint Christchurch City Council/Canterbury Regional Council committee to point out the MAI's implications. In April 1998, Bill Rosenberg and myself appeared before the City Council's strategy and resources committee. This is a particularly influential committee. Chaired by David Close, it includes the retiring Mayor, Vicki Buck, and the two leading rival mayoral candidates, Margaret Murray and Garry Moore. Bill had done excellent work by writing a briefing paper for the

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committee, spelling out the Christchurch implications of the MAI; plus supplying them with Jane Kelsey's paper, and "The Environment and the MAI", a November 1997 paper presented to a Canadian Parliamentary committee, by international lawyer Barry Appleton (who featured prominently in the *Listener's* critical articles on the MAI).

It wasn't just CAFCA which expressed concerns to the committee. Chris Pickrill, the chief executive of the Canterbury Development Corporation, wrote a paper outlining his concerns about the MAI (loss of sovereignty; loss of local control; secrecy and unaccountability). He came up with a list of recommendations that weren't far short of CAFCA's. All of this had an impact - the councillors had read and digested the material. Mayor Buck declared herself in support of foreign investment but found the MAI scary. She correctly pointed out that if the MAI had been in force in 1997 when the City Council awarded the city's rubbish collection contract to French TNC Onyx (see *Watchdog 86* for details), the Council could not have insisted on any conditions, such as retaining the Council dustmen (mind you, the City Council shouldn't have awarded the contract to a TNC, full stop). Councillor Alister James, chairman of Christchurch City Holdings (the Council holding company which owns Southpower and the city's other assets) thanked CAFCA for bringing the MAI's implications to his attention.

CAFCA recommended that the committee come out against the MAI or, if it couldn't do that, urge the Government to add all New Zealand local government to its list of reservations. The committee recommended to the full Council that the MAI be further researched; that its signing be deferred until all interested parties have had a chance to make submissions to a Parliamentary select committee; that the City Council develop its own list of reservations to protect its current social, environmental and economic policies, and that Government add local government to its reservations. This committee, representing the local wings of Labour and National, passed these recommendations unanimously.

The committee had also recommended that other major city councils be advised of Christchurch's decision and the MAI's implications for local governments. The full Council watered this down a bit, to one of supporting the position of Local Government New Zealand, as expressed in its March 1998 letter to the Prime Minister (this letter had not been available to the committee). "We are particularly concerned that local government has not been informed and consulted about the proposed Agreement, if it is in fact true that participation in the Agreement would impose obligations and potential liabilities on sub national governments... It seems wholly inappropriate that these jurisdictions should be constrained by an Agreement to which local government was not a party and which has not been debated or

sanctioned by Parliament..." (LGNZ letter to PM, 30/3/98). The recommendation on further researching the MAI was changed to one of keeping a watching brief on it and other similar projects (which opens the door to asking the Christchurch City Council to examine the effect of APEC on Christchurch and ask why it is spending ratepayers money to host a "Welcome to Christchurch" bunfight for APEC officials, as part of the buildup to the September 1999 APEC Leaders Summit in Auckland).

This was a very valuable exercise from our point of view. CAFCA had directly approached the country's second biggest local body and was instrumental in persuading it to, if not declare Christchurch an MAI free zone, then to express opposition to it and take specific steps to blunt its impact on local government. None of this was reported by the Press, which has tried hard to avoid mentioning the MAI at all (except to editorially support it, of course). The report of the committee meeting was spiked; by the time it got to the full Council, the Press, in its wisdom, had decided that the MAI was a dead duck and not worth reporting at all. It was left to the *Christchurch Mail*, glorified junkmail, to cover it.

So, another piece of damning evidence for Business Roundtable head, Douglas Myers, to use in his crusade against what he's dubbed "The People's Republic of Christchurch" (although the multimillionaire beer baron must admire the City Council's capitalist initiative in immediately making available a best selling T shirt bearing that title. Made in China too).

The local government campaign against the MAI proves, both in NZ and internationally, that there is an answer to the perennial "But what can we do?" question. Take it to your local body, be it a community board, city council, district council or regional council, and show them that this has got everything to do with them, and that they can do something about it. Grassroots opposition to the MAI, expressed through local government, is one reason why the Government felt such heat that it led the move to postpone the MAI negotiations. Democracy in action! What a novel idea in the ideological wasteland of New Zealand politics. Now there's a New Zealand Disease worth spreading.

#### **PSA Sacks *Journal* Editor For Opposing MAI**

Of all the appalling acts committed in the name of the MAI, one of the worst happened in February 1998. Even more inexcusably, it happened in the trade union movement. Pat Martin, the editor of the *PSA Journal* for the past several years, was suspended, escorted from the Public Service Association's national office, and subsequently sacked. His crime? He wanted to run an article in the March issue of the *Journal* (one of the biggest and best union papers, with a circulation in the tens of thousands) strongly attacking the MAI.



Pat's source material came from *Focus on the public services*, the journal of Public Services International. The NZPSA is a member of PSI and was represented, by president Na Raihania, at its 1997 International Congress in Japan. That congress came out forcefully against the MAI and PSI *Focus* ran several critical speeches and articles. Ironically Pat only became aware of this when he rang CAFCA for an update on the MAI.

However, PSA General Secretary, David Thorp, was having none of this. He told Pat to rewrite his article to accord with Council of Trade Unions (CTU) policy on the MAI. The PSA itself had not actually pronounced its own policy on the subject. The national leadership of the CTU, that fearless bunch that capitulated to the Employment Contracts Act in 1991 and now preaches acceptance of globalisation and "partnership" with employers, thinks the MAI is OK, subject to the need to insert a labour clause to protect workers (NZ is one of a handful of countries opposing the inclusion of any such labour clause). Pat disagreed, saying that the PSI position, not the CTU one, was the more relevant to emphasise in a paper aimed at public sector workers. "I did not realise that the CTU had already decided the PSA's position" (internal e-mail, quoted in the *Evening Post*, 26/2/98).

Thorp thereupon sacked Pat for failing to carry out an instruction. There was uproar; Pat received a confidential settlement. Reinstatement is not an option. The March issue of the *Journal* came out, still under Pat's name, but running a tame cover story on the MAI, accompanied by a photo of CTU supremo, Ken Douglas. CAFCA was one of those that wrote to Thorp. I said:

"We wish to record our strongest possible protest at the peremptory sacking of Pat Martin, editor of the *PSA Journal*. Sacking Pat is bad enough, but it is astonishing that he was sacked because he wrote an article for the March issue criticising the MAI. He deserves a medal, not the boot, for forcefully putting this issue in front of PSA members. Even worse, he was merely following up on the strong opposition to the MAI expressed at the Public Services International Congress in Yokohama, in 1997, and published in PSI *Focus*.

"The PSI can see plenty wrong with the MAI. What is the PSA's policy? Has it got one? This Agreement poses one of the greatest international threats to workers yet seen, not only in this country but globally. The PSA leadership is displaying dereliction of its duty to its members by muzzling opposition to the MAI.

"As both a reader of, and contributor to, the *Journal* for over a decade (I have worked with three editors) I have appreciated it as one of the best publications in the country bar none, and certainly the best union paper. Pat's editorship has been of the highest standard and he has done an excellent job in putting a whole range of issues before PSA members and the wider readership of the *Journal*.

"As a former official in a major public service union (the former National Union of Railwaymen. Ed.), I appreciate the need for democracy and accountability in union affairs. You and your fellow PSA national leaders have displayed neither in this disgraceful affair. We fully support Pat. The position is clear ... you should resign swiftly, before you do any further damage to the interests of PSA members and the broader union movement. Yours in disgust" (27/2/98).

We're still waiting for a reply, let alone Thorp's resignation. But this affair is far from over, and it has inspired serious internal moves within the PSA to do something about the national leadership. There has been internal and public criticism of the PSA for breaching its own procedures in resolving matters to do with the *Journal*. We'll keep you posted.

The MAI was but the last straw in a long building tension between Pat and the PSA leadership, He had not endeared himself to them by publishing biting criticism of the leadership by Denis O'Connor, Christchurch PSA activist (and former CAFCA committee member). The internal rows within the PSA had surfaced in the mainstream media shortly before the MAI row, and Pat's sacking became a news story in itself.

Since I was first invited to review books for the *Journal*, back in the mid 1980s, I have been a regular reviewer and writer under three editors - Trevor Richards, Alastair Duncan and Pat Martin. It's been a nice little earner and I know the stuff gets read (a border official at Christchurch Airport, upon seeing my name, said: "You do book reviews in the *PSA Journal*"). Both myself and CAFCA have had good coverage there, which may no longer be the case. Sad but true. We'll miss Pat - he deserved far better than the shoddy treatment he got.

Things had worsened by the time of the April *Journal* (under new editorship, and touting the glories of "partnership"). PSA national manager, Joe Tonner, had a major article stating not mere "realistic" acceptance of foreign investment and the MAI, but positively welcoming the latter. Why? "Foreign investment is not new. Sovereignty is challenged by other factors, such as markets. MAI is not the focus of sovereignty...At the moment there is no serious constraint to foreign investment in New Zealand. We need rules because the New Zealand economy is too deregulated. A treaty like MAI will protect the rights of workers" (we agree with your first conclusion, Joe, but definitely not with your second. You must be joking). Fortunately, Tonner's is not the only view within the PSA. The same issue carried an article by TVNZ journalist, Kim Webby, calling for a quota to protect NZ content on TV, and citing the MAI as a threat to that. It also carried this quote from PSA President, Na Raihania: "The MAI may be a particular piece of nastiness that threatens all New Zealanders". You betcha.

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(MAI: Continued from Page 9)

And the PSA is still very sensitive about the whole disgraceful business. I was invited to address the Workers' Day Out in Hagley Park in April (a joint CTU - Trade Union Federation event in support of the campaign to retain the Holidays Act). I took the opportunity to lambast the CTU leadership for its gutlessness in 1991 and attacked this bullshit philosophy of "partnership". Specifically I urged the union movement to oppose the MAI, and put the boot into the PSA for sacking Pat. This was too much for one local PSA "manager" (their language). He collared me to tell me how much he "strongly objected to cheap shots" at the PSA; that I had "soured the collectivity" of the occasion; and was adamant that Pat had breached his contract with his employers. When I replied that the PSA's members were Pat's employers, this "manager" would have none of it. Nothing to do with the members, he said; Pat's employers were the PSA management. This sort of crap heightens the need for a complete reorientation in thinking, not only among the PSA leadership but also in many other unions. By jumping on shonky bandwagons such as the MAI, they are betraying their own members, the people who pay their wages. It's all done in the name of realism - but it is the leaders of the PSA, and other likeminded unions, that need to get real.

As for Public Services International, it has no doubt where it stands on the MAI. *Focus on the public services* (1/98) carried an editorial by its General Secretary, Hans Engelberts: "(The MAI) marks another important stage in the progressive dismantling of the power of democratic governments to regulate the market in the interests of citizens, workers and communities. Where will it stop? Will we see very soon similar headlines as those in 1989 when the final victory of capitalism over communism was declared but now along the lines 'globalisation: the end of democracy'? Not, if we can help it". The sad thing is that the NZ Public Service Association leadership is doing its level best on the side of the bad guys in this war against democracy.

But, this regressive behaviour in the trade union bureaucracy aside, the MAI campaign, both in New Zealand and internationally, has been a success. We haven't won, but more importantly we haven't lost. It's been a long time since we could say that. The MAI won't be dead until it's buried with a stake through its heart. But to use the currently fashionable word, there's an awful lot of us prepared to be the stakeholders. We must keep giving it a good twist.

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You can order it from CAFCA. Enclose \$5 to cover copying and postage.

# TRANZ RAIL WINNER OF FIRST ROGER AWARD

## FOR THE WORST TRANSNATIONAL CORPORATION IN NZ IN 1997

### INL & COEUR GOLD EQUAL SECOND - Murray Horton

Tranz Rail has the dubious honour of being the winner of the first Roger Award for the Worst Transnational Corporation in New Zealand in 1997. The Award was announced in Christchurch on February 28th in the course of a conference, Taking Control: The Fightback Against Transnational Corporate Power (see separate article on Taking Control. Ed.).

The judges were: Sukhi Turner, Mayor of Dunedin; Professor Jane Kelsey, author of "The New Zealand Experiment"; Annette Sykes, Ngati Pikiao, Treaty activist; and Chris Wheeler, editor of "Soil and Health". To quote from their report:

"The critical factor in choosing Tranz Rail was the calculated, callous attitude it has shown to the people it has injured and the families who have lost their loved ones through its negligence and workplace practices. Despite public outrage and sympathy for the plight of six year old Morgan Jones, and workers like 35 year old Jack Neha killed in Tranz Rail's shunting yards, the company has continued to play hardball politics to avoid its legal liabilities. This attitude has permeated from the top - the chief of Wisconsin Central Transportation, the main shareholder of Tranz Rail, confessed he was 'a little bewildered by why so much has been made' of the Morgan Jones case. The judges believe Tranz Rail has abdicated its moral responsibility by putting profits before people".

The criteria for judging were to assess which transnational had the most negative impact in each or all of the following fields: unemployment, monopoly, profiteering, abuse of workers/conditions, political interference, environmental damage, cultural imperialism, impact on tangata whenua, running an ideological crusade, impact on women. Tranz Rail met most of them.

Equal second were INL and Coeur Gold (NZ) Ltd. In the words of one judge: "The day in and day out publishing of INL's biased view of the world can be equated to a dangerous propaganda machine which deeply influences the hearts and minds of New Zealanders". Coeur operates the environmental disaster that is the Golden Cross mine at Waitekauri Valley, Coromandel.

The judges said: "Coeur Gold has shown a calculated, profit driven and detached attitude to the environment and community in which it operates" (see below for the judges' full report. Ed.).

The other finalists were: Telecom, Comalco, Westpac, Juken Nissho, Lion Nathan and Brierley's (and subsidiaries).

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## The Event

1997 was a steep learning curve for CAFCA, GATT Watchdog and Corso, the joint organisers of the Roger Award. There hadn't been such an award before, nor had we previously organised anything like it. After a slow start, and a number of false turns, it picked up an unstoppable momentum. By late 97, we had narrowed it down to nine finalists and sent off the nominations and a bulging pack of supporting documentation to the judges.

This proved to be a nervewracking exercise. All four are very busy people, one being a major metropolitan mayor. They went over their deadline, and there was a last minute scramble to get the judges' report written up (and rewritten). Particular thanks are due to CAFCA's Dennis Small for doing the bulk of that last minute research and writing. The Mercury Energy fiasco which crippled the Auckland central business district and closed Auckland University for a week was an additional complication in trying to communicate with our chief judge, Professor Jane Kelsey (Auckland's mercurial electricity supply is a wonderful illustration of the market at work. For all those Queen Street Rogernauts and TNC corporate HQs, we offer the favourite slogan of the American pro-nuclear power movement: "Let the bastards freeze in the dark". But I digress). Needless to say, the report was ready on time. Read it for yourselves.

The actual event itself was a great success. Well over 100 people paid to attend. All credit is due to Corso's Gaye Dyson who: transformed a church hall into a memorable venue; personally organised the creation of the very striking Roger Award itself (*it's on permanent*

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(Roger: Continued from Page 11)

display at Corso, 206 Barbadoes Street, Christchurch. Ed.); and organised the evening's entertainment. It was very ably MCed by Corso's David Small, which was entirely appropriate, as the whole idea of an award was his, dreamed up at a CAFCA/GATT Watchdog/Corso brainstorm meeting back in 1996 (I take credit for the name). David, an aficionado of late night TV, originally proposed that we bring out Michael Moore, American guerilla filmmaker. That was not feasible, so we did the next best thing - we showed clips of Moore's wonderful *TV Nation* series. There was music (too loud, unfortunately), wine, food, and excellent socialising.

On behalf of the judges, Jane Kelsey made an excellent speech (although her five minutes became a standard lecture length. I've never known a professor to do otherwise). Accompanied by real live drumrolls, she announced the second equal runners up, and then the winner. It was not part of the plan to present the award to anyone (no, we quite deliberately didn't invite the finalists) but Jane was determined to hand it to someone. Robert Reid loudly dobbed me in as a worker with the former Railways (I did 14 1/2 years there, being made redundant two years before Wisconsin Central bought it). So I unexpectedly found myself thrust into the limelight again. I dedicated the award to railway workers killed on the job (Tranz Rail's record of death and injury being the factor which decided the judges) and found myself getting quite emotional about those whom I personally knew among those dead (I recommend that Christchurch people pay their respects at the memorial stone to railway workers killed on the job. It is behind the former Christchurch Railway Station on Moorhouse Avenue, in the carpark of what is now the Hoyts/Science Alive complex). At the very moment that I had finished speaking and brandishing the Roger aloft, the rental cellphone in my pocket rang loudly, which brought the house down. It was the news media, wanting us to hurry up and tell them who had won the bloody thing.

### The Aftermath

Ever since we first announced it, there was keen media interest in the Roger, including from as far away as Australia. Not only from the media either - I was rung by the New Zealand office of a major American public relations firm (one with a very dubious international record). The guy assured me that none of his clients were among the Roger nominees - he just wanted a philosophical chat about whether I thought "all foreign companies are bad"! A second PR firm rang Sukhi Turner to ask her about her involvement, and then rang me. This fellow was ringing on behalf of a client (whom he wouldn't identify). He wanted to know if we'd be prepared to release to his firm, under embargo, advance notice of the winner - presumably so that the PR firm could prepare a corporate response. Funnily enough, we said no. I suppose it was worth a try.

As soon as the winner was announced, Tranz Rail bit

like a big fish. Its public relations spokesman (former leading TV journalist, Fred Cockram) said the judges exhibited "supreme ignorance" about Tranz Rail and other TNCs. "I'm particularly surprised that the Mayor of Dunedin would be associated with something like this" (*Press*, 2/3/98). Tranz Rail was particularly upset that the Mayor had criticised them just when they were about to donate \$2 million to Dunedin's air ambulance service. Sukhi Turner was having none of that: "We do live in a democracy, and surely I have the right to take part in the judging of contests of this sort. Everybody should be up for scrutiny and be accountable for their deeds and misdeeds. Does paying money out to causes make it all right what they have done in the past?" (ibid).

Having come off second best in that encounter, Tranz Rail tried another tack. Fred Cockram rang me to say that they wanted physical possession of the Roger, and wanted it by the next Friday. He said it was wanted for a function, but wouldn't give any details, beyond assuring us that we could have it back afterwards. We counter-offered - we would present Tranz Rail with a laminated certificate and the judges' report, plus let them see (but not keep) the Roger, and we would do that at the Christchurch memorial stone for railway workers killed on the job. He said he'd get back to me - I'm still waiting. We can only speculate as to what function they wanted the Roger for, but, coincidentally or not, that same Friday was the day they were handing over their donation to Dunedin. Perhaps they wanted it to score public points against the Mayor. We posted the certificate and report to Dr Francis Small, Tranz Rail's CEO. He hasn't said thank you yet. (On International Workers Memorial Day - April 28th - the Roger Award was taken to the annual ceremony at the memorial stone, and a laminated certificate and a copy of the judges' report presented to the Rail and Maritime Transport Union).

To its credit, the *Press* reported that INL, its owner, was second equal runner up (a reporter from another INL paper had rung me to say that the chief reporter had spiked his Roger story as soon as he saw the INL reference). INL managing director, Mike Robson, said: "Obviously the judges don't bother to read the wide range of INL publications. They have a great variety of views about almost any question under the sun" (ibid). However, Sukhi Turner is a glutton for punishment. Having offended one powerful TNC, she lambasted another one the very next day. The *Otago Daily Times* (not an INL paper) headlined: "INL worse than Tranz Rail: mayor" (4/3/98). She disclosed that INL was her choice for winner, but that she was only one of four judges. She accepted ownership of the judges' report quote about INL (see above. Ed.) and added: "From all the information we got, certainly the evidence suggested that there was a bias, especially in their leading newspaper, the Christchurch *Press*. There wasn't balanced reporting on the issues of the day and they were giving particular space, and quite prominent space, to the views of the Business Roundtable". She added a swipe at Rupert Murdoch, owner of INL: "There is

evidence to suggest that he seems to have quite a lot of input as to the editorial policy”.

This was too much for the media barons. Tim Pankhurst, *Press* editor, faxed the Mayor asking for her evidence of bias and Murdoch's input. He claimed that the *Press* had changed in recent months: "It has had no input from the Business Roundtable but has carried several articles from Alliance spokesmen. I expect that indicates some sort of left wing bias..." (fax, 3/3/98). Indeed, Clive Lind, the editor of the *Southland Times*, also wrote to defend the good name of INL. Mike Robson wrote to invite her to pop in and see him in Wellington to discuss things. He said: "As an aside, I found your comment that the *Press* was in some way favouring the Roundtable somewhat ironic as I would be one of the few leading businessmen in New Zealand who has resigned from that body because of a disagreement over its economic direction" (fax, 4/3/98). She was unbowed (*this is not the place to run a critique of INL in general, or the Press in particular. Contact CAFCA for material. There's no shortage. Ed.*). The *Otago Daily Times*, having had a rush of blood to the head and carried an attack on the capitalist press, decided it had better put the record straight. It devoted an editorial ("Mayoral principles"; 5/3/98) to the Mayor and the Roger: "We can but hope both Tranz Rail and INL see Mrs Turner's latest involvement as not representing Dunedin as such, but merely reflecting her own personal political philosophy..."

Sukhi wasn't finished yet and wrote a reply (*ODT*; 7/3/98; "Mayor 'amazed' at paper's stance): "I applaud Tranz Rail's \$2 million commitment to the Air Ambulance Trust and I hope they demonstrate their social responsibility to the public of New Zealand on an ongoing basis.

Nevertheless I find it curious that you support Tranz Rail's view as to my involvement with the Roger Award and talk of 'unmayoral' positions. I see no conflict in my role as mayor of this city in accepting the judging of this award which scrutinises the negative effect of foreign owned transnationals on the people of New Zealand". To which we can only say, good on you Sukhi, you're no sookie. We admire your courage in sticking your neck out - the country needs a lot more like you.

We heard nothing from Coeur Gold, but in April received a letter from the Golden Cross Mine Community Consultative Group, stoutly defending the company's record in matters environmental, rehabilitative and consultative. They invited us to their next meeting, in Waihi, at our expense. We declined. We stand by the judges' conclusions, and the mass of other material on Golden Cross available in the mainstream media (see previous *Watchdogs*).

So, all in all the Roger Award was much more successful than we could have dared to hope, particularly in its first year. It has obviously struck a chord and can only grow from here. Equally obviously, it has struck a nerve amongst the TNCs and their mouthpieces. Like all bullies, they want to be loved, not just feared or respected. The Roger Award tells them, in comprehensive detail, why we find them unlovely. It's not something they like hearing. We'll be back.

*It's been decided to rotate the organisation of the Roger Award among the three organisations. So, in 1998, responsibility rests with Corso, Box 1905, Christchurch; ph (03) 3662803; fax (03) 3668035. Nominations will be called for soon.*

## Judges Statement

The dubious honour of receiving the Roger Award for 1997 goes to TRANZ RAIL

The critical factor in choosing Tranz Rail was the calculated, callous attitude it has shown to the people it has injured and the families who have lost their loved ones through its negligence and workplace practices. Despite public outrage and sympathy for the plight of six year old Morgan Jones, and workers like 35 year old Jack Neha killed in Tranz Rail's shunting yards, the company continued to play hard-ball politics to avoid its legal liabilities. This attitude has permeated from the top - Chief of Wisconsin Central Transportation, the main shareholder of Tranz Rail confessed he was "a little bewildered by why so much has been made" of the Morgan Jones case.

The judges believe Tranz Rail has abdicated its moral

responsibility by putting profits before people. This reflects the broader shift in values from nurturing and providing for all who coexist in Aotearoa New Zealand to pursuit of self-interest - a shift which has contributed to the breakdown of community wellbeing and the relationship on which the Treaty of Waitangi was built. Tranz Rail met most of the stated criteria. Tangata whenua rights were ignored or deferred in the government's eagerness to secure a quick sale to Tranz Rail. Maori claims to land in Taneatua languished while Tranz Rail paid peppercorn rentals to the Crown. Workers have been laid off temporarily and permanently in rural and urban communities which depended on those jobs, while enormous profits have been reaped by the US owners and local corporate elite. Workers taking action with union support have been penalised. Tranz Rail has appealed against conditions imposed on its proposed

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ferry terminal at Clifford Bay. Tranz Rail remains active in lobbying government through the Business Roundtable and has secured exclusive negotiations over the light rail system with the Auckland Regional Council. Lack of investment in rolling stock and unwillingness to fund safety barriers at crossings indicates a lack of long-term commitment to New Zealand rail. Indeed, having made the quick profit, Wisconsin is now selling down its shares and seeking more lucrative pastures elsewhere. We trust that control of New Zealand's rail system will revert to responsible, accountable, local hands.

In equal second place were:  
COEUR GOLD (NZ) LTD and  
INDEPENDENT NEWSPAPERS LTD (INL).

INL was nominated "Because of the immense power element they represent in an all-pervasive manner, in pursuit of the dominance and the imposition of neo-libertarian market-driven ideology." The news media exercises pervasive influence over information and ideas; it seeks to shape people's thoughts and ideas. In the words of one of our judges "The day in and day out publishing of INL's biased view of the world can be equated to a dangerous propaganda machine which deeply influences the hearts and minds of New Zealanders".

New Zealand is one of the few developed democracies where the print news media are controlled by a transnational duopoly. INL is 76% overseas owned and publishes 70% of New Zealand's newspapers, magazines and sporting publications. It owns 40 suburban newspapers and its tentacles reach the rural and regional heartland of New Zealand.

The sheer power of the press should have ensured that ordinary New Zealanders had the information necessary to make educated choices and hold their political representatives and business community to account during the last decade's blitzkrieg. The media should also have led the way in informed, bicultural debate over the Treaty. Instead, alongside Wilson and Horton and the National Business Review, INL has acted as an uncritical cheer-leader for neo-liberalism and at times helped lead the charge. There has been no independent, responsible contest of ideas.

Given INL's pedigree, this should not surprise us. INL is controlled by Rupert Murdoch, often referred to as the most powerful private citizen in the world. He is seen to have influence on editorial policy; editors are chosen for their alignment with his view of the world. We do not need him here.

Coeur Gold has shown a calculated, profit-driven and detached attitude to the environment and community in which it operates. In the course of reopening the Golden Cross mine at Waitekauri Valley, Waihi, the US-owned

gold mining company has created a tailings dam that contains 4 million tonnes of toxic cyanide-laced waste. This dam is now undermined by a 1.5 km long landslide. Some \$21 million has been spent to shore up the slide, but the problem remains. Knowledge of these risks appear to have been ignored. The company now faces legal challenge from US shareholders and an investigation by the Securities and Exchange Commission for failure to disclose the condition of the mine. Also ignored were demands from the Waikato Regional Council that the dam be shifted to a safer site. The company has attempted to gag critics by enforcing heavy costs award - a familiar ploy used by such companies internationally.

This experience demonstrates how self-regulation, transferable pollution rights and polluter-pays deposits works to maximise exploitation and minimise liability. The environmental bonds for \$12.1 million will never meet the costs of cleaning up seepage from the tailings dam, let alone rehabilitation for the damage if - when - the dam bursts. As a thinly capitalised company which seems likely to liquidate its New Zealand operation, there will be nothing left to sue. Potential liability and loss of profits have promoted the company to withdraw. For the people of Waihi, the threat from the dam remains.

Coeur Gold has failed to deliver on promises of jobs, environmental responsibility and long-term commitment made as part of their entry. People were made dependent on the mine when other local employers relocated to a less polluted environment. As a major employer in Waihi the closure will affect the livelihoods of everyone - small businesses, financial and professional services, parts suppliers, maintenance services, food and retail outlets, schools and community services.

The preferential terms on which prospecting/mining licences are granted, almost always to transnational firms, show the priority government gives to exploitation and big business ahead of tangata whenua, local communities, environment, conservation and health concerns. The visible scars this venture has left in Papatuanuku and the legacy of toxic wastes have been left for future generations to bear.

**Sukhi Turner**  
**Annette Sykes**  
**Jane Kelsey**  
**Chris Wheeler**

# Judges Report

The award has gone to Tranz Rail. In July 1993 United States-based TNC, Wisconsin Central Transportation, in conjunction with several local and foreign investors, took over what had been New Zealand's government-run railway, NZ Rail. It initially kept the name of NZ Rail, then adopted the name of Tranz Rail. Wisconsin is Tranz Rail's largest owner.

## **TRANZ RAIL - PROFITS BEFORE PEOPLE'S LIVES**

Two real-life human tragedies constitute the core of the case against Tranz Rail. Two people were at the heart of these stories: the child, Morgan Jones, and the man, Jack Neha.

Six year old Morgan Jones fell off a moving train in 1994 because of an unsafe gangway hand-rail. The child lost his sight and one leg. Tranz Rail sought to avoid compensating Morgan and his family by implying negligence on the part of the boy's father and incompetence on the part of the safety inspector.

### **The Case of Morgan Jones**

**"Morgan Jones - the shame goes on: How Tranz Rail has fought to avoid taking full responsibility for an horrific train accident - a special investigator speaks out" by Denis Welch (NZ Listener, March 9, 1996, pp. 18-20)**

In July 1994 Christchurch schoolboy, Morgan Jones, fell from a moving train in North Canterbury. The injuries which Morgan suffered have cost him his sight and a leg. "The train from which Morgan fell is owned and operated by Tranz Rail . . . and, from the outset, both morally and in a public-relations sense, Rail seems to have lost the plot" (p. 18).

"While admitting that a faulty hand-rail hook caused the fall, Rail has consistently downplayed its responsibility, tried to put some of the blame on Morgan's father Les Jones, given only grudging compensation and attacked the credibility of the official investigator" (p. 18).

The assignment of the official investigator, Bill Guest, to the case "heralded a torturous sequence of events that led to not one but three investigations - all of which, at the taxpayer's expense, reached the same conclusions" (p. 18). Guest has disclosed that he is still angry at the way his then employer, the Transport Accident Investigation Commission (Taic) "buckled to Rail pressure to keep reopening the inquiry".

In his immediate investigation, Guest had found that "Morgan fell because one end of a hand-rail he grabbed gave way, sliding out of an insecure hook-and-eye

arrangement that had at some point supplanted the original safety device. This replacement has been traced to what Rail calls an 'unauthorised shopfloor modification'. After feedback from interested parties, including Rail, Guest's findings were approved by Taic in October 1994 . . ." (p. 18).

However, following a police decision to charge New Zealand Rail (i.e. Tranz Rail, the company not yet having its name change), Rail challenged Taic about Guest's report. Guest has observed that Rail's letter of challenge to the official finding was "very aggressive", asserting there was fresh evidence to absolve the company from responsibility (p. 19). In its defence, Rail implied that the hand-rail could only have been dislodged if Morgan was playing or tampering with the rail, although more comment on this and other points by the company was not forthcoming. Although Guest had resigned by this stage from Taic, he was asked to redo the investigation. Except for some minor errors, he found the same again, even after simulating a hand-rail exercise with a child of Morgan's age and height.

But Rail tried to damage Guest's credibility with certain accusations, implicit or not, as also happened in the case of Morgan's father, Les Jones. With regard to the latter, Rail implied that Les Jones should have been more careful in his supervision of Morgan. Rail, however, could not explain "why - if supervision was so critical - there were no warning signs on or near the gangway. Or why numerous concerns about the hand-rails from staff and public over several years were never acted upon" (p. 19).

At the court trial arising out of the case, "Rail was charged with criminal nuisance, in that it omitted to take reasonable care and precaution to prevent accidents" (p. 20). Rail was able to successfully defend itself against this charge by showing "to the judge's satisfaction that Rail had a safety system that by and large prevented accidents."

"The question of what responsibility Rail or any of its employees specifically bore for Morgan's accident never arose, because the police were unable to gather enough evidence to support such a charge" (p. 20). In fact, Rail was not helpful in this gathering of information. "Alliance leader Jim Anderton, in whose electorate Morgan lives, has alleged that Rail solicitors told employees not to speak to police; and train driver Wayne Solomon says a Rail solicitor told him to keep his mouth shut about safety concerns. Solomon testified that he feared risking his job if he spoke out. (Asked if he had ever touched the gangway hand-rails, he replied: 'We try not to'.) The police also had difficulty getting relevant documents" (p. 20).

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*(The Roger Award: Continued from Page 15)*

A key document during the trial was Rail's RSCPM (Rolling Stock Codes of Practice Manual) but "all the references to hand-rail checking were general. Nowhere did the manual specify checking procedures or state what degree of force the hand-rail ought to be able to resist" (p.20). An expert witness, Colin May, "who has worked with British and Canadian railway systems for nearly 40 years, acknowledged that Rail's safety system had all the trappings of excellence, but said: 'As a specialist, I will state categorically that if an accident occurs which causes a fatality or serious injury, then by definition the safety system in situ must have failed'".

The train examiner who was the last Rail employer to check the train on the day the accident happened had no instruction regarding hand-rails other than they should be in position which they were. "He saw nothing to alarm him. He had never been shown how to manipulate the hand-rails to see if they were secure. Yet he too, had had misgivings about them", and had once mentioned this to someone in authority.

"Guest's original report refers to cuts in inspectorial positions and the abolition of the stores branch from which hand-rail parts used to be ordered" (p.20). Yet Ed Burkhardt, chief of Wisconsin Central Transportation, confessed in 1995 that he was a "little bewildered by why so much has been made" of the Morgan Jones case.

Tranz Rail showed the same callous attitude to its workers' lives. Jack Neha was killed in a shunting accident in May 1995. He had received only six weeks training for dangerous work that had previously required up to five years of training. In an effort to save more labour costs, shunting operations that used to require three people were now being done by just two. The 35 year old father of three children died horribly. Tranz Rail tried unsuccessfully to put the blame for the accident on to Neha. His widow received a miserly \$20,000, following Tranz Rail's conviction for unsafe workplace practices.

### **The Case of Jack Neha**

**"Railroaded- How Tranz Rail caused Jack Heha's death" by Tim Wilson (NZ Listener, December 14, 1996, pp. 22,23)**

Jack Neha had been a train driver for 17 years. He had a family of five - himself; his wife, Donna; and three children: Te Amohau; Te Raaku, and Haki. With corporate restructuring, Jack had been due to become redundant. However, in late 1994 he took the opportunity to retrain for the new position of lone rail operator. The alternative was redundancy. Jack's new job was a pressured one. It comprised shunting, public relations, acting as a second locomotive driver, checking safety standards, paper work and yard maintenance.

"Although an experienced train driver, Neha was an

inexperienced shunter. In the old days, shunters required up to five years of training; Neha got six weeks. More crucially, the appointing of lone rail operators was the final step in a process of staff cuts at Tranz Rail. Shunting traditionally requires three people: the engine driver (who has limited visibility), the shunter (who rides on the wagons as the engine driver's eyes) and the second shunter (who is on the ground as a back-up). To save labour costs, second shunters had been cut since March 7, 1995, leaving the lone operators to do the work of two people" (p. 22).

Neha had continually indicated concerns he had about the problem of his position to his wife, Donna. Then, in May 1995, Jack Neha became a victim to this problem - he was killed in a shunting accident. "Attempting a manoeuvre to stop a runaway train that would normally have been done by the now-absent second shunter, Neha slipped underneath the train on which he was riding. He died abruptly and messily. It took those first on the scene at the Gracefield railyards, in Seaview, three and a half hours to collect Neha's remains" (p. 22).

A criminal case was brought against Tranz Rail by the Department of Labour. Judge P.J. Evans "found Tranz Rail guilty, under the Health and Safety in Employment Act (HASEA), of failing to take all practicable steps to ensure the safety of an employee. In his sentencing notes, Judge Evans likened Tranz Rail's decision to remove the second shunter to 'removing the wicket keeper' in a cricket game. This was, he said, a business decision. He fined Tranz Rail \$30,000, with \$20,000 to go to the family" (p. 22).

"For Donna Neha, the gravest affront is that Tranz Rail created an unsafe work environment for her husband and, when he died trying to work in it, they said that he had been the author of his own misfortune" (p. 22). She and her children have been suffering the heavy emotional and economic effects of this unnecessary tragedy.

When the accident occurred Jack and a locomotive driver had been kick shunting wagons into various sidings. Kick-shunting is a faster but more dangerous practice than the alternative of push-pull shunting. Jack made a mistake in setting the points for a wagon and then tried to control the wagon as it travelled on the wrong track. "A third shunter on the ground could have run and applied the brake on the run-away wagon. Without one, Neha tried to deal with the situation from his perch on the moving train. It was a decision he should never have had to make" (p. 23).

At the ensuing court trial, Tranz Rail "contended that the removal of the second shunter had not caused the tragedy. They said that they had monitored the situation and thus, under HASEA legislation, were without fault. Finally, they asserted that Neha had been told not to



kick shunt. By breaking that rule, he removed the fault from his employers" (p. 23).

"Judge Evans disagreed. He found that Neha died because there was no additional person to catch the brake on the runaway wagon. Judge Evans also found Tranz Rail's evidence that Neha had been told explicitly not to kick shunt to be 'unreliable'" (p23). Furthermore, the judge found it "difficult to accept" Tranz Rail's claim that they were not aware of the practice of kick shunting at Gracefield. "Four prosecution witnesses had testified that kick shunting was common practice at the yard". (p23).

With regard to Jack's mis-setting the points, Judge Evans said, "Failure to set the points correctly merely triggered the events that followed it and, in the prosecution evidence, was not an unusual occurrence" (p23). In November 1995 Tranz Rail reinstated the second shunter at Gracefield. But, by August 1996 "the company was attempting to return to the lone rail operator system" that the court found had been the cause of Jack Neha's death.

The Morgan Jones case received a lot of publicity. Many people were shocked by the attitude shown by the company. The lesser-known case of Jack Neha has strong similarities.

The person who nominated Tranz Rail for the Roger Award recalled hearing a young Maori boy say there were only three things that really mattered, "People, people and people"; Tranz Rail, by sacrificing safety standards and by showing indifference to tragedies of its own making, had sent its own message: the only things that matter are profit, profit and profit. To her, the attitude of Tranz Rail epitomized the coldness and callousness that is now accepted as the norm. A young, well-educated friend of her son recently told her, "We are a part of the global economy - you have to adjust or you'll be a loser". Wisconsin Central Transportation symbolises that change. The tragic human and social consequences are presented here for all to see.

## **EMPLOYMENT**

Wisconsin came to New Zealand with a reputation as a hardline "anti-union" employer, running a non-union company in the US. The Government's corporatisation programme had already cut the workforce dramatically in preparation for New Zealand Rail's sale - from 15,000 to 6,000 between 1987 and 1991. Rapid expansion of Wisconsin's global activities left the TNC struggling with a labour shortage. In 1995 this became so acute that it "borrowed" 10 Tranz Rail engineers, putting further stress on the dwindling number of New Zealand staff. By 1996 staff levels had been reduced by 11% over those of 1993. Rail revenue per employee increased around 14% in 1993-95, with personnel costs falling 4.6% in 1994 and 6.6% in 1995.

In 1995 NZ Rail decided to pay a small bonus from profits to its employees. The Seafarers Union opposed the proposal which they saw as a step towards a system of withheld wages. When the bonus was to be paid out the NZ Rail employees, who had engaged in industrial action in 1995 (Rail and Maritime Union members), received only a percentage of the bonus. The Seafarers Union members (who did not have contract negotiations that year) were given the full amount. Union members initially proposed to refuse the payment, but decided instead to collect the money and donate it to Morgan Jones.

### **The Press, 1/8/97**

#### **Tranz Rail ready for redundancies**

"Tranz Rail Holdings has made a \$13 million redundancy provision in its latest annual result." It announced a "\$60.626m after-tax profit, up 23.3% on the 1996 figure. The provision, \$8.821m after-tax, takes the result to \$69.447m, up 41.2%. "Tranz Rail was changing from a shunting and goods van company into a logistics company." Redundancies were planned. Tranz Rail was continuing to improve efficiency and streamline its business, a process that Wisconsin Central was doing in the US. "Tranz Rail was aiming at the high-end of moving both freight and passengers, particularly tourists."

### **The Press, 16/7/96**

#### **More laid off at rail workshops**

About 36 staff at Tranz Rail's Hillside workshop in Dunedin lost their jobs as a result of reduced workloads. The job losses "represented the most significant staff cuts since more than 70 were laid off about three years ago, Rail Maritime Transport Union national president Jim Kelly said". Mr. Kelly added that, "since those lay-offs, growing numbers of temporary and fixed-contract staff had been hired. He was concerned about permanent staff being replaced by casual workers."

## **WORKER SAFETY**

Falling numbers, poor training and threats of redundancy put mounting pressures on Tranz Rail workers. In 1995 the Transport Accident Investigation Commission reported that a near miss between the southbound Northerner and a Wellington commuter train may have been caused by a train controller's lack of sleep associated with work-related stress and, possibly, irregular shifts. For each of the two previous fortnights, he had worked a total of 100 hours and 101 hours, respectively. It was one of the train drivers who acted in time to prevent the accident. The Commission's report said the near miss highlighted a weakness in Tranz Rail's safety procedures, which had since been tightened to "overcome such adverse human factors". Despite such assurances, the court's criticism over Jack Neha's death

*(Continued on Page 18)*

*(The Roger Award: Continued from Page 17)*

assurances, the court's criticism over Jack Neha's death and ongoing publicity, other Tranz Rail workers were also badly injured or lost their lives.

**The Press, 1/5/97**

**"Rail Union upset over fatalities" by David Gee**

"The number of rail-worker fatalities is worrying the Rail and Maritime Transport Union. Its national secretary, Ross Wilson, said that in the past 10 years rail and port fatalities had averaged one every eight months. In the past two years there were eight fatalities, an average of one every three months. The figures suggested something was wrong, Mr. Wilson said. His comments follow Tranz Rail being fined \$8000 in the Wellington District Court for failing to ensure the safety of a worker who was badly injured. Judge Colin Doherty said that after the accident, Tranz Rail had found 45% of its mechanical jacks were either not maintained or were withdrawn from service."

"Mr. Wilson said the union's workers memorial day on Monday was designed to draw attention to safety issues. He hoped the Government would devise better safety legislation and employers in the industry would take heed of it." He was particularly concerned about operational deaths. In the last two years, three of the eight deaths had involved men working in shunting who were inexperienced at the job. They had included a locomotive engineer transferred to shunting duties.

**The New Zealand Herald, 7/3/97**

**"Shunting inquiry planned" by Sarah Catherall**

"The Labour Department will investigate concerns that a shunting practice suspended on safety grounds in the United States is still being used in this country by American-controlled Tranz Rail. The United States Federal Railroad Administration has ordered Wisconsin Central, which is Tranz Rail's largest shareholder, to stop shunting trains by remote control on its home tracks. This is pending a full safety review after what an Administration spokesman, Jim Gower, said yesterday were several derailments of Wisconsin's trains between November and January. Tranz Rail does not intend stopping the practice in this country (NZ), even though the Rail and Maritime Transport Union believes it has contributed to a number of injuries among workers."

"The American agency has already held an initial safety inquiry out of concern that the company plans to extend remote-controlled shunting to more railyards and to run some trains with only one crew member. Mr Gower said the recent derailments, and the company's wish to extend the practice, 'sent up a flag' alerting the agency to the fact a number of accidents were occurring. 'We wanted to make sure that safety was their number-one concern.'" In New Zealand, Tranz Rail - which is chaired by Ed Burkhardt, the president of Wisconsin Central - said that the company had no plans to stop its practice of moving unmanned trains by these two methods of remote control and one-person crews.

**The Independent, 28/2/97**

**"Union queries Tranz Rail's safety record" by Francis Martin**

"Reports that Tranz Rail's most powerful shareholder, Wisconsin Central, has the United States' worst railroad safety record has alarmed a local union. A safety audit of Wisconsin Central late last year found the company's accident rate was nearly double all other US railroads, the US Journal of Commerce says. Its accident rate was 72% higher than similarly sized carriers."

"Following the audit, the US Federal Railroad Administration and Wisconsin entered a safety compliance agreement, with the company agreeing to improve track inspections and staff training. It will also expand its safety budget . . . Tranz Rail yesterday questioned the accuracy of the journal's report, suggesting it could be part of a union campaign against Wisconsin." In New Zealand, Rail and Maritime Transport Union general secretary Ross Wilson said that Tranz Rail's "prosecution last year over the death of a employee raised concerns that commercial considerations were being put before safety".

**The New Zealand Herald, 30/1/97**

**"Lack of training led to rail death, says report" by Sarah Catherall**

"A train driver whose 'buddy' died after he was flung off the front of the train they were shifting in an Auckland railyard last year had received just three weeks' training. Inexperience led to the death of Blair Thomas, a 22-year old Manurewa railway worker who was thrown off an engine at the Westfield depot, Auckland, last June, says the Transport Accident Investigation Commission. Mr. Thomas died six days later after the accident."

"The Commission says both men began work as temporary handymen six months before the accident. They attended a three-week 'service assistant' course three months later, learning how to drive and direct trains in the railyard. They had not had formal supervision since. The fatality has concerned the Railway and Maritime Workers' Union, which said yesterday that the men had not been adequately trained. Low staffing levels meant rail employees were often doing duties beyond their level of experience, said the union secretary, Ross Wilson." The commission found that, "it is probable that inexperience contributed to this accident. Mr Wilson said Tranz Rail employees were increasingly being retrained for new jobs 'and this is creating a situation where inexperienced people are being exposed to certain risks'."

**COMMUNITY SAFETY**

Under the 1990-93 National Government, and later Tranz Rail, train trips were speeded up significantly. "Over large sections of track, trains are now running on the 100 kilometres per hour limit. The 53 miles between Oamaru and Timaru is regularly covered by train in 50 minutes. Predictably, fatal accidents have occurred at

railroad crossings on this and similar sections of track . . . A fatality has resulted from the derailment of the Bay Express and the toll could easily have been worse" (Robert Miles, *Fay Richwhites' Railway*, p. 9 and 31). Despite a rash of rail crossing accidents Tranz Rail again proved reluctant to take responsibility and forego profits to save lives.

**The Press, 10/11/97**

**"Action over rail crossing" by John Henzell**

"Kaiapoi residents have taken matters into their own hands after being told they face a 39-year wait for warning lights on a railway crossing which was the scene of a recent double fatality." The owners of Riverlands Holiday Park have felled about a dozen poplars to improve drivers' vision of northbound trains, "such as the one which struck a four-wheel drive vehicle on October 31, killing two men and seriously injuring a third".

"Riverlands Holiday Park owner Jeanette Bolt said residents had been warning for years that the crossing was dangerous. They were so concerned that they had begun investigating paying for warning lights themselves before the accident. 'We've been told by Tranz Rail that we're about 195 in the waiting list, and they aim to do five new sets of lights per year', she said. 'They have told us that putting lights in would cost about \$65,000'."

"Holiday park manager Paul Cook said he had a near miss at the crossing two months ago when a northbound train failed to sound its horn as it came around the bend." He said that: "A lot of people don't realise there is a rail crossing there. The first time my mother went through she didn't know it was there until she was over it'. The crossing was dangerous at night because lights from nearby properties could be indistinguishable from those of a train, Mr. Cook said."

Overseas, Tranz Rail owners Wisconsin have faced equally strong criticism for its poor safety record, which included a derailment and propane-gas spill in March 1996 that forced the evacuation of 1,700 people in Weyauwega, Wisconsin, for two weeks.

## **ENVIRONMENT**

Much controversy was also stirred over the environmental impact of the Lynx fast ferry and the proposed new Clifford Bay terminal.

**The Press, 22/8/97**

**"Tranz Rail appeals against conditions"**

Tranz Rail has lodged an appeal against several conditions imposed in the resource consent granted for the ferry terminal at Clifford Bay, including the requirement of a \$10 million bond. Among other things, the company objected to limitations on the disposal of treated wastewater by spray irrigation.

**The Press, 15/2/97**

**"Tranz Rail wants monopoly - counsel" by Jocelyn Bromby**

"Tranz Rail wanted a new ferry terminal at Clifford Bay so that it could beat its competitors and place itself in a monopoly position, Port Marlborough counsel Rob Fisher told a hearing in Blenheim yesterday. 'It may cloak its argument in terms of public interest, but its own evidence makes clear its motives', Mr Fisher said at the hearing of Tranz Rail's applications for resource consents to build the terminal." Tranz Rail had told the committee that it was involved "in intense competition" with other transport operators. "There was no justification for a new port from the interests of the wider community unless Tranz Rail guaranteed it would not raise fares to recoup the cost of extra capital at Clifford Bay and it continued to run a service to Picton. It had done neither, Mr. Fisher said." He added that there was no compelling national need for a second inter-island ferry link and there were already a number of freight routes between the islands.

"Tranz Rail had no objective evidence of passenger preferences. A desire to gain an advantage over a competitor was not a national need, he said." Moreover, "Tranz Rail has conceded there would be social and economic impacts on Picton if the project proceeded". Tranz Rail's offer to pay \$250,000 as part of an obligatory financial contribution to be shared between the communities of Seddon, Ward and Picton was "quite unrealistic in approach and almost insulting", Mr Fisher said.

**The Press, 11/2/97**

**"Lawyer calls Tranz Rail wolf in sheep's clothing" by Jocelyn Bromby**

"Tranz Rail was a 'wolf in sheep's clothing' claiming an alleged economic benefit to the nation from its proposed ferry terminal at Clifford Bay, a hearing in Blenheim was told yesterday. Ron Crosby, counsel for the charitable trust Picton Sounds Paradise, said the opportunity to capture that benefit, if resource consent was granted, was placed entirely in the hands of one privately-owned entity, Tranz Rail. The company had predominantly overseas ownership, he told the committee hearing Tranz Rail's applications for resource consent to build a new terminal. Tranz Rail had claimed a net national benefit to others of about \$100 million. About 70% of that was based on alleged time savings. That would be shown as completely unreliable because of flawed methodology, Mr. Crosby said."

"The selection of the site was pre-determined" and had long been nurtured by Tranz Rail senior staff, he said. "Tranz Rail needed to place the site as far south as possible to make the calculation of the benefit to others greater in comparison to Picton. No cost-benefit analysis of other sites had been made, he said. Placing a terminal on an open shore created the hazard of coastal erosion and a sediment trap, Mr. Crosby said."

*(Continued on Page 20)*

*(The Roger Award: Continued from Page 19)*

Moreover, the terminal would demand "a perpetual management regime, through dredging and nourishing the beach". Yet in future years faster transport systems could render redundant any new terminal at Clifford Bay. "Mr. Crosby asked who would meet the cost of perpetual management needed for a terminal no longer used?" Other criticisms made by Mr Crosby related to Tranz Rail's lack of provision for on-shore facilities, and to its proposed method of effluent disposal.

## **TANGATA WHENUA**

In the government's eagerness to secure a quick sale to the Wisconsin-led consortium, it ignored and/or deferred tangata whenua rights to the land. In 1995 Tuhoe nationalists occupied the railway station at Taneatua, demanding the return of the land occupied by Tranz Rail. Trespass charges against them were subsequently withdrawn. The Crown had failed to comply with court orders to disclose commercially confidential documentation relating to the lease on the land, then produced a volume of material at the last minute before the trial. The judge ruled the Crown's behaviour was unfair under the Bill of Rights and ordered the release of those charged. The documentation showed that Tranz Rail pays only \$1 in annual peppercorn rentals to the Crown for the next 99 years for all the railway lines and sites currently sold to them that are subject to Treaty of Waitangi (State Enterprises) Act claims. Those claims continue to languish unresolved.

## **PROFITEERING**

In the short period of eight years, Wisconsin Central Transportation Corp. has risen from a small player in the US, hauling bulk cargo in the upper Mid-West, to its current position as the largest American regional railway and a predatory TNC. It eagerly joined in the railway privatisation boom sweeping the globe. Besides its New Zealand acquisition, it has been buying companies in Britain and elsewhere.

Tranz Rail itself has joined this corporate game. In 1997 it became part of a group that bought Tasrail, a freight operation in Tasmania, for about \$US16 million (\$NZ27 million). According to managing director, Dr. Francis Small, Tranz Rail sees Australia "as the first step in a total international service provider" and "quite a lot of work" has already been done on this. The company's consortium partners are Wisconsin Central Transportation Corporation, Fay Richwhite, and US investment organisation Berkshire Partners. Tranz Rail and its main shareholder, Wisconsin Central, intend jointly to pursue rail acquisition opportunities in Australia and South-east Asia. In New Zealand, Tranz Rail is trying to increase its freight market share. On its own estimate in April 1997 it had about a 20% share of total inter-city freight traffic.

Tranz Rail's routine profits have been varied, and at

times substantial. For instance, in 1996 its September quarter profits jumped 62% higher than the previous year's to \$9.4 million. This result was achieved on a 3% rise in revenues to \$133.9 million, with operating profits at \$18 million from \$17.8 million a year ago. The real profiteering has occurred through the rapidly increased value of the company, thanks to a substantial revaluing of shares.

One of Tranz Rail's more extreme profit-making schemes prompted David Russell, of the Consumers' Institute, to accuse it of greed and starting "a ridiculous money-go-round". In May 1996 Tranz Rail announced it would back off plans to charge rent for power, gas and telephone lines crossing railway land. Public and political pressure obliged the TNC to charge only to cover its costs, and only for new lines.

Robert Miles, a writer on transport issues, in his Introduction to "Fay Richwhites' Railway" (1998, Robert Miles, Timaru) notes that: "Every accounting trick and tax deferment has been used to prop up a sliding balance sheet. The real accounting picture is unlikely to long support US investor confidence or provide the \$350 million needed to build two new ferry terminals and three modern rail ferries, let alone new locomotives . . . Since privatisation, profits have only been boosted by share market manoeuvres, further lay-offs, and sidelining the safety of shunters" (p.3). Similarly, big question marks hang over the commitment of the other partners involved. Fay Richwhite of the Winebox infamy have been specialists in tax avoidance. Alex van Heeren, too, has been a controversial businessman.

Miles casts strong doubt on the capacity and willingness of Tranz Rail to invest in the improvement and development of New Zealand's railroad services. Station facilities generally remain run-down. "In the States, Wisconsin Central has equipped its railway with 15 to 30 year old, second hand diesels" (p. 23). The TNC has specialised in recycling and overhauling "old and surplus stock" (p. 55). Miles contends that "passenger services largely survive only for public relations" and that the outfit will not provide the public services needed for New Zealand's future. He concludes that the future of New Zealand's railway system "now appears to depend on Wisconsin Central's plan of buying up the world railways paying off" (p. 9).

### **The Press, 10/9/97**

#### **"Salaries down at Tranz Rail"**

"Tranz Rail's managing director Francis Small's total salary package dropped to \$360,000 in the year to June 1997 from \$503,000 the year before, according to the company's 1997 annual report. Tranz Rail spokesman Fred Cockram said Dr. Small's base salary had not dropped. However, the \$503,000 total remuneration in the June 1996 year included the \$107,000 nominal value of 50,000 options issued to directors that year as part of the executive incentive scheme and also a performance bonus." (poor Dr. Small!)

**The National Business Review, 31/5/96**

**"Favoured few cream off big profits from ex-state assets" by Brian Gaynor, Shareholders' Corner**

"Tranz Rail is another example of how a small group can obtain rich pickings at the public trough. The company's prospectus reveals how the current owners have made huge profits since the assets were bought from the Government nearly three years ago. The new issue also shows how the playing field in New Zealand is tilted against individuals and in favour of the large institutions . . . In practice, the Treasury method has allowed small groups to generate massive profits from assets previously owned by the Government."

"The long-term earnings growth of Tranz Rail will be dependent on revenue growth as the vast majority of the potential cost savings, particularly labour costs, have now been realised."

**The New Zealand Herald, 14/6/96**

**"Tranz Rail buyers have reason to be chuffed"**

"Tranz Rail's owners are sitting on paper profits of at least \$500 million on the assets they bought from the Government three years ago. Yesterday's share issue, at 619c a share, valued the railway operator at \$780.3 million, and brought a raft of overseas and domestic institutional and retail investors on board."

"United States investors Wisconsin Central International and Berkshire Partners are showing unrealised profits of \$170 million and \$137 million respectively. Tessaro Developments, a vehicle of businessman Mr. Alex van Heeren, has made \$43 million, and David Lloyd Investments, the family vehicle of Mr. David Richwhite, \$22 million." The 18.8% stake held by a Fay, Richwhite subsidiary, Pacific Rail, is valued at \$146.9 million, spelling a gain of around \$140 million on its equity investment.

"Tranz Rail, then called New Zealand Rail, was sold to the partners for \$400 million in July 1993. The managing director of Tranz Rail, Dr. Francis Small, "has about one million shares, for which he paid an effective price of 51c each. The float values that holding at \$6.19 million. Disappointed local institutions are understood to have got only about 5% of the 27 million new shares issued." Most of the trading action is likely to take place on the US Nasdaq exchange . . .

**The National Business Review, 21/6/96**

**"Tranz Rail deals leave trail of unanswered questions" by Brian Gaynor,**

Shareholders' Corner "Tranz Rail is a fine example of why individual investors are losing confidence in the New Zealand sharemarket. The railroad company had an indirect listing on the Stock Exchange, through Fay Richwhite & Co, until it was whipped from under the nose of local investors just before the significant appreciation in value.

Individual investors also lost out when Tranz Rail returned

to the sharemarket last week. Most of the shares were allocated to overseas investors who were able to realise an instant profit of approximately \$1 per share."

**The National Business Review, 15/11/96**

**"Tranz Rail directors' fee boost proves lucrative but short-lived" -**

The Shoeshine column "Tranz Rail Holdings' first annual report since floating in June shows a company in vibrant health which is enriching its shareholders, directors and senior managers." Yet while directors' fees appear to have gone up 528% the company's net profit fell 8%. The mainly US-based board was appointed by major shareholders Wisconsin Central Transportation Corporation and Berkshire Partners. "Other New Zealand listed companies with large US owners are not in the same remuneration league." Fay Richwhite & Co principal, David Richwhite, sits on both Telecom and Tranz Rail boards.

"Major shareholders Wisconsin Central, Fay Richwhite & Co, Berkshire Partners and Alex van Heeren have ended up owning 76% of a company valued in the float at \$780 million (and now \$1 billion plus) in which they had invested just \$23.4 million."

"A research report by Schroeder Wertheim is bullish about Tranz Rail's ability to grow earnings, mainly by expanding into new business areas and making acquisitions in Australia." . . . Earnings per share would be up 10%, well down on the past three year's average of 27%. 'Two factors are deemed responsible for this slowing: a large portion of the historical gain was driven by one-time savings (labour, facility reductions) and the momentum of New Zealand's economy has eased slightly', it said. Tranz Rail pays Wisconsin Central \$1.25 million a year for management services. This agreement expires on December 31 but is renewable.

It has always been clear that once Wisconsin felt its New Zealand investment was becoming less than profitable for its purposes it would ditch Tranz Rail just as Telecom's American investors have cynically used this other former state asset to further enrich themselves. That has now begun. Recent moves by Wisconsin to sell down its shareholding suggests the quick profits have been made and it wants to cash up to move on to greener pastures elsewhere.

**IDEOLOGY**

The Government publication, "Invest in New Zealand: The Right Choice" (MFAT/TRADENZ, January, 1998) touts the advantages of Aotearoa/New Zealand to TNCS. These charms include:

▲ "an extensively deregulated, low-cost and resource-rich environment, ensuring its attractiveness as a place

*(Continued on Page 22)*

(The Roger Award: Continued from Page 21)

to do business"; indeed, "New Zealand has one of the most attractive economies in the world in which to do business";

▲ this has been the result of "radical economic restructuring";

▲ a "low-rate tax regime" - indeed, "A fair and low corporate tax system" which is very "Business-friendly";

▲ "New Zealand has a consistent and fair political environment where overseas investors are treated on the same basis as domestic investors. We welcome foreign investment";

▲ "privatisation of state enterprises" and "labour market reform";

▲ "New Zealand's low-cost structure is a significant attraction for many companies. It compares extremely well with the rest of the world."

▲ "Our flexible and negotiable labour costs are among the lowest in the OECD. When adjusted for productivity they compare favourably with those in Asia." Indeed, "Competitive labour costs" . . . "help maintain New Zealand's low cost commercial environment";

▲ Energy prices are low due to a deregulated competitive environment and an "abundant resource";

▲ New Zealand offers "an abundance of essential natural resources such as land, minerals and energy at internationally highly competitive prices".

The brochure includes an endorsement by Tranz Rail's Chairman, Ed Burkhardt: "New Zealand has great appeal for international investors with its commitment to free markets, a low-tax structure and an economy oriented towards growth". As TNCs further force international competition on countries for their "favours", there is a contagious race to the bottom to lower hard-won standards - standards of health, labour, safety, food, environment, welfare, etc. The New Zealand Government has repeatedly demonstrated its cavalier stance on such standards in international negotiations relating to trade and investment. Endorsements from the likes of Burkhardt evidence not just a shared ideology, but a complicity in advancing their agenda within Aotearoa New Zealand and across the globe.

## GLOBALISATION, GOVERNMENT AND THE TNC TAKEOVER

Aotearoa New Zealand is increasingly at the mercy of TNCs at the cost of a steady erosion of democracy and human rights and a rapidly growing gap between rich and poor. Even the right of a country to determine its own laws is being threatened as TNCs intrude more and more into decision-making areas that have previously been the province of elected governments.

Maori, like other indigenous peoples, have learnt to their cost the consequences of losing the ability to determine their own future, and losing control of the resources and land base of their society. This process of dispossession has many parallels with the current advance of corporate power which might be called the

recolonisation of Aotearoa.

Instead of helping New Zealanders defend ourselves from this hostile take-over, successive governments have been working against us. Instead of giving us a hand, they have been sitting on their hands, washing their hands, even tying their own hands for years. Government officials have been signing away New Zealand sovereignty, often without the consent of Parliament, through international agreements and alliances like the WTO, APEC and now the MAI. At the same time, policies have been adopted that undermine the rights of New Zealand citizens and advance the interests of TNCs.

Tax cuts have impoverished the state which then claims it can't afford social services. Labour laws are disempowering working people and driving down wages and working conditions. And the very weakest citizens, beneficiaries, are bracing themselves for the next attack disguised as the promotion of "social responsibility". At the same time, TNCs are allowed to be as socially irresponsible as they please.

Throughout the world, people are facing similar challenges and are getting together to defend themselves and their communities. As part of their contribution to this movement in Aotearoa New Zealand. Corso, CAFCA and GATT Watchdog decided that something needed to be done to hold TNCs responsible for their actions against the people of this country. From this came the Roger Awards to the worst TNC operating here.

As the judges statement indicates, any one of the finalists for the inaugural 1997 award would have been a worthy winner. This makes Tranz Rail's victory a major indictment. This award can never make up for the harm that Tranz Rail and its fellow finalists have inflicted on innocent New Zealanders. However, it is the wish of Corso, CAFCA and GATT Watchdog that we can all take heart from the launch of a process of calling TNCs to public account for their anti-social practices.



# FORESTRY - MINIMAL PROCESSING LIKELY

- Bill Rosenberg

An interesting piece of research on forestry and transport costs was reported recently in the *Christchurch Press* ("Port location key to success", by Alan Williams, 27/4/98, p.28; see also <http://www.press.co.nz/17/98042753.htm>).

The report, by the BIS Shrapnel research group, based in Sydney, was primarily looking at the relationship of port costs to forestry export competitiveness between Australia, New Zealand, Chile, Canada, and the USA. Their reported conclusion was that "proximity to ports and competitive wharf and shipping costs will dictate the success of forestry companies".

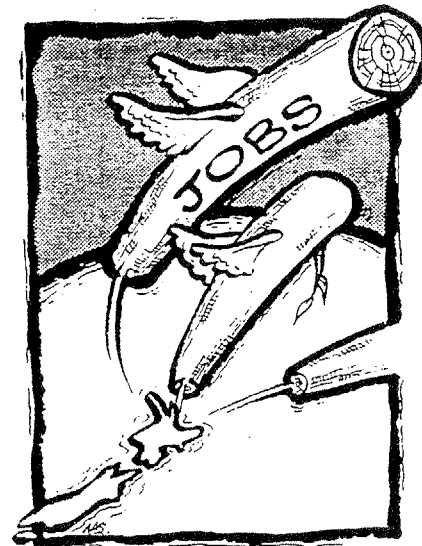
However the result of the relative port costs was not necessarily as port companies and politicians might have us believe. New Zealand had one of the fastest turnarounds for forest products - in particular, on logs as opposed to more processed products. The research group's prediction was that New Zealand's exports of logs would almost double between 1997 and 2002 (from 5.9 million revenue tonnes in 1997 to 10.868m revenue tonnes in 2002) but lesser increases in woodchip and processed product exports.

This contrasts with the pattern for all forest products exports to Asia. Despite the economic crisis, BIS Shrapnel forecast "woodchip exports to Asia through to 2002 will increase by 50%, log exports by 25%, and processed timber exports 18%."

To give a feeling for the way logs will heavily dominate New Zealand exports, "BIS Shrapnel expects that over the next five years, New Zealand will overtake the U.S. as the largest supplier of logs to Asia, requiring a doubling in the number of log ships."

BIS Shrapnel assert that "land and ocean freight are one of the largest cost components" in forestry exports, with the ports "holdings the key", both as to cost and to turnaround time. They say "New Zealand ports routinely achieve rapid turnaround of vessels, due to high labour productivity and minimal times when the ship is not being worked. The country has created a highly competitive environment by privatising many ports and reducing union dominance." This has resulted in "high productivity, relatively low labour costs, and intense competition between stevedoring companies". (Several related stevedoring companies went into liquidation recently, though it was not clear whether that was genuine, or simply an attempt to reduce staff numbers.) So "North

America had the highest waterfront wage rates, averaging a b o u t \$NZ160,000 a year, followed by Australia at \$74,000, New Zealand at \$60,000, and Chile \$8,000."



The "typical turnaround for a 20,000 cubic metre shipload of logs was two to three days in New Zealand, compared with five to ten days in Australia, five to six days in Chile, and three to four days in North America." But where more mechanisation (and more capital) was required - in woodchip loading - "for a 35,000 cu m woodchip load, the New Zealand turnaround was two to four days, Australia has two to three days, Chile four to five days, and North America two to three days."

Chile "had a less productive working force, but low labour costs allowed higher staffing rates, raising the ship-loading rate". Hence port costs were lowest for logs in New Zealand and Tasmania. So guess who gets the most log exports? New Zealand. And who gets the most woodchip exports (a little more processing, but not much)? Australia. And who will be the major supplier of the most valuable, most labour-generating exports - those with most processing? Canada, the country with highest port costs.

This is not to pretend there is always a simple connection between port costs and degree of processing of our raw materials. But it does emphasise two points. First, we are getting far less benefit from our (largely overseas owned) forests than we should. The overseas ownership is another part of the reason for that: why would the foreign owners invest in factories in New Zealand when they already have capacity elsewhere? Second, high wages on the waterfront aren't necessarily a bad thing for the rest of the country. They may encourage better use of resources. Tell that to Patrick Stevedores.

# TAKING CONTROL

## THE FIGHTBACK AGAINST TRANSNATIONAL CORPORATE POWER

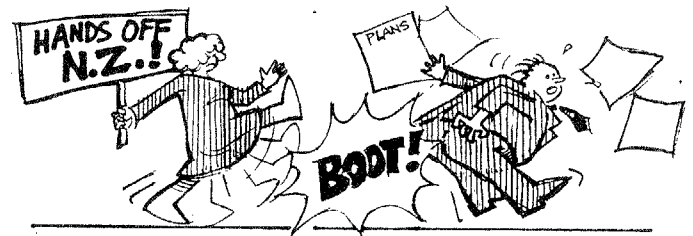
- Murray Horton

This long awaited conference was held in Christchurch, from February 27 to March 1, 1998. Organised by CAFCA, GATT Watchdog and Corso, it was the culmination of several months of intensive work by a small number of organisers (and is the reason that this *Watchdog* is so late. A very good excuse, I reckon).

It was launched with a bang at a public meeting attended by several hundred people. Speakers were: Sharon Venne, a Cree lawyer/activist based in Alberta, Canada; Annette Sykes, of Ngati Pikiao, a high profile Treaty of Waitangi activist and lawyer; and myself, speaking on behalf of CAFCA. There was supposed to be a second international speaker there - Moses Havini, who represents the Bougainville Interim Government in Australia - but he unfortunately missed his Sydney flight and didn't arrive until the next day. It had been quite a saga getting him to NZ, so we just grateful that he came at all (when first invited, nine months earlier, Bougainville was a forgotten war behind a blockade. How things have changed. Taking Control was actually Moses' fourth visit to Christchurch - for peace talks - but the first time he'd got into the city and met the people).

The conference proper, which had well over 100 participants, occupied the Saturday and Sunday. Sharon, Moses, Annette and myself all spoke (I wore a second hat, on behalf of SPOT - the Society for Publicly Owned Telecommunications). The other speakers were: Moana Jackson, the Director of Nga Kaiwhakamarama I Nga Ture (the Maori Legal Service); Sue Bradford from the Auckland Unemployed Workers Rights Centre; Catherine Delahunty, from Coromandel Watchdog of Hauraki; Maxine Gay, President of the NZ Trade Union Federation; Aziz Choudry of GATT Watchdog; Barry Cope from the Hamilton campaign against the American takeover of the power company; and Dennis Enright, from Plain Sense, in Mosgiel (which successfully stopped a Chinese wood processing plant being built).

These speakers represented a range of grassroots struggles against transnational corporations (TNCs), ranging from the single issue to the broadbased. They ranged from the Maori struggle against colonisation to the Coromandel battle against mining companies. The emphasis was on grassroots, hands on activists to share their experiences of the campaign, not to drown participants in further information about the issues. No politicians were invited to speak, although at least one MP did attend. This action orientation was also reflected



in the wide range of workshops (with varying degrees of success. The colonisation one, which I didn't attend, was difficult, apparently. Others were much more focused and amicable. See below for workshop notes).

This was the first conference in NZ to focus on TNCs and the fightback against them. It brought together an impressive range of people from all around the country. Despite the obvious scope for disagreement, there was a high degree of unanimity, and a desire to get stuck into action. From the outset, three broadbased campaigns were identified that we could all work on. Firstly, 1998 is local body election year. The TNCs, with the connivance of some politicians, are steadily making inroads into ownership and control of local assets and services, such as water, electricity supply, rubbish collection, etc, etc (*Watchdog* has chronicled the likes of Onyx and Waste Management. See elsewhere in this issue). We resolved to fight "market forces" at the local level. Secondly, to intensify the already strong campaign against the Multilateral Agreement on Investment (MAI), which aims to stitch up a charter of rights and freedoms for transnationals. And thirdly, to build a campaign against APEC. New Zealand hosts a whole range of APEC meetings in 1999, culminating in the Leaders Summit in Auckland. This huge event is a golden opportunity to show the assembled dictators, presidents and prime ministers that the people of New Zealand reject the global "free trade and investment" agenda.

Taking Control was unlike most conferences, which only analyse the problem. It concentrated on what we can do about it. The title was carefully chosen and meant what it says - taking control back from those who have taken control of our country. Disarming the hijackers, in short. We brought in the Canadian and Bougainvillean speakers (whom Corso subsequently hosted on national speaking tours) because our problems and struggles are far from unique (the personal highlight for me was the session where Catherine Delahunty and Moses Havini spoke about the battle against mining TNCs in Coromandel and Bougainville). The only difference is one of degree.



We set ourselves no overly ambitious aims for Taking Control. No ringing declarations were issued, no new parties or organisations were launched. Simply getting all those key people together to focus on TNCs and to discuss how to combat them was a major achievement (the activist credentials can be judged by the fact that the likes of former HART leader, John Minto, came from Auckland just to attend. His cause now is the Quality Public Education Campaign). We wanted a better functioning network (not a new one) and Taking Control was a key step in achieving it. The feeling of participants was overwhelmingly positive, everybody had a great time (particularly at the Roger Award function. See article in this issue). Corso did the food and it was superb - this army definitely marches on a very well fed stomach. The fact that CAFCA members are so very generous enabled us to shoulder the several thousand dollars to stage it (plus the Roger). It wouldn't have been possible

## Report on Taking Control Conference Workshops

What follows does not purport to be an exhaustive report but instead aims to highlight a number of key issues and actions from the Conference (from notes taken or forwarded to the organisers).

### Bougainville

Two videos were shown that illustrated both the effects of the blockade which had been imposed in the near past on the people of Bougainville, and the people's responses to cope with the deprivations suffered. Rio Tinto, the giant TNC owner of the Bougainville copper mine and Comalco (NZ), had caused huge local destruction and dislocation. The island had been exploited too by the rest of Papua New Guinea. Australia had funded the war against the Bougainvilleans to the tune of \$800 million. In their fight for greater freedom and independence, the Bougainvilleans had had to be very resourceful in all sorts of ways, e.g. making medicines from the forest, and running motor vehicles on coconut oil. Cooperative, egalitarian work had proved vital in sustaining the independence effort. Now that the Lincoln Treaty has been signed, implementing the current peace process, it is important to achieve a positive political settlement. Bougainville is in urgent need of aid and this can be channelled through Corso and CWS.

### Women and Transnational Corporations

Various TNC operations were identified as causing major problems. For example, Fletcher Challenge has been contaminating waterways with pollution from its timber factories. Again, unsatisfactory labour conditions have been issues facing Fletcher Challenge workers both here, and overseas in Canada and elsewhere. In the banking sector, TNC computerisation and electronic systematisation has meant branch closures, job losses and higher fees for small savers. Even the food and comestibles we eat are at risk, e.g. lindane spraying of cocoa for chocolate. Reduction of tariffs continues to hit clothing, textile and other workers. New intellectual property regimes as expressed in patents and related

without Corso paying all costs of the two international speakers. We acknowledge generous donations from Trade Aid, Christian World Service, the Father John Curnow Memorial Trust, and CARITAS. It looks like we might break even, or only have a small loss, which is far better than what we initially expected.

As a key organiser, it's difficult for me to be objective but I assess Taking Control as having been as successful as we could have hoped for. Certainly that was the feedback I got from the participants, who found it extremely worthwhile. It is but a first step in a campaign to Take Control, but it's a vital one. This has given us renewed hope and a second wind.

*Papers from Taking Control are available, for \$10. Make cheques to CAFCA. NB: it is not a complete set and some are in note form, due to the nature of the conference, which was not "paper oriented".*

controls are depriving people of their rights to safe and cheap health care. Government is working hand in hand with the international corporate programme. Women are so often especially vulnerable to these processes - from worsening health effects to lower wages.

There is a lot of scope to build solidarity coalitions across a wide range of issues - work, health, environmental, consumer, etc. Multi-dimensional campaigning on issues like water privatisation has great potential for both general education and the mobilisation of resistance. As well, more support is critical for opposition and alternatives to the socio-economic engineering agenda being pushed by the Business Roundtable and its agents. Various organisations ranging from the national level, eg the YWCA, to the local are working to counter this agenda. Participate in economic options like the "green dollars" movement, the campaign for a universal basic income, the gift economy, local banking/lending agencies, community job creation groups, etc. Picket relevant Parliamentary select committee hearings. Link with like-minded groups in your region and/or across the country. Use the Government's Code of Social and Family Responsibility and its scapegoat bashing of beneficiaries as a continuing focus for action. Target weaknesses in the Government coalition. **Politicise - organise - take action!**

### Strategy and Tactics (two workshops)

We need to have a clear vision and make connections between the processes of colonisation and current globalisation; need to take account of the Treaty of Waitangi, the rights of the tangata whenua, and Tino Rangatiratanga; of class divisions; set a good firm value base; and identify key players at the top who are ripping off society. It is vitally important to join in opposition to the proposed MAI foreign investment treaty and related proposals. Talk to local groups, lobby politicians, make news in the media. Approach local bodies to oppose

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*(Taking Control: Continued from Page 25)*

the MAI and similar proposals. Join in the campaigns against the genetic engineering of food and the related genome patenting project.

Regarding the threat of water privatisation, more work is needed on what will be the outcomes, including responsibilities (lack of!?) to those deprived of water, or who face rising costs. In the future there is the possibility for a national civil disobedience campaign. We are in for the long haul so we have to protect and rebuild families and communities at the same time as campaigning. We have to be able to both survive and win!

Support those groups and communities currently in strife with TNCs and their agents, e.g. neighbourhood cellphone tower protests. Constantly work on getting information used more effectively - make it real and meaningful for people. Movements like those against the MAI and APEC, and to safeguard local government have the potential to mobilise many people and gain major impact. Establish continuing community study groups oriented to action. Have active "flying squads" to canvass support and zero in on trouble-spots.

Remember that the things that divide us and the things that unite us should all be appreciated as part of the learning process, a process that has creative/dynamic tension. Common goals can bind - always beware of the opposition tactics of divide/rule.

It is essential to keep humour in the movement. Satirise TNC language and practice. Build a movement that can both push electoral politics in a positive direction and shape changes in other areas. Work for just and participatory social/economic policies by thinking more strategically and tactically about what is likely to work best in the situation that you are dealing with. Be alert to potential allies - sometimes in seemingly unlikely places. Be careful not to get bogged down in small things that do not contribute to long-term goals. Get political debate going in the regions where links can be made with the globalisation process and explain how the few are benefitting, and will do so even more in the future, at the expense of the majority. Put the issues in meaningful and relevant language. And in this struggle remember that globalisation ultimately means the few rich (some say 10%) pitted against the overwhelming majority of the world's people. We will have the numbers!

### **Labour Rights**

Two critical new elements are emerging: (1) coming introduction of forced labour as in prison labour and work for the dole which would set the effective minimum wage, further undermining wage rates and conditions; (2) further amendments to the Employment Contracts Act. A new context was being created for both workers and the unemployed. Unionised labour now constituted only about 20% of the national employed workforce. An all work-low pay regime is shaping up. With wages and

conditions dropping fast the middle class is even finding itself under siege - it is being hollowed out in correspondence with worldwide trends. Meantime, the bottom is falling out of wages with global competition pitting workers against one another in countries everywhere. Growing casualisation and part-time, temporary work are making organisation to counter these trends more difficult. Which way will the middle class go? There is a mounting struggle for hearts and minds with the potential threat of "fascist" type reaction.

Free market assaults are continuing across the spectrum - from universities to the clothing factory. The deregulation of postal services is under way with the most profitable areas likely to be picked off by TNCs. Workers will generally be paid on lower wages and suffer poorer conditions. Resistance is growing too, however, even at times in surprising quarters. For example, a British court had recently ruled against McDonalds, finding that the TNC's operations had depressed wages in Britain. Again, the use of international links and resources to counter TNC activities has much scope. A relevant example here is the clear sighted understanding of the MAI held by Public Services International as opposed to the stupidity of the NZPSA!

Expanding and strengthening solidarity links would become more important for the future. The Asia Pacific Solidarity Network is currently working with Japanese workers, building on the successful strike against Juken Nissho and combating the push to deunionisation. It should be kept in mind that only 400 million people out of three billion workers worldwide actually work in industrial jobs. Many such jobs can damage the long term sustainability of the environment which is fundamental for the maintenance of any kind of human economy. Resource depletion is an issue that cannot be ignored and new creative thinking is required to ensure we all have a stake in our society and economy. For instance, the idea of a universal basic income is one whose time is surely coming.

In light of the Public Service Association's sacking of Pat Martin (editor of the *PSA Journal*), a recommendation was passed that unions should make sure that their "leaders" are accountable. Another recommendation is to use union journals, newsletters and other forms of communication more effectively. Also use *Common Ground*.

### **Environment and Health**

There is a huge clash between the ruling ideology and the values of real people. Aotearoa/NZ is being used as a laboratory. Diversity and community are getting submerged by globalisation. The value of indigenous lore needs greater recognition. Voices currently drowned out should be heard. The great difficulty of working within the system was recognised. There are the problems of intimidation, discrimination, and the lack of institutional support. Among other changes, we need sustainable methods of travel and communication.

Issues concerned such things as the role of the Resource Management Act (RMA); bilge water from foreign fishing boats impacting on kai moana; pressure on clean water supplies; and the threatened privatisation of roads. The RMA is under concerted attack from Big Business. Tactics were canvassed. These included getting groups of candidates to affirm common pledges on issues like water and roading (1998 is local government election year); raising issues that people can relate to personally; recognising community knowledge and building appropriate relations; joining together to educate ourselves and share resources more effectively. Tax polluters!

### **MAI**

There was some review of current activities. For example, the NZ University Students Association has a No MAI campaign. The Trade Union Federation is distributing information. The Alliance is contesting the Government's programme. NZ's position had been particularly hardline with strenuous resistance to any environmental protections and labour rights provisions. GATT Watchdog (GW) is campaigning on the MAI, APEC, and other pressing trade/investment matters. GW sees MAI as part of an ongoing process. Internationally, there had been growing support for the anti-MAI movement. Even the Vatican had come out against the MAI! On the other hand in NZ/Aotearoa, despite increasing anti-MAI sentiments, local reactionary politics continue, e.g. the PSA had sacked *PSA Journal* editor Pat Martin for promoting debate on the MAI.

Among the tactics discussed were: declarations of MAI-free zones (modelled on our nuclear free zones); rallies; letters to the editor; radio talkback; lobbying MPs; priming journalists; newsletters; public meetings; pickets; demonstrations; networking; seminars; computerised communication, e.g. e-mail; leaflets; informing local bodies/politicians; small group work on free trade/investment issues; etc. In one form or another the corporate brigade will continue to push the MAI agenda - TNC takeover.

### **Education**

Many issues were reviewed in this workshop. The Government/corporate programme of commercial privatisation is operating on a very wide front indeed. NZ standards are being aligned with the global marketplace. The NZ Qualifications Authority is putting a straitjacket on educational development - people being slotted into boxes.

Issues include: bulk funding; standards; pay; student fees; governance of institutions; capital charging; qualifications framework; tertiary review; teacher training; special education; employment conditions, including the role of unions (including student associations). The Business Roundtable (BRT) plan is to shape education in tune with corporate greed and capitalist conformity. A key front group for the BRT is the Education Forum and this small group wields extensive influence, flooding

the media with its propaganda. Education is to be narrowly tailored to business imperatives and consequent social conditioning. Already there are considerable insidious school-business links, financing well off schools and cultivating racial and socio-economic inequities. Profit is becoming the ultimate standard of education. Work to expose the activities of the BRT and its agents!

Various groups have been organising in response to the TNC agenda, including existing organisations like the Association of University Staff (AUS) and the Association of Staff of Technical Institutes (ASTI). A new organisation is the Quality Public Education Coalition (QPEC). It is working at all levels and dimensions of the education system - from parents to top administrators. It aims to start with what people want rather than market demands. Grassroots education and educational alternatives a la Ivan Illich have been swiped hard by this elitist Government, eg lack of support for the WEA. The Establishment fears above all else any training to foster critical thinking. Instead, the system's minders are deliberately gearing education to socio-economic level - grossly over-paid jobs for the ruling elite and McDonalds style education/employment for those at the bottom. Selective mechanisms are designed to siphon up those deemed suitable for recruitment into the higher strata and filter out the rest. The competitive game of winners and losers is to get the societal seal of approval. In this vein, the ACT idea of allocated student vouchers is intended to facilitate a totally privatised, MAI-consistent education system for the market consumer.

Wider issues for society are culture versus economic dictates; vocation vs. education; minimum standards vs. excellence; collegiality vs. competition; fiscal cap vs. adequate funding; the fact of more and more people becoming surplus to the requirements of the economy: society vs. the economy - indeed, a wide set of emerging contradictions which activists can use. Uniting together on education is vital because Govt/corporate policies are inciting competition - between institutions, unions, staff, parents, students. Strategies need to be developed to tackle this. We have to develop consistent arguments and mobilise Grey Power, rural communities, and other interest groups. Use "umbrella" slogans and constantly try to get across the public good/public ownership message. Tell the stories of glaring injustice to get people to act, e.g. stories like the Rau Williams case in the health sector. Create avenues for these stories to be heard. The World Bank is even now pushing the NZ education model (!) so we should challenge the use of this model and its implications at every opportunity.

### **Forestry and Fishing**

Many small fishermen are being squeezed out by more big players. There is now a very substantial Maori capitalist involvement. On many big fishing boats

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incomes and hours are not good. Big fishing companies that are developing like Sealords and Sanfords are officially not owned but are in fact have some transnational character. "New Zealandisation" refers only to fishing, not processing.

In forestry Fletcher's has a high concentration of foreign ownership yet is exempt from the Overseas Investment Regulations. Some resistance and successes against foreign control had been achieved in the Juken Nissho and Matakana Island disputes. High death and accident rates are suffered in forestry. Health and safety standards have deteriorated. There are major problems in the industry - these include chemical poisoning; the lack of added value in production; and the consequences of a *pinus radiata* monoculture. The tangata whenua face big struggles over land rights and the challenge of achieving economic sovereignty that genuinely meets people's needs. Support is needed for Treaty claims.

The Asian economic crisis has hit both the forestry and fishing sectors. Furthermore, present practices in both industries are not sustainable. We need to understand and recapture the meaning of sustainability and development in order to benefit NZ people in the long term. Local government forests should be kept in public hands. The foreign domination of these industries urgently requires regulation. Among other things, this would ensure protection against "boom and bust" exploitation and ensure diversified markets. Mill operation should be flexibly adjusted to community needs. Innovative ways have to be found to break through the silence of the mass media.

### **Unemployment/Unemployed Rights**

There had not been any national movement of the unemployed since 1992. But the Government's push on "social responsibility" is generating new groups and actions. We need to establish a loose network; campaign against workfare; and continue to build alternatives. Currently, the free marketeers are trying to blur the boundary between the employed and unemployed with the continuing casualisation of labour. Government politicians, along with ACT & co., obviously want to make the victims of the free market, in particular the unemployed, scapegoats for their own sins; and at the same time even more enrich themselves and their corporate benefactors/beneficiaries. There is an international race to lower standards in every area and employment is a key priority for the TNCs. New technologies are going to strip jobs on a massive scale while job competition increases with the global use of abundant cheap labour.

The Auckland People's Centre is the largest green dollar network in the country. A future possibility might ultimately be to start a "bank" through a national network that would develop local currencies. Groups like Just Dollars in Christchurch and Jobs with Justice in Dunedin are working to seed sound employment initiatives. The

latter group has available kits for presentation in workplaces, schools, etc. We need to both monitor what the Government is doing in the workfare area and counter it. Picket work for the dole schemes, lobby councils, schools, etc. We can also be more effective in funding our own organisers, e.g. the CAFCA organiser is funded by regular dedicated donations. Use the Corporate Code of Responsibility distributed by CAFCA as a tool.

### **Local Bodies versus the TNCs**

Since central government is doing less the load is increasing on local government even as the BRT-led push continues to cut back this governmental arm too. Councils have used work schemes to reduce unemployment. But local bodies are laying more people off, contracting out, and privatising public assets. In many cities councils are moving out of housing. Many services are likely to be run down or sold off. Big property holdings are tending to go on the market. Key public resources like water and land are being allocated into private hands, or are being tagged for this in the near future through corporatisation and/or other means. In the UK water privatisation has meant all sorts of abuses with neglected maintenance, exorbitant fees for greedy investors and executives, and increased water charges. TNCs like Waste Management want greater rubbish production because they can make more money out of this.

Regional variation in political structure ranges from those that have abolished wards to those which have active community boards. We need to strategically target our information and efforts. Campaigns can focus on the sale and contracting out of assets and services; roading; MAI; RMA; land; water; other assets; etc. Accountability and democracy are big issues. Local Government NZ should be appealed to as appropriate: Kerry Marshall, Tasman District Council, Richmond, is the chairperson of this body; and Mike Reid, Strategy Leader Governance, PO Box 1214, Wellington, Mobile ph: 025-240-6787 or E-mail Miker@local.govt.nz.co.nz.

Tactics can include questionnaires; meetings; pickets; stunts/gimmicks and other ways of tapping into the media; etc. With regard to the MAI, we should work to establish MAI-free zones. While the Agenda 21 programme does nothing about TNCs it is intended to give power to communities and is therefore incompatible with the MAI, both in this respect and with reference to the principles of genuine sustainability.

It is interesting to note that even in the citadel of capitalism, the US, many utilities are being restored to public ownership in various states. Develop clear, stirring and punchy slogans on the rights and needs of the people relating to the question of public ownership. (*Use debacles like the failure of Mercury Energy!*). Ensure councillors are committed to the public ownership of assets and the continuance of public services.

# DON'T TRUST THE COALITION AGREEMENT: THE OVERSEAS INVESTMENT AMENDMENT ACT 1998 - Bill Rosenberg

Late in 1997, the usual happened. An important Bill was introduced into Parliament giving only until early February 1998 to make submissions. CAFCA got in a late submission.

The Bill amended the Overseas Investment Act, purportedly, according to its explanatory note, to implement the "key policy initiatives on overseas investment announced by the Coalition Government on 10 December 1996". In fact it enacted only three issues from the Coalition Agreement, and then added some "minor" amendments of considerable significance. Still to be enacted is the central Coalition promise of protecting "strategic assets" - over which there is clearly considerable disagreement within the Coalition Government.

The three Coalition Agreement issues covered by the Bill are all to do with sales of land to "overseas persons" (overseas individuals or legal entities):

- \* reducing the area of land on the foreshore requiring Overseas Investment Commission approval from 0.4 hectares to 0.2 hectares;
- \* purportedly strengthening the "national interest" test in relation to the sale of farm land by requiring the Ministers to consider whether the investment will, or is likely to result in, substantial and identifiable benefits to New Zealand or any part of New Zealand;
- \* requiring that farm land must be offered for sale on the open market to New Zealanders. The method of this offering for sale can be prescribed by regulation. The Act gives Ministers wide powers to exempt sales from this requirement.

Some of the more major "minor" amendments unchanged from the original Bill are:

- \* Land is covered by the Act whether or not it is caught by other provisions, if it has a value of \$10,000,000 or more. The amendment explicitly makes this the unimproved value of the land.
- \* Repealing a power to regulate the raising and borrowing of money in New Zealand by overseas persons.
- \* Changes in the wording of how Ministers (and hence the Overseas Investment Commission) are to apply the criteria for approval, which weaken their powers.
- \* "Ordinarily resident in New Zealand" is redefined to exclude persons in New Zealand unlawfully or for short periods of time.

The first three have considerable significance, even though the second and third were not even listed among "minor" amendments in the explanatory note to the act.

The final Act was passed on 24 March 1998 but comes into effect only by Cabinet decision (Order in Council).

It made a further significant amendment, on the urging of the largely overseas controlled New Zealand Forest Owners' Association (see <http://www.oic.govt.nz/invest/act1998.htm>). Since it was on the basis of that association's submission, the public (such as CAFCA) had no opportunity to comment on this amendment. It excludes forestry rights and forestry cutting agreements, and interests in land of less than 21 years, from the definition of an "interest or estate in land". This exempts many significant acquisitions of rights over land from the need for Overseas Investment Commission approval, unless they are valued at more than \$10,000,000.

According to the Overseas Investment Commission, eight submissions were made, including CAFCA and Jane Kelsey, who was one of two making oral submissions.

Our submission made the following points.

## **Farm land**

The definition of "farm land" excludes land for forestry, a major and rapidly growing use of rural and farm land. The definition would have the bizarre effect of covering such land on first sale, but not as soon as trees were planted. Farm land is frequently purchased by overseas companies such as Carter Holt (USA), Rayonier (USA) and Ernslaw One (Malaysia) for conversion to forestry. Forestry is by far the single largest reason for purchase of rural land: 80.7% of the area sold (69,395 hectares) in 1996 and 62.7% (205,126 hectares) in the six years 1991-96. We estimated that almost one million hectares was under overseas control when forestry cutting rights and other sales were included.

The definition of farm land also excludes land used for life style blocks, which can be quite substantial areas of land, if they are only "hobby farms" or principally residential or have some conservation aspect. We gave two examples from August 1997 - one of 110 hectares, the other of 31 hectares, both of which had significant conservation values. Similarly, farm stay properties are arguably not covered although the property may be a fully functioning farm and they may be large in area.

We pointed out that it was not clear what the intention was in singling out "farm land" as opposed to rural land.

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**Don't Trust the Coalition: Continued from Page 29)**

If it is to specially protect productive land in some sense, then forestry, farm stay and lifestyle blocks should be included because they are all either productive or are converted from productive land. They could revert to "farm land" at some stage. Indeed, singling out farm land for stricter criteria may encourage overseas owners to cease using it for "farming" as defined in order to make sale easier. We submitted that the stricter criteria should apply to all rural land.

No notice was taken of this submission.

**Raising and borrowing of money in New Zealand**

The repeal of the power of the OIC and Minister to regulate the raising and borrowing of money in New Zealand by overseas persons, is a backward step. The power could readily be used as part of a range of controls over the flow of "hot money" into and out of New Zealand. Borrowing can be used by currency speculators to take a position on the New Zealand dollar in order to profit from its later rise in value. It was such flows of money that were the immediate cause of the current Asian financial crises.

It is also a useful way to improve the likelihood that overseas takeovers will involve the introduction of new capital, rather than financing the takeover by borrowing on the domestic market, crowding out local investment and forcing up interest rates. We are aware of no data on this method of takeover in New Zealand, but from 1985 to 1996, some 65% of foreign takeovers of Canadian companies were financed in Canada ("How much of Canada do we want to sell?", by Mel Hurtig, Toronto *Globe and Mail*, 5/2/98).

No notice was taken of this submission.

**Criteria for consent by Minister**

New wording makes a major change in the onus placed on the Minister when considering criteria for approving an application. The previous legislation stated that the Minister "shall grant that approval, consent or permission only if satisfied that...". Thus the Minister not only had to respect the criteria, but had some room to exercise discretion if there were other matters of concern about a transaction, even if the criteria were satisfied.

In the amendment, the Minister "must grant" the application "if satisfied that" the criteria are fulfilled. This removes any discretion from the Minister.

As originally drafted, it had a (presumably unintended) side effect. Nothing was said about what the Minister may or should do if not satisfied the criteria hold. Thus it was left open to the Minister to grant an application even if the criteria did not hold. This leaves the issue open to considerable pressures and even malfeasance.

We therefore opposed these changes in wording which weaken the legislation and thus contradict the spirit of the Coalition Agreement.

The final Act clarifies our second point ("to avoid any doubt", the Ministers "must not grant approval [etc] unless they are satisfied...") but leaves our main point unsatisfied.

**Criteria for transactions not involving land**

Though the Bill was largely about land and not general (non-land) investment, we took the opportunity to point out that the criteria for approval of applications not involving land are dangerously weak and ineffectual. We gave the examples of the Skellerup crash, the Trust Bank takeover by Westpac, and the overwhelming overseas ownership of our newspapers. We submitted that these criteria should include appropriate national interest criteria, analogous to those for land, and be properly enforced.

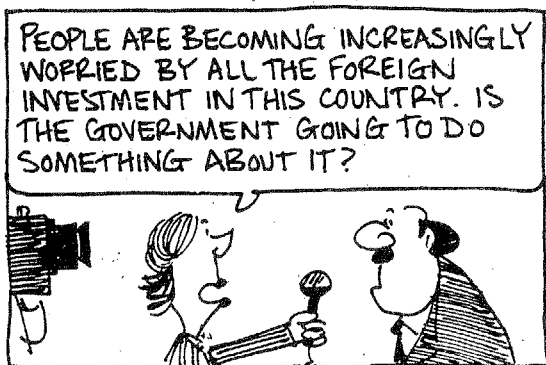
No notice was taken of this submission.

**Farm land must be offered for sale on an open market**

The effect of this section depends entirely on the effectiveness of the regulations provided for. The vagueness with which the regulations are defined in the Act, and the wide possibilities for exemptions, provide no guarantee to New Zealanders that farm land will be any better protected as a result of this provision than it is now.

No notice was taken of this submission.

**Criteria for judging the national interest in regard to farm land**



The Coalition Agreement states the national interest criteria would be strengthened for farm land by amending the criteria as to "Whether the overseas investment as a primary consideration will or is likely to result in substantial and identifiable benefits to New Zealand...". However the criteria for judging these benefits are unchanged by this Act. The changes therefore do nothing to strengthen protection of farm land.

The key element under the existing legislation or these proposals remains the ability of the Ministers to instruct the Overseas Investment Commission on how to enforce the criteria. At present their instructions are that "proposals from overseas investors should be approved unless good reason exists ... to decline the application". The Overseas Investment Commission is instructed to take an approach that "facilitates rather than hinders investment" (Letter to the Overseas Investment Commission from Messrs Birch and Marshall, Ministers of Finance and Lands, 21 December 1995, which we understand still stands). Nothing will change under either old or new criteria until these instructions are changed.

Taking into account the changed onus placed on the Ministers to approve applications (see our section 4 above), the effect is a weakening of protection.

No notice was taken of this submission.

#### **Other Coalition Agreement requirements**

The Coalition Agreement undertakes to

1) "Require an individual purchaser to hold and continue to hold permanent residence status; or the purchase, by an individual or otherwise, will make a material contribution to the local or New Zealand economy"; and  
2) "Greater monitoring of compliance of conditions imposed by requiring the purchaser to file a declaration after two years or end of project that all conditions complied with."

The first only appears as one optional criterion, which in any case existed in the current legislation. It is therefore not satisfied. The second does not appear in the new Act.

The Coalition Agreement requirement to "Reduce foreshores requiring approval from 0.4 ha to 0.2 ha." has been included. However the weakness in enforcement of the criteria detailed above mean this has only minor practical significance.

The Coalition Agreement requirement regarding "strategic assets" is yet to be legislated.

#### **Land value**

The redefinition of the land value that triggers the application of the Act, to the *unimproved* value of the land is of considerable significance.

This issue was central to the Overseas Investment Commission's 1996 consideration of the Trust Bank take over by Westpac. It was interpreted by the Commission as "unimproved" and as a result only one piece of land

owned by the Bank (a retirement village in Tauranga) was found worth more than \$10,000,000. The argument was then made that the land part of the transaction was trivial and so the stronger "national interest" criteria for land sales held little weight in their consideration of the case. If land value was defined as *improved* value (which we argued is the correct interpretation of the current legislation), the large commercial property holdings of Trust Bank would have been covered and land sales criteria should have been a significant part of their deliberations.

The effect of the change of definition is that most commercial property sales, even highly valuable ones, will not be scrutinised by the Commission. We therefore opposed the change.

No notice was taken of this submission.

#### **Conclusions**

The Coalition Agreement was a highly diluted version of New Zealand First's strong policy on overseas investment. The implementation of it in this Act further dilutes it to be of negligible effect, and in practice is a further weakening of overseas investment scrutiny and oversight.

The opportunity should instead have been taken to strengthen criteria for overseas investment in New Zealand, and its monitoring, to ensure New Zealand does not become dependent on overseas investment and investors; avoid the serious current account deficit problems currently being experienced largely as a result of payments to overseas investors; and extract maximum benefit from any investment accepted.

We pointed out that if the Government persists in its intention to sign the OECD's Multilateral Agreement on Investment (MAI), because of the Agreement's "standstill" and "rollback" provisions, this was the last opportunity the country had to retain and strengthen its powers to control overseas investment. Provisions such as that giving the Government the ability to regulate overseas investors borrowing in New Zealand should not be given away. Especially given the increasing volatility and danger inherent in international capital markets, the opportunity to strengthen the criteria for overseas investment in New Zealand should not be missed. Jane Kelsey pointed out that, in addition, the "Individual Action Plan" (IAP) the Government had registered under APEC did not allow tightening of our foreign investment regulations. Either this legislation is not a tightening as the government claims, or it will have to change its IAP. Since it is apparently not changing its IAP, the conclusion is obvious.

The existing legislation, and as amended in this Act, unequivocally fail to protect New Zealand's social and economic interests.

**[Copies of CAFCA's submission are available for \$5 from CAFCA, P.O.Box 2258, Christchurch.]**

# SEPTEMBER 1997 - JANUARY 1998

## OVERSEAS INVESTMENT COMMISSION DECISIONS<sup>1</sup>

### - Bill Rosenberg

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### September 1997 decisions

#### **Telecom buys out Ericsson's cellphone operation**

**Telecom New Zealand**, a subsidiary of **Telecom Corporation of New Zealand Ltd**, has approval to acquire the cellphone business of **Ericsson Cellular Ltd of Sweden**. Ericsson was the principal competitor to Telecom selling airtime on Telecom's cellular network.

Telecom still has competition from the alternative cellular network run by Bell South, although in February 1997, BellSouth lodged proceedings against Telecom under the Commerce Act, citing anticompetitiveness and misuse of confidential information. It said Telecom was bundling discounted services over which it had a monopoly in return for exclusive relationships, preventing businesses from considering other service options. BellSouth also alleged Telecom was misusing information provided to allow connection of BellSouth's landline calls (*Press*, 1/2/97, "BellSouth takes Telecom to court",

p.32).

The majority shareholders of Telecom Corporation of New Zealand Ltd at that time were **Ameritech Holdings** and **Bell Atlantic Holdings Ltd** of the USA. Ericsson Cellular Ltd is owned by **Telefonaktiebolaget LM Ericsson of Sweden** (*Ameritech has since sold its stake by a sharemarket float. Ed*).

#### **Dow Chemical buys leased Taranaki Regional Council land, part Maori Reserve**

**DowElanco (NZ) Ltd**, a subsidiary of **Dow Chemical Company of the USA**, has approval to acquire approximately **16 hectares** of land in **Paritutu Road, New Plymouth, Taranaki** from the **Taranaki Regional Council** for **\$1,700,000**. Part of the land is in **Maori Reserve 6 Omata District**. It is presumably the land on which Dow's agricultural chemical factory is sited:

"... DowElanco has conducted business in New Zealand for the last 53 years and is a

(Continued on Page 34)

*(OIC Decisions: Continued from Page 33)*

leader in the agricultural chemical market. ... the land the subject of this application, is currently leased (with rights of renewal in perpetuity) from the Taranaki Regional Council by DowElanco, for the purpose of chemical manufacturing, formulation and waste destruction. It is stated DowElanco has occupied the site for approximately 38 years."

### ***Iplex of Australia and Netherlands takes over James Hardie Pipelines***

In a decision originally almost completely suppressed and released only on appeal in February 1998, **Iplex Pipelines Ltd** which is owned 75% by **Crane Group Ltd** of **Australia**, and 25% by **Wavin BV** of the **Netherlands**, has approval to acquire the business and assets of **James Hardie Pipelines Ltd** for \$31,069,154. **Wavin** is owned 50% by **Shell**, and by the **Overijssel Water Authority**, a "regional body". **James Hardie Pipelines** is a subsidiary of **James Hardie Industries Ltd** of **Australia**.

Crane already owns the **Mico Wakefield Group**, a "leading" distributor of metals, fasteners, plumbing supplies and pipeline systems. "Wavin BV is the leading manufacturer and supplier of plastic pipes and fittings within Europe." The takeover is part of the acquisition by Wavin and Crane of James Hardie Pipelines businesses in Australia, Aotearoa, Singapore and Malaysia.

As of March 1997, James Hardie was 27.9% owned by Brierley Investments Ltd, which, in its report to shareholders of that month, emphasised James Hardie's fibre cement and wallboard business and foreshadowed this sale, saying:

"The company has recently divested its non-core irrigation and building services businesses at excellent prices, thereby strengthening its balance sheet and sharpening the focus on its core international fibre cement business where it is the world leader and on its USA gypsum wallboard business."

### ***Mancon of Malaysia lends \$6.6 million for Viaduct Basin development***

**Mancon Berhad** of **Malaysia** has approval to take 51% of **Quercus Investments Ltd** which has a perpetual lease over just over two hectares of land in the **Viaduct Basin** in the central business district of **Auckland**. **Quercus** is owned by **Heng Holdings S.E.A. (Pte) Ltd** of **Singapore**. The consideration for the acquisition is \$51 plus shareholder loans of "approximately \$6.6 million".

"In March of this year Heng Holdings was granted consent to acquire a perpetual lease

over the land, on which to undertake a multi purpose development including tourism, leisure and entertainment, commercial and residential facets. At that time Heng Holdings advised it intended sourcing the necessary support from the Asian market to meet the capital needs of the Viaduct Basin project, estimated at approximately \$300 million and to provide further expertise towards the development. It is stated Heng Holdings approached Mancon and presented the concepts of the project. Mancon expressed an immediate willingness to invest in the project and as a consequence a mutual agreement was reached by both parties. ... It is stated Heng Holdings has been actively trying to secure the necessary resources, both financial and non financial, in order to complete a project of such magnitude and significance to New Zealand."

For further details see our commentary on the March 1997 decisions.

### ***Amtrust (formerly Gulf Resources) buys Price Waterhouse Centre, Auckland***

In a decision originally almost completely suppressed and released only in February 1998 on appeal, **Amtrust Pacific Ltd**, which is owned by **Michael** and **George Karfunkel** of the **USA**, has approval to acquire the **Price Waterhouse Centre** on the corner of **Hobson, Wyndham and Federal Streets, Auckland**, for \$82,750,000 from **Aoyama Development (NZ) Ltd** of **Japan**. The Centre is on 0.3577 hectares of land.

Amtrust was formerly known as **Gulf Resources Pacific Ltd** and **City Realities Ltd**, which were highly controversial companies due to their flight from environmental responsibilities in the USA, and their business practices in Aotearoa (see for example our commentaries on the October 1991 and January 1996 OIC decisions).

Now, "Amtrust intend to embark on an expansion programme with the intent to grow the company's current asset base to between NZ\$500 million to NZ\$600 million over the next year".

### ***Chelsea Sugar Refinery buys nine hectares leased from Ports of Auckland***

**New Zealand Sugar Company Ltd**, a subsidiary of **Colonial Sugar Refinery of Australia**, has approval to acquire nine hectares of land on the **Waitemata Harbour foreshore** belonging to **Ports of Auckland Ltd**, for \$975,000. The land, in **Birkenhead**, is part of the **Chelsea Sugar Refinery**, and New Zealand Sugar has leased it since 1927. It also owns approximately 80% of the property surrounding the land.

### ***Dana Commercial Credit (USA) acquires rights to 'Novotel' name in Aotearoa***

Renovo Eleven Inc, a subsidiary of Dana Commercial Credit Corporation of the USA, has approval to acquire "sub-franchise rights and royalties in relation to the use of the 'Novotel' trade name in New Zealand" from AAPC (Cyprus) Ltd, a subsidiary of the Accor Group of France. The price is "the payment of royalty payments which may exceed \$10 million". AAPC (Cyprus) holds the Novotel hotel master franchise in some countries in the Asia Pacific region, including Aotearoa. AAPC (Cyprus) propose granting a sub-franchise to Renovo to use the Novotel name in Aotearoa, subject to existing sub-franchises already granted to AAPC NZ Pty Ltd and AAPC Properties Pty Ltd, both of which will pay royalties to Renovo.

Accor Asia/Pacific Corporation (AAPC) owns the Novotel Hotel in Wellington, Novotel Auckland and Holiday Inn Queenstown. It is the largest hotel company in the Asia/Pacific region with 135 hotels and 25,000 rooms in 15 countries (*TravelAsia Online*, "Accor to take second bite at SPHC", by Ian Jarrett, 25/7/97, [http://www.travel-asia.com/-07\\_25\\_97/-stories/-accor.htm](http://www.travel-asia.com/-07_25_97/-stories/-accor.htm)). See for example our commentary on the October 1997 OIC decisions.

This decision was originally almost completely suppressed, and released only in February 1998 on appeal.

### ***Dynasty Pacific of Singapore floats its hotels***

Dynasty Pacific Group has set up the Pacific Hotel Trust, which it owns 25%, to own The Heritage Queenstown, The Heritage Christchurch, Citylife Wellington, Citylife Auckland, and The Heritage Auckland. It includes 0.7663 hectares on Fernhill Road, Queenstown, Otago, where the Heritage Queenstown is situated. The other 75% will be owned by other persons "who may be overseas persons". The Trust is paying \$85,000,000 for the properties.

Dynasty Pacific is owned 36.5% by the Tang Family of Singapore, 41% by the Tan Family of Singapore, 10% by Mr Pang of Singapore, and 2.5% by the Horsburgh Family of Aotearoa. These associates have been involved in a number of property and accommodation schemes, including the Pacific Group Ltd, The Habitat Group, Firlie Holdings Ltd, and New Zealand Land Ltd. The Tang family controls the Singaporean hotel operator, Dynasty Hotels International. Closely associated is the Symphony Group Ltd which is controlled by Colin Reynolds and family. It developed a number of apartment projects in Auckland and took over the Greenstone Lodge suite and apartment complex development in Queenstown. The same parties were involved in the hotel/apartment "Heritage" development of the old Government Building and Carucca

House in Cathedral Square, Christchurch. See for example our commentary on the November 1996 OIC decisions.

### ***Sellotape restructures: sells consumer division to senior management***

Springtime SA, incorporated in Luxembourg, has approval to acquire Sellotape New Zealand Ltd from Sellotape Products (NZ) Ltd, a subsidiary of Sellotape International BV of the Netherlands. The parent company has separated its business into industrial and consumer divisions, selling the latter (which includes Sellotape New Zealand) to former senior management. The shareholding in Springtime is held by "The Sellotape Holding Sarl, the ultimate beneficiary of which is Franck Ullmann Hamon (85%), and Rory Cullinan (15%)".

### ***Venezuelan buys further land in Whakatane, despite July refusal***

Alberto Finol of Caracas, Venezuela, has approval to acquire just under four hectares of land on Western Drain Road, Whakatane, Bay of Plenty for "approximately \$114,480". The purchase has an interesting background.

In December 1996, we reported that

In a deal apparently brokered by the New Zealand Dairy Board to smooth trade with Venezuela, Mr Alberto Finol of Caracas, Venezuela has approval to buy 109 hectares of land near Whakatane, Bay of Plenty for \$2.3 million. "Mr Finol is involved in a joint venture business with the New Zealand Dairy Board which imports substantial quantities of dairy produce from New Zealand to Venezuela and the United States. The New Zealand Dairy Board is anxious to expand the existing business arrangement and views the acquisition as assisting in achieving that goal. It is stated that the proposal is a result of recommendation by the New Zealand Dairy Board that he expand his involvement and association with the New Zealand dairy industry."

The land in the current decision forms a corner of that property (a dairy farm) and will be farmed in conjunction with it. Finol is described as "the controlling owner of a substantial number of entities involved in the dairy business and trade".

However in July 1997, the OIC refused to allow Finol to buy further land in the Bay of Plenty for dairy farming. This is a review of that decision. It is not made clear why this application was approved while the previous one was refused.

(Continued on Page 36)

(OIC Decisions: Continued from Page 35)

## **Hamurana Gardens, Rotorua, acquires further land**

**Hamurana Gardens Ltd**, owned by **Dr Ming-Liang Huang of Taiwan**, has approval to acquire **19 hectares** of land on **Turner Road, Hamurana, Rotorua**, for **\$415,000**.

"Hamurana was initially granted consent to acquire 43 hectares of freehold land and 36 hectares of lease land, (being the Hamurana Springs Public Recreation Reserve) situated on the northern side of Lake Rotorua, on which to establish a tourist complex, nine hole golf course and associated tourist facilities in October 1995. Hamurana wish to acquire the property to provide a better access to and development scope for the tourist complex currently being developed on the adjoining land. In addition, it is stated the continual enhancement of the reserve which is leased by Hamurana and administered by the Department of Conservation is for the benefit of all New Zealanders..."

The original land was acquired for a peppercorn: we reported in October 1995 that

"... Hamurana Gardens Ltd was 24% owned by Dr Huang Ming-Liang; he has consent to acquire the remaining 76% for \$76. The applicant states that it is proposed that the property will be developed into a tourist complex which will include a hotel, residential cottages, a golf course and other associated tourist facilities ..."

The OIC does not mention that in July 1996, as we reported,

"Further land adjacent to a reserve is being sold, this time four hectares in Te Waerenga Rd, Hamurana, Rotorua, Bay of Plenty, for \$260,500. It is being sold to Hamurana Gardens Ltd of Taiwan for 'proposed development of a tourism complex and upgrading and enhancement of the reserve'. The reserve is managed by the Department of Conservation."

**NZ Petroleum buys 8,712 hectares of forests in Taranaki, Gisborne/Hawkes Bay**  
**New Zealand Petroleum Company Ltd**, which is owned **29.905%** by **Triton Energy Corporation of Dallas, Texas, USA**, and **29.45%** by "various other overseas shareholders", has approval to acquire three substantial areas of "natural" forest from **Timber Holdings Ltd**. Timber Holdings will receive 10 million

shares (or **34.2%**) of the ordinary shares of New Zealand Petroleum in partial payment, reducing Triton's percentage to 19.7%. The price for the three areas of land is given as "between **\$7,700,000** and **\$8,300,000**" although it is not clear if that includes the shares.

The three forest areas are:

- \* the **6,037 hectare Mangatanawhia Forest** near **Wairoa, Gisborne/Hawkes Bay**;
- \* the **793 hectare Paparangi South Forest** near **Waverley, Taranaki**; and
- \* a Forest Right over the "approximately" **1,882 hectare Paparangi North Forest** near **Waverley, Taranaki**.

"It is stated it is NZP's ultimate intention to maximise its market share in the natural forest industry by efficiently managing the properties and by acquiring additional properties in the future. NZP state the proposed transaction will provide an infrastructure which will benefit both existing managers of natural forest estates and importantly, encourage management of currently non productive forest estates under the Forest Amendment Act 1993 which, in turn, will contribute to the overall efficient application of New Zealand's natural resources."

## **Rayonier acquires forestry cutting rights to 850 ha. of land on Kawhia Harbour**

**Rayonier New Zealand Ltd**, a subsidiary of **Rayonier Inc.** of the **USA**, has approval to acquire forestry cutting rights to **850 hectares** of land near **Kawhia, Waikato**, adjoining the foreshore of **Kawhia Harbour**. The price paid is suppressed. The rights are being acquired from **The Crown** and **Tainui Kawhia Incorporation** who have a lease agreement for the land.

"... Rayonier wish to acquire the forestry rights for the purpose of protecting its rights to the timber on the land, which it has agreed to purchase and cut. ... Tainui Kawhia has been seeking a partner to assist it to acquire 100 percent interest in the trees on the land, and the proposed acquisition will allow Tainui Kawhia the ability to achieve this objective."

## **Part of Woodbine Station near Queenstown changes hands**

**Mrs Siau Lin Chong** of **Singapore**, who has been granted permanent residency status, has approval to acquire approximately **861 hectares** of Woodbine Station at **Kinloch, Glenorchy, Queenstown, Otago**, on the south bank of **Lake Wakatipu** and the **Dart River**. It adjoins the **Kinloch Recreational Reserve** and the **Routeburn Scenic Reserve** and comprises **397 hectares** of freehold land and **464 hectares** currently Pastoral Lease but "to be freeholded following a tenure review". The price is **\$1.7 million** and the vendors are

#### **A.G. and L.P. Bowes of the UK.**

"It is stated the applicant ... intends to develop Woodbine Station to its optimum potential, by improving the pastoral qualities of the property and undertaking a comprehensive fencing programme on the property with the ultimate intention of converting the property to a viable deer farming unit. It is also proposed to establish a farm park type tourism venture on the property."

However this is not entirely consistent with the station's previous sale. In February 1992 we reported that the Bowes' company, Merion Systems Ltd, was buying the 2,501 hectare Woodbine Station for \$1.3 million plus stock and plant. It appears they are now breaking it up - at a substantial profit.

#### **Purchase of Canterbury farm land by Taiwan company refused**

The OIC has refused approval for **Fairnet International Ltd** to acquire land for crop farming in **Canterbury**. The area of the land and the proposed price have been suppressed. **Fairnet** is owned **95%** by a national of **Taiwan**, and the remainder by nationals of **Australia** and **Aotearoa**.

#### **Land for forestry**

\* **Juken Nissho Ltd of Japan** has approval to acquire a lease over **320 hectares** of **Crown** land in **Spirits Bay Road, Parengarenga, Far North District, Northland**, for **\$20,000** per year from the **Department of Conservation**.

"The proposal represents the reassignment of an existing lease agreement between JNL and DOC (on behalf of the Crown), for a further period of 35 years, which will enable JNL to continue its existing afforestation programme on the property. The Commission is advised that Juken Nissho's **Kaitaia Mill**, currently employs approximately 235 people in the production of raw products. ... the continued afforestation on the property will provide an additional 45 employment opportunities in the planting, pruning, thinning and logging work required to be carried out as part of the programme."

\* **Carter Holt Harvey Ltd**, approximately **51%** owned by **International Paper Products** of the **USA**, has approval to vary the lease it holds over **15 hectares** of land off **Ngapipito Road** between **Kaikohe** and **Kawakawa, Northland**, leased from the **Ngatihine Trust**. The annual rental is "approximately **\$561** per annum".

"In October 1981 CHH entered into a lease agreement with the Ngatihine Trust, for a term of 33 years, to acquire certain lands for the purpose of afforestation over an area of approximately 5,062 hectares. The Commission is advised that following negotiations, the parties have agreed to a

varying of the existing lease agreement. The variation will result in road areas within the property and a former boundary of convenience being included within the lease."

#### **Other rural land sales**

\* Half of **Donjay (NZ) Ltd**, the "main supplier of ducklings to duck rearers within New Zealand" is being sold to an **Australian** syndicate for \$1,240,250. The deal, which will enable the owners to "expand the current operation from a cottage industry into significant entity within the duck breeding industry", includes eight hectares of land at **346 Orepunga Road, RD2, Cambridge, Waikato**. The current owners, **W. M. and K. M. O'Donnell** will still own half of the company. The Australian side is a complex arrangement of three trusts:

\* **Bonenzio Pty Ltd**, trustee for the **Bonaccordo NZ Land Trust**, whose beneficiary is **Giuseppe Bonaccordo** of **Australia**;

\* **Forsenzio Pty Ltd**, trustee for the **Forsenzio Holdings Trust**, whose beneficiary is **Mark Keith Forster** of **Australia**; and

\* **Ilenzio Pty Ltd**, trustee for the **Ilenzio Holdings Trust**, whose beneficiary is **Lloyd Richard Ilett** of **Australia**.

\* **Corbans Wine Ltd**, a subsidiary of **DB Group Ltd**, which is "approximately **58.39%**" owned by **Asia Pacific Breweries Ltd** of **Singapore**, which in turn is owned **80%** by **Heineken NV** of the **Netherlands** and **Fraser Neave Ltd** of **Singapore**, has approval to acquire 56 hectares of land in **State Highway 50, Hastings, Hawkes Bay** for **\$800,000**. A vineyard will be developed on the land.

\* A company, **Waitaki Village Ltd**, has approval to acquire **14.271 hectares** of land on **Lake Waitaki, Canterbury** for a residential subdivision and tourist venture. The company is owned **75%** by **Terence John Bradbury**, a **New Zealand citizen** resident in **Australia**, and **25%** by **Colin Bryan Lofts** of **Australia**. The land is being purchased from **Halray Developments Ltd** for **\$600,000**.

"The initial development project encompasses the subdivision of approximately 2.672 hectares into 14 residential lots. The second involves the retention of approximately 9.019 hectares for future development as a fishing lodge or a similar recreational venture to enhance the proximity of the land to Lake Waitaki. It is proposed that the remaining 2.58 hectares of land which is situated on the eastern side of State Highway 83 and adjoins Lake Waitaki, is to continue to be utilised as a public reserve."

#### **October 1997 decisions**

#### **Natural Gas Corporation may acquire remaining 30% of Natural Gas Waikato**

*(Continued on Page 38)*

*(OIC Decisions: Continued from Page 37)*

The privatised **Natural Gas Corporation New Zealand** Ltd, now owned, via Natural Gas Corporation Holdings Ltd, 33.3% by the Australian Gas Light Company, 33.3% by Fletcher Challenge Utilities Investments Ltd, and 33.3% by the public, has been given approval to acquire from the Hamilton City Council the 30% of Natural Gas Waikato that it does not already own. The price was originally suppressed but was released on appeal in February 1998: \$6,500,000.

Significantly, it is stated that

“The Commission is advised that a comprehensive consultative process was undertaken by the Hamilton City Council in relation to NGCNZ acquiring the remaining 30 percent interest in Natural Gas Waikato Limited.”

This may be to fulfil the Coalition agreement on

privatising of “strategic” assets, which includes local-body-owned gas utilities and specifies that “any sale of over 24.9% would require prior approval of ratepayers or consumers”.

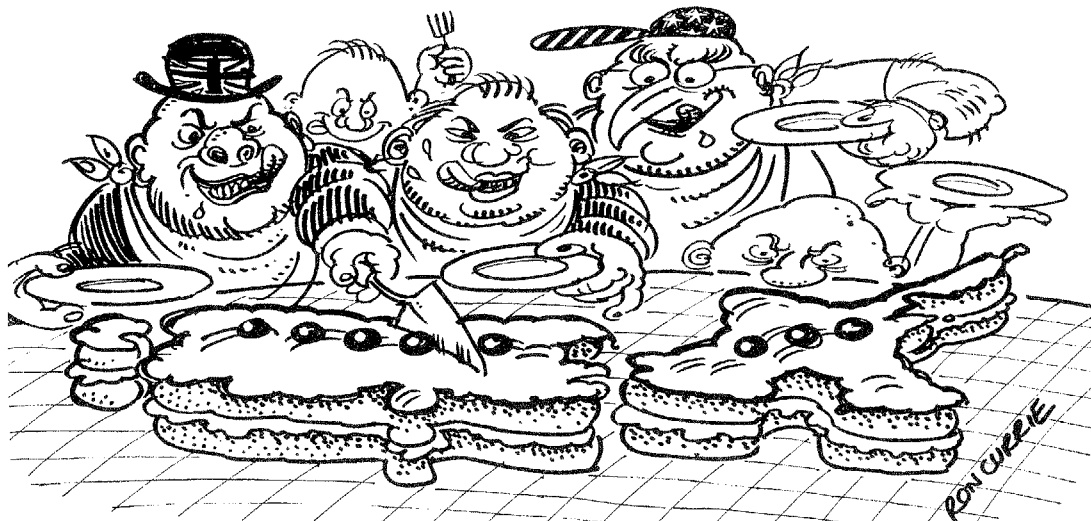
**AMP buys up central business district property for new property fund**

In six decisions the OIC has given approval to companies associated with the **Australian Mutual Provident Society (AMP)** of **Australia** to acquire a number of major central business district buildings in **Auckland** and **Wellington** for a total of **\$498,900,000**. The acquisitions are part of the formation of a New Zealand Property Fund called the **AMP NZ Office Trust** which will invest in such commercial property. **AMP** will own **30%** of the units in the trust, the **National Provident Fund** will own **35%**, and subscriptions will be invited for remaining 35% at a cost of \$175 million (*Press*, 22/11/97, “Top buildings in AMP books”, by Alan Williams, p.30).

The acquisitions are as follows:

Property	AMP Associates	Vendors	Price (\$m)
151 Queen St (The Fay Richwhite Building), Auckland	AMP, Perpetual Trust Ltd (trustee)	Foenus Investments Ltd	89
Coopers and Lybrand Tower, Auckland	AMP Investments (NZ) Ltd AMP NZ Office Trust	National Provident Fund AMP Investment (NZ) Ltd	143
IBM Centre/Wellington Park royal, Featherston St, Wellington	AMP Investments (NZ) Ltd AMP NZ Office Trust	National Provident Fund AMP Investments (NZ) Ltd	approx, 96.1
Nos 1-3 The Terrace (the Treasury building), Wellington	AMP Investment (NZ) Ltd AMP NZ Office Trust	National Provident Fund AMP Investments (NZ) Ltd	48.8
Quay Tower, Auckland	AMP NZ Office Trust	AMP NZ Property Fund	74
Trust Bank Centre, Wellington	AMP NZ Office Trust	AMP NZ Property Fund	48
<b>Total</b>			<b>498.9</b>

**The gatecrashers spot the party food**



The prices given by the OIC appear to be government valuations rather than the actual considerations for the sales, according to figures given by Alan Williams. The actual prices according to Williams were \$90.8m, \$145.9m, \$97.4m, \$49.8m, \$75.5m, and \$49m, respectively.

Kiwi Income Property Trust had planned to buy the Fay Richwhite building (151 Queen Street) in 1996 from Sentry Investments Ltd, a subsidiary of General Accident Plc of the U.K., the owner of New Zealand Insurance. Sentry's 50% partner in the building, Queen and Wyndham Management (owned by Fay Richwhite), exercised a pre-emptive right to buy out Sentry's interest, presumably because the price KIPT offered (reportedly \$38.5 million) was too low. (See "Kiwi Income Property Trust buys four CBD properties from General Accident", our commentary on OIC decisions, November 1996.)

### **Waltus floats, buys KPMG building in Auckland, Mobil-on-the-Park in Wellington**

**Waltus Investments Ltd**, a property investment company based in **Lower Hutt**, describing itself as "one of the largest property management/syndication companies in New Zealand, with more than \$350 million invested/managed in New Zealand and Australia", is floating a subsidiary, **Waltus Prime Properties Ltd**, on the New Zealand and Australian Stock Exchanges. As a result Waltus Prime Properties has to gain OIC approval for acquisition of two buildings which will "become the underlying portfolio assets" of the company:

\* **Mobil-on-the-Park, at 157 Lambton Quay, Wellington**, from **Midland Tower Company Ltd**, a subsidiary of **Mainzeal Construction Ltd of China**, for **\$84,803,896.77**, including "partial satisfaction of indebtedness and development fee."

\* **KPMG building, 9 Princes St, Auckland**, from **Newmarket New Zealand Ltd**, for **\$50,250,000**. **Newmarket Newzealand Ltd**, New Zealand branch, (sic) bought the building from the troubled DFC in July 1993. The price was withheld by the Commission. *New Zealand Property* investigations (from the public record) revealed that Newmarket Newzealand was registered in the British Virgin Islands and its owners were Denis Chen Chiu Kao and May Jen Chiang Lio Sun (known as Denis and May Jen) (*New Zealand Property*, November 1993, p.2).

### **Universal Homes of China acquires 28 hectares in Silverdale for subdivision**

**Universal Homes Ltd**, owned by **HTP Holdings Ltd**, a public company listed in **Singapore** but 27% owned by **China Everbright of China**, has approval to acquire 28 hectares of land at **70 Hibiscus Highway, Silverdale, Auckland**, from **Wickham Developments Ltd** for

**\$4,290,000**. Universal Homes "intend to develop the property over a period of approximately five years, into 290 housing sites, aimed at the affordable housing market, in a bid to combat the current housing shortage faced by Auckland City residents."

Some or all of the land "is held for conservation purposes under the Conservation Act 1987", but the land concerned is not identified. On the contrary, the company says that the land "is currently unused wasteland, which has been allowed to revert to scrub and weeds."

Universal Homes has purchased a number of such blocks for subdivision, even describing itself at its last OIC approval (April 1997) as "a predominant player in the Auckland housing market." Previous approvals occurred in September and March 1996. In July 1996, it acquired **SBSA Mortgage Investments Ltd**, which is engaged in mortgage financing, for \$100.

### **Neil Construction of Malaysia subdividing ten hectares at Henderson, Auckland**

**Neil Construction Ltd**, a subsidiary of **Neil Holdings Ltd**, owned by the **Tiong family of Malaysia**, has approval to acquire ten hectares of land in **Burgundy Park Avenue**, approximately two kilometres west of **Henderson, Auckland**, for residential subdivision, for **\$3,350,000**.

"It is stated the proposed acquisition will enable Neil Construction to maintain a balanced portfolio of subdivisible land stock throughout the Auckland region and to meet the demand for residential sections in this locality. Neil Construction currently employs 20 full time staff and over 100 contract workers within its business operation."

### **Australian joint venture subdividing 35**

## **Foreign investment over \$50b**

WELLINGTON — Foreigners own \$50.7 billion of assets in New Zealand — more than five times the level of foreign investment at the end of the 1980s.

Overseas investors own all or part of a vast range of companies from phones to baked beans, including billions of dollars of state assets sold in the last decade. By comparison, all New Zealand company shares listed on the Stock Exchange were worth \$50.2b yesterday, again dominated by overseas shareholders.

In 1989, foreign investment in New Zealand totalled just \$9.7b.

Official figures out yesterday show that Australia and the United States are still the main investors, with \$15.5b and \$14b respectively tied up in New Zealand.

Singapore has investments worth \$3.3b and Japan \$1.7b. Hong Kong-based investments fell by \$500m to \$777m. —NZPA

(Continued on Page 40)

### **hectares at Henderson, Auckland**

**Palm Lake Ltd**, a joint venture between **Wilbow Corporation (NZ) Ltd** of Australia and **Hopper Developments Ltd** of Aotearoa, has approval to acquire **35 hectares** of land at **Sturges Road, Henderson, Auckland** for **\$8,500,000**. They "intend to develop the property into a residential subdivision comprising 350 sections over a seven year period". The land is being bought from **Panoramic Farm Partnership**, owned by **R. H. Duncan** and **Winters Investments Ltd**.

**Wilbow Corporation (NZ) Ltd** is majority owned by **Wilbow Corporation (Management) Pty Ltd**, owned by the **Bowness Family Investment Trust** whose beneficiaries are **William Donald Bowness** and **Maxine Rose Bowness**, citizens of **Australia**. In April 1997 the company was given approval to acquire four hectares of land at **Te Papa, Tauranga** for residential subdivision, and has previously acquired land for subdivision in **Henderson** and **Tauranga**.

### **Mount Aitken Station, Waimate, Canterbury sold**

The owners of the remaining part of **Woodbine Station** (they sold 861 hectares last month) are purchasing the **2,391 hectare Mount Aitken Station** on the **Waimate-Kurow Road**, 35 kilometres from **Waimate, Canterbury**, for **\$1,070,000** from **R.J. and P.A. Watson**.

"The property currently runs 3,300 head of sheep and 251 head of cattle. The applicants state it is their primary intention to undertake a significant improvement/enhancement programme on the property including the establishment of a deer herd at an estimated cost of \$280,000. The Commission is advised that Mr Bowes has been granted New Zealand permanent residency status and that he intends to reside permanently in New Zealand."

Last month we reported that **A.G. and L.P. Bowes** had sold approximately **861 hectares** of the (originally) 2,501 hectare **Woodbine Station** at **Kinloch, Glenorchy, Queenstown, Otago**, on the south bank of **Lake Wakatipu** and the **Dart River**, for **\$1.7 million**. It appeared they were breaking it up at a substantial profit. That is now being used to buy and develop **Mount Aitken Station**.

**Woodbine Station Ltd**, the vehicle for the purchase, is majority owned by **Gainsville Ltd**, incorporated in the tax haven, the **Isle of Man**. **Gainsville** is owned by the **Trustees of Technicolor (No. 2) Trust**, the family trust of **Alister Bowes** and family of the **UK**.

### **Joint venture between Huttons and Best**

### **Corporation to own 595 ha. land**

**Huttons NZ Ltd**, a subsidiary of **Brierley Investments Ltd** of **Malaysia**, and **Best Corporation Ltd**, a subsidiary of **Danone Asia Pte Ltd (DAPL)** of **Singapore**, are forming a 70/30 joint venture company, **Food Solutions Group Ltd (FSL)** which will own the assets of the two companies, including a total of **595 hectares** of farm land. The value of the transaction is put at **\$95,000,000**. The land involved is:

- \* 31 hectares at **Tasman Park, Frost Road, Tuakau, Auckland**;
  - \* 143 hectares at **Maramarua, Monument Road, Pokeno, Auckland**;
  - \* five hectares at **Springfield, Prestige Road, Katikati, Bay of Plenty**;
  - \* 19 hectares at **Burnalan, Main South Road, Burnham, Canterbury**; and
  - \* 397 hectares at **Bardfield, Mitchells Road, RD13, Pakai, Canterbury**.
- "DAPL sees the merger as presenting the opportunity to consolidate its food production activities in New Zealand with another food group which it considers complementary to its own. FSL has been established for the purposes of manufacturing and wholesaling pig foods, smallgoods and convenience foods for sale within New Zealand."

FSL will have 22% of the bacon, ham and small-goods market. It will have 40% of the bar-coded supermarket bacon products market. Best's brands include **Top Hat** bacon, ham, small goods, and frozen convenience foods, and **Milano salami**. **Huttons** (which contributes the pig breeding and pig farming operations) manufactures and markets the **Huttons, Kiwi, Tenderkist** and **Brooks** brands of bacon, ham, smallgoods and salami. Total sales will be about \$170 million, employing 700 staff (*Press*, 13/9/97, "Best, Huttons to merge", p.29).

### **Swedish company buys two farms near Tauranga for animal serum**

**HyClone AB**, a subsidiary of **Perstop AB** of **Sweden**, has approval to acquire two farms totalling **78 hectares** in the **Bay of Plenty** from **Selborne Biological Services (NZ) Ltd**, a subsidiary of **Equalbrief Ltd** of the **U.K.** **Selborne** has been carrying out cell culture manufacturing, which the Swedish company will continue:

"[HyClone] is recognised as a world leader with 25 years experience in the area of animal serum collection and processing. ... the introduction of HyClone to New Zealand will guarantee the future viability of the Selborne cell culture manufacturing operation and the retention of existing employment within the operation. The applicants propose to provide an increase in employment opportunities



within the area through the expansion of the operation and intend to develop export markets particularly to the North American region."

The two farms are the **25 hectare Omokoroa Farm**, 15 kilometres from **Tauranga**, and the **54 hectare leasehold Waitao Farm**, 25 kilometres from **Omokoroa Farm**, near **Welcome Bay, Tauranga**.

The total price is not given because

"the acquisition of the Omokoroa Farm and the assignment of the lease for the Waitao Farm formed part of an acquisition involving a number of other assets and no breakdown of the total purchase price is available in respect of the values attributable to such land and lease. The current market valuation of the Omokoroa Farm is \$1,700,000 and the current value of the assignment of the lessee's interest in the lease of the Waitao Farm is \$1,000.00."

### ***Southern Pacific Hotel Corporation takes DB's 10% of Premier Hotels***

The **Southern Pacific Hotel Corporation Ltd** of the **USA** gained approval to acquire the **10% of Premier Hotels Christchurch Ltd** for an initially suppressed amount. The amount was released on appeal in February 1998: **\$6,414,000**. This takes **Southern Pacific's** shareholding to **25%**. The other shareholders in Premier Hotels (which owns the **Christchurch Parkroyal**) are **Daikyo Inc** of **Japan (55%)**, **Prudential Assurance Co. Ltd** of the **U.K. (10%)**, and **Fletcher Resorts Ltd (10%)**. Southern Pacific "was instrumental in putting together the development syndicate in 1986 and has managed the hotel since it was opened".

Southern Pacific is owned by **Hale International Ltd**, which is part of the empire of the **Pritzker** family of **Chicago**. It includes properties in Asia, Australia and New Zealand in its management portfolio and in July 1997 was the subject of a takeover attempt by **Accor Asia/Pacific Corporation**, which owns the **Novotel Hotel** in Wellington, **Novotel Auckland** and **Holiday Inn Queenstown**. **Accor Asia/Pacific** is the largest hotel company in the **Asia/Pacific** region with 135 hotels and 25,000 rooms in 15 countries (*TravelAsia Online*, "Accor to take second bite at SPHC", by Ian Jarrett, 25/7/97, [http://www.travel-asia.com/07\\_25\\_97/stories/accor.htm](http://www.travel-asia.com/07_25_97/stories/accor.htm)).

The Pritzkers are one of the richest families in the U.S.A. The two most prominent members of the family are Jay Arthur and Robert Alan Pritzker who tied for 14th place in the **Forbes 400 Richest People in America** in October 1997. Each was worth about \$6 billion.

Jay Arthur Pritzker is head of the holding company **H Group Holding**, ranked number 218 of the *Forbes 500*

**Largest Private Companies in 1996**. "H Group Holding is the Pritzker family's holding company that includes management of domestic and international **Hyatt Hotels**, **Conwood** (smokeless tobacco) and **Classic Residence** (senior living communities)." In 1996 it had an estimated **US\$869 million** in revenue, **US\$90 million** in net profit, and **70,000 employees**. In February 1997 **Hyatt** announced that it would spend **US\$1 billion** over the next three years to acquire 20 to 30 more hotels (*Reuter*, 25/2/97, <http://www.inman.com/news/9702/970225cr.htm>).

**Robert Alan Pritzker** is the head of the **Marmon Group**, ranked number 20 in *Forbes Top 500 Private Companies* in 1996. "The **Marmon Group** is a worldwide affiliation of 60 independent manufacturing and service companies. The **Marmon Group** originated in 1953 with the acquisition of the **Colson Co.**, an \$11 million (sales) manufacturer of casters, bicycles and hospital equipment. Today the **Marmon Group** has over 400 facilities in 30 countries. Member companies include **Cerro Copper Products Co.**; **EcoWater Systems, Inc.**; **Union Tank Car Co.**; **Marmon/Keystone Corp.**; and **Trans Union Corp.** **Marmon** member companies make agricultural, industrial and medical equipment, auto parts, building materials, consumer products, mining and railroad equipment, and water treatment products. Other member companies are involved in marketing, finance and information services. The **Marmon Group** is controlled by the Pritzker family." It had revenue of **US\$6,083 million**, net profit of **US\$307 million**, and **30,000 employees** that year.

While the two Pritzkers have made a name for themselves in philanthropy - Jay and Robert Pritzker were ranked among the top 25 billionaire philanthropists by *Fortune Magazine* (13/1/97), giving **US\$70 million** in 1996, including **US\$60 million** to the **Illinois Institute of Technology** - there is another side to the family. According to the *New York Times News Service* ("In Peru, The Stench of Progress", by Calvin Sims, 12/12/95, <http://www.latino.com/news/peru1212.html>), **Marmon** owns 20.7% of **Southern Peru Copper Corporation** (**Asarco Incorporated** of **New York** owns 63.1% and **Phelps Dodge Corporation** of **Phoenix** owns 16.2%). At **Ilo, Peru**, 580 miles south of **Lima**, **Southern Peru Copper**, environmentalists say, "spews 2,000 tons of sulphur dioxide into the air each day, or 10 to 15 times the limit for similar plants operating in the United States".

"At times, the smoke from the smelter is so thick that it hovers over the city like a heavy fog, forcing motorists to turn on their headlights during the day and sending residents to hospitals and clinics coughing, wheezing, and vomiting. On those days, children are told to play indoors."

**Southern Peru Copper** denies that a health problem exists, so residents have

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“filed a lawsuit against the company, its owners and its creditors in a Texas court, seeking damages for what they say are decades of environmental harm. Residents said that previous suits filed in Peru were dismissed or are stalled in the courts.”

The Pritzkers are not backward in getting involved in politics either. J. B. Pritzker is using his family's wealth and connections to seek the Democrat nomination for a suburban Chicago congressional seat. The family has made sizeable contributions to other state and national candidates (*Christian Science Monitor*, 7/8/97, “Golden Age for the Millionaire Politician”, by Sam Walker, <http://www.csmonitor.com/durable/1997/08/07/us/us.1.html>; Public Access News, <http://members.aol.com/paccess594/pan11126.htm>).

### **Retrospective nod to ANZAC frigate contractor for land by Whangarei wharves**

Retrospective approval has been given to Romap Pty Ltd, owned by the Salteri family of Australia, to acquire the remaining 50% share in **four hectares** of land “adjoining the foreshore in the industrial wharf areas of the Port of Whangarei”. It purchased it for **\$5 million**, from Exben Pty Ltd of Australia, which with Romap “together owned a **50%** beneficial interest in the land. Due to a restructuring of their previously combined operations, the applicant acquired a 100 percent beneficial interest in the land”. Romap “carries on a ship building and defence engineering business in Australia and in New Zealand” and “the land is used, and will continue to be used, for the fabrication of ANZAC class frigate components”.

### **CablePrice (Hitachi) of Japan acquires Auckland land for sales office**

CablePrice (NZ) Ltd, a subsidiary of Hitachi Construction Machinery Co. Ltd, part of the Hitachi Group of Japan, has approval to acquire **1.1 hectares** of land at Mt Wellington, Auckland for **\$1,250,000** from King and Mawkes Ltd. CablePrice distributes trucks, buses and earthmoving equipment, with head office in Gracefield, Lower Hutt. The land will be used for “an integrated facility for the sale and servicing of construction equipment, trucks and buses. The facility will comprise a workshop, sales and office buildings”. CablePrice was part of Skellerups, but was sold to Hitachi in May 1996, after Skellerups was sold by Brierley Investments to Skellerup management and Goldman Sachs.

### **General Electric of the USA buys out Weck-Pack Hire**

General Electric Capital Corporation, a subsidiary of General Electric Corporation of the USA, received

approval to acquire the business assets and undertakings of **Weck-Pack Hire Ltd**, a building equipment and pallet hire firm, for an initially suppressed amount. That amount was released on appeal in February 1998 as “approximately **\$10,000,000**”. “General Electric intends to invest in technology which will expand the capabilities of Weck-Pack's existing business”.

### **Macraes buys more land for mining at Macraes township, Otago**

In a decision originally almost totally suppressed and released only on appeal to the OIC in February 1998, **Macraes Mining Company Ltd**, approximately **39%** owned by **Union Gold Mining NL** of **Australia**, has approval for the acquisition of “approximately **0.0455 hectares**” of land at Macraes township, Otago for **\$80,000**. Given the highly controversial activities of the company among members of the Macraes community, crocodile tears must be shed:

“The maintenance of the social fabric at Macraes Flat is of concern to Macraes. The residential land being acquired will assist Macraes to house staff and contractors involved with the Macraes Gold Project.”

Macraes consistently requests the OIC to suppress decisions concerning it.

### **Land for forestry**

\* **Rayonier New Zealand Ltd**, a subsidiary of **Rayonier Inc.** of the **USA**, has approval to acquire cutting rights to **121 hectares** of land in **Mt Tiger Road, Owhiwa, Whangarei, Northland** from the **Whangarei District Council** for a suppressed amount. “Rayonier wish to acquire the forestry right for a term of five years ... in order to protect its rights to the timber on the land, which it has agreed to purchase and cut”.

\* **Evergreen Forests Ltd** is righting a blunder: it planted some trees on a neighbour's land. The neighbours have granted it rights to the land: a ten year forestry right over **0.75 hectares** and a 20 year forestry right over **4.9 hectares**, both known as “**Pouto**” and on the **North Kaipara Head**, north of **Auckland**. In exchange, Evergreen is selling them **64.5 hectares** of land. Evergreen is approximately **46%** owned by **Xylem Fund I LP** of the **USA**. Xylem is a limited partnership which invests on behalf of the **Public Employees Retirement Systems of Ohio**.

\* **Hikurangi Forest Farms Ltd**, owned by **Glenealy Plantations (Malaya) Berhad** of **Malaysia** has approval to acquire a further **420 hectares** of land adjoining its **Waimanu Forest**, for **\$410,000**. It is **Weka Station**, in the **Waimata District, Gisborne, East Coast**, and will be developed for afforestation and incorporated into the larger forestry operation. Glenealy bought Hikurangi Forest Farms from Fletcher Challenge Forests Ltd for \$210 million in December 1996 when Fletchers sold it to raise money for its Forestry Corporation purchase. The “East Coast Forest Estate” owned by Hikurangi

consists of approximately 33,259 hectares made up of 29,974 hectares of freehold land, 2,226 hectares of forestry/cutting rights, and 1,060 hectares of leasehold land.

\* **Trustwood Forests (Kiteroa) Ltd** is selling off further interests in its forest, this time a half share in **276 hectares** in the **Gisborne** district, to **Vashon Forestry Group Ltd**, owned by two citizens of the **USA**, for **\$389,293**. The afforestation is the beneficiary of a government subsidy.

"The acquisition represents the introduction of additional investment to the intensive afforestation programme currently undertaken by Trustwood, as part of a Government subsidy scheme, in the East Cape Region. ... Trustwood wish to sell a half interest in the property in order to assist in reducing a substantial indebtedness owed by the company by way of a first mortgagee over the property."

Trustwood's forestry programme now includes an area of over 1,100 hectares. We last reported Trustwood's activities in December 1996 when it sold a half interest in 249 hectares of a total of the 1,450 hectares it then owned to a resident of the USA. In September 1996 it sold a half interest in 555 hectares to three residents of Belgium.

\* **Carter Holt Harvey Ltd**, approximately **51%** owned by **International Paper Products** of the **USA**, has approval to acquire "approximately **6.1 hectares**" of land in **Pearse Valley Road, Nelson** for **\$11,696**. The purchase is part of a "tidying up" of boundaries which includes Carter Holt selling approximately **8.9 hectares** back to the vendors.

### **Other rural land sales**

\* **DB Group Ltd**, through its subsidiary **Corbans Wines Ltd**, has approval to acquire "approximately **30 hectares**" of land at **717 Puketitiri Road, Napier, Hawkes Bay** for **\$1,700,000**. The land "which is currently **72%** planted in vines, will be further developed in order to provide Corban's with a supply of grapes for its wine business and specifically for the purpose of expanding its markets both domestically and internationally". DB is "approximately **58.39%**" owned by **Asia Pacific Breweries Ltd** of **Singapore**, which itself is owned **80%** by **Heineken NV** of the **Netherlands** and **Fraser, Neave Ltd** of **Singapore**.

\* Two citizens of the **USA** have approval to acquire land in **Golden Bay, Nelson** to set up an "alternative medical treatment centre" for the wealthy, to be used in conjunction with their existing business in Florida, USA. **Windhorse Enterprises Inc**, owned by **Dr Bruce R. Dooley** and **Mrs Marguerite J. Scheffer-Dooley**, have approval to acquire ten hectares of land near **Puramahoi, Golden Bay**, 14 kms north west of **Takaka, Tasman District** for **\$450,000**.

"... Windhorse was established in 1989, as a

vehicle for the establishment of alternative medical treatment centres in South Florida USA. It is stated Windhorse now operates three treatment centres in South Florida, two in Naples and one in Fort Lauderdale. It is stated these centres provide not only stress treatment, but 'treat the whole person with natural, restorative, therapies, including the area of mind-body health'... The applicants wish to acquire the property for the purpose of establishing a 'medical retreat' facility to be used in conjunction with their existing businesses located within the State of Florida USA. It is proposed to cater for up to twenty persons at the retreat. The proposal ... has the potential to act as a catalyst for further investment, by drawing the attention of wealthy overseas visitors to other investment opportunities within New Zealand."

**Tasman Agriculture Ltd**, **54%** owned by **Brierley Investments Ltd**, has approval to acquire **17 hectares** of land on the **Chertsey Kyle Road, Pendarves, Ashburton, Canterbury**, from **Oceanside Marine Farms Ltd** for **\$69,664**. The land adjoins a **359 hectare** block already owned by Tasman and will be converted from cattle grazing to dairying. According to the OIC, Tasman now owns "69 dairy units comprising approximately 14,189 hectares, in the South Island of New Zealand, 13 dairy units in Circular Head, North West Tasmania and an 87.5% shareholding in The Van Diemen's Land Company, which operates a further 10 dairy units in the North West of Tasmania." It specialises in conversion of properties from sheep and beef to dairying.

### **November 1997 decisions**

#### **Rabobank buys Wrightson Farmers Finance**

**Cooperatieve Centrale Falffeisen Boerenleenbank BA, aka Rabobank**, "a major banking cooperative based in the **Netherlands**" has approval to acquire **Wrightson Farmers Finance Ltd**, a subsidiary of **Wrightson Ltd** for a suppressed price. NZPA reports a price of "about \$100 million" (*Press*, 4/2/98, "Wrightson warning", p.27). "The Commission is further advised the approval of the transaction will result in a competitive financial service to the farming sector of New Zealand".

Rabobank is said to be the world's largest agricultural bank with assets of \$300 billion, although only \$200 million (about 3% of the market) in Aotearoa. Wrightson Finance is actually bigger than Rabobank in Aotearoa: it had assets of over \$544 million at the end of June 1997 (*Press*, 19/11/97, "Delay in Wrightson Rabobank alliance", p.28). It will be called Rabo Wrightson Finance. It was the most profitable part of Wrightson, but Wrightson hoped to benefit by retaining the client relationship (charging referral and commission fees for introducing clients to Rabo), and using the proceeds of

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*(OIC Decisions: Continued from Page 43)*

the sale in a special dividend and to buy back up to \$50 million shares (*Press*, 19/11/97, "Delay in Wrightson Rabobank alliance", p.28; 29/11/97, "Rabobank deal 'could put Wrightson at risk'", p.30; 23/12/97, "\$50m buy-back for Wrightson", p.20).

### **Approval for Utilicorp and Mercury to take more of Power NZ and WEL Energy**

In an approval that is being challenged in court, a joint venture (identified just as "**Holdco**") between **Utilicorp NZ Inc** and **Mercury Energy Ltd** has approval to acquire up to **100%** of **Auckland** electricity company **Power New Zealand Ltd (PNZ)**, and up to **51.18%** of Waikato electricity supplier, **WEL Energy Group Ltd**.

In the case of PNZ, the price is **\$93,238,554** for **63.8%**, and **138 hectares** of land is included. Mercury and PNZ are "the two major suppliers of electricity to the greater Auckland region". The companies tell the OIC

"that the major benefits of the proposal are the substantial synergy gains arising from the close relationship between Mercury and PNZ (the two major suppliers of electricity to the greater Auckland region), which have been estimated at between \$20 to \$30 million annually. The applicant states that the vast majority of these gains will accrue to New Zealand citizens through:

- (a) the flow on effect to electricity consumers in the areas served by Mercury, PNZ and Bay of Plenty Electricity;
- (b) benefits to the shareholders of PNZ (Mercury which is 100% owned by the consumers of electricity in Auckland and Utilicorp which is 21% owned by New Zealand interests); and
- (c) benefits to the shareholders of Mercury, that is the electricity consumers in Auckland.

The Commission is also advised that the proposal will create a significant combined buyer of electricity and an entity with access to the economies of scale needed to invest in major generation and transmission projects, providing competition for the two state owned enterprises which control electricity generation and transmission in New Zealand (ECNZ and Contact)".

In the case of WEL, the payment is by way of Holdco shares since the WEL shares are coming from Mercury and Utilicorp themselves. Utilicorp and Mercury together own 41.42% of WEL's shares. If Holdco takes over PNZ as approved, it will also acquire the 9.76% of WEL that PNZ owns. The total 51.18% would be held either by Holdco or by PNZ. No valuation of the acquisition is given. No land is subject to the OIC's approval.

The proposed deals have a number of people in Auckland and Waikato incensed. As we reported in the context of the July 1997 decisions, the Utilicorp/Mercury takeover of PNZ was bitterly fought by minority shareholders and the directors ousted by the new owners. They were described as "Australian crocodiles and American alligators."

The takeover was also vehemently opposed by the WEL Energy Trust, a community trust which owns 43% of WEL Energy. They are threatening two court actions. First, they are challenging the OIC's approval of the present two decisions. Second, they are challenging the right of Holdco to own PNZ. The basis for this challenge is that Utilicorp made a "cornerstone shareholding" agreement with PNZ in 1994. This agreement allows the directors of PNZ to veto any sale of Utilicorp's 30% shareholding in PNZ. The Holdco proposal would sell the 30% to Holdco and hence breach the agreement. PNZ's two independent directors must decide whether the deal can go ahead, but WEL Energy Trust has in the meantime asked for a court ruling on whether Utilicorp has the right to put its PNZ shares into Holdco.

The Trust's interest is that Mercury and Utilicorp would control WEL Energy through their 51.18% shareholding if the Holdco transactions are allowed to proceed. They have made it clear they want to build a large electricity distribution company for the whole central North Island, based on WEL. The Trust wants to keep their company under local control, and have put their money where their mouth is, to the extent of offering PNZ \$30 million for its 9.76% stake in WEL Energy. That is more than 50% over current market value (\$17.50 per share against \$12.80). They reckon the value is justified by what they can do if they have full control, including selling the company's 8% stake in PNZ. That puts further pressure on the PNZ independent directors to reject the Holdco deal.

*New Zealand Herald* business journalist, Mark Reynolds, suggested that "maybe the only way to break the circuit is for Utilicorp to cash in its chips". Meanwhile the OIC issues approvals regardless.

(*New Zealand Herald*, 3/2/98, "Legal hitch may cut Power NZ free of Holdco", and "WEL Trust adopts powerful stance", by Mark Reynolds, p.D1).

### **Murdoch buys TVNZ's acclaimed Natural History Unit**

**Fox Television Studios Inc** (commonly known as Twentieth Century Fox), ultimately owned by Rupert Murdoch's **The News Corporation Ltd** (via **Fox Inc**) of **Australia**, has approval to acquire the internationally recognised **natural history** division of **Television New Zealand Ltd**. The company was formed into a company, **Natural History Ltd** for privatisation. It was sold for "initially approximately \$12,000,000 for 80%".

"The Commission is advised Fox has gone through a competitive bidding process to acquire the shares in NHL and has been approved by TVNZ as the preferred bidder. It is stated Fox views the proposed acquisition as an investment opportunity consistent with its business activities. In addition, Fox states it intends to add value to the business of NHL by developing the programme library, and providing added distribution opportunities throughout the broadcasting sector utilising Fox's existing distribution agreements."

In other words, it will be a valuable source of footage for Murdoch's huge television empire.

According to Fox's international television president, Mark Kaner, "the Natural History team had been lauded and admired around the world for its commitment to excellence. Natural History is the third largest producer of natural history programmes in the world".

TVNZ is retaining the remaining 20% with guaranteed access to the unit's productions in the future (*Press*, 4/12/97, "TVNZ Natural History sold to Fox", p.9).

### ***Bridgestone takes remaining 17% of Firestone NZ for \$11 million***

**Bridgestone/Firestone Inc**, itself owned by **Bridgestone Corporation** of Japan has approval to take over the remaining 16.67% of **Firestone NZ Ltd** that it does not already own, for \$11,243,735. Firestone is one of only two remaining tyre manufacturers in **Aotearoa**. The other is run by **Pacific Dunlop** in

conjunction with **Goodyear**. Firestone's factory is on **12 hectares** of land in **Langdons Road, Papanui, Christchurch**, and was noted in the OIC decision because of the land area. However its headquarters are in Auckland.

Firestone employs 730 staff in the country, and is fighting hard to remain viable against imported tyres, the high New Zealand dollar, and the (not so) slow death of car assembly in Aotearoa. The factory employs only 150 - down from a peak of 450 in the 1980s and early 1990s. It was established in 1948 for strategic reasons, after shortages during WWII. It continued under the protection of import licensing. Firestone was then US owned, but taken over by Bridgestone of Japan in 1988. Long industrial disputes took place in the 1970s and 80s over pay, working conditions, and new work practices being imposed.

A new managing director was brought in from a Bridgestone/Firestone Florida subsidiary, **Webco Tire and Wheel Company**, in 1996. The Christchurch factory went to 24 hour seven-day shifts in 1997. Firestone management won the new shifts after using the threat of competition from overseas plants and closure of the factory (it closed a small retreading plant in Nelson in February 1997 with the loss of five jobs). Workers were forced to take substantial pay cuts, longer working days (12 hour shifts) and weekend shifts. Workers not willing to take the package were offered a "resignation benefit"; about 50 staff took this. Firestone subsequently recruited a further 80 staff. The company saved 20% of its annual labour costs (*Press*, 20/6/96, "Firestone strong - Millar", p.38; 5/2/97, "Retreading plant closes in Nelson", p.4; 29/3/97, "Union fears effects of Firestone plan", p.4;



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14/5/97, "Firestone to go non-stop", p.31).

Although the OIC states that the "transaction has been brought about by the three largest institutional shareholders wishing to divest their existing shareholding", it was in fact due to the parent company making an offer of 475 cents per share for the minority shares. The three institutional shareholders mentioned were National Mutual Funds Management NZ, Guinness Peat Group New Zealand, and New Zealand Funds Management. Ron Brierley's Guinness Peat had bought its shares only a few weeks before the offer, and reportedly had nudged Firestone into proposing it, acknowledging a "reasonable return" on the deal. The buyout price compared to 400 cents just before the sale, and a valuation of 364 to 420 cents by transnational accounting firm Arthur Anderson (*Press*, 10/10/97, "Firestone in minority bid", p.17; 11/10/97, "Firestone independent valuation below bid", p.43).

### ***Murray International takes controlling interest in Pacific Retail***

**Murray International Holdings (NZ) Ltd**, owned in the **UK**, has approval to take a further **22.95%** of the **Pacific Retail Group Ltd** for **\$10,996,142**. It previously had **37.05%** so the new purchase gives it control of the Group. **Murray International Holdings (NZ) Ltd** is a subsidiary of **Murray Group Management Ltd**, which in turn is a subsidiary of **Murray International Holdings Ltd**, incorporated in **Scotland**. Of the **22.95%**, **21.03%** came from a subsidiary of **Lion City Holdings of Singapore, Rosebury Holdings Ltd**. It is not clear where the remaining **1.92%** came from.

Pacific Retail was formed from the amalgamation of **Noel Leeming Ltd** and **Bond and Bond Ltd** in 1996. We reported in June that year that

"**Murray International (NZ) Ltd** of **Scotland, UK** has approval to buy up to **41%** of **Noel Leeming Ltd**, the national whitegoods, brown goods and electronic consumer goods retailer. Murray International is exchanging its shares in **Bond and Bond** for **17,581,000** Noel Leeming shares valued at **97.257 cents** per share, putting the value of the transaction at **\$17,098,753**."

In June 1995, we reported that Noel Leeming became Singapore controlled by the purchase of about 38% of its shares by Lion City Holdings Pte Ltd, a private company controlled by the Jumabhoy family. Lion City had approval to buy 100%."

The Jumabhoy's became disillusioned with their investment and tried to sell out a number of times. The sale price, at 116 cents a share, represents a considerable loss on the 150 cents they paid for their

Noel Leeming shares.

Murray International also owns steel interests, the Glasgow Rangers Football Club, Carnegie Sports International NZ, and property in the UK (*Press*, 2/12/97, "Murray International takes control of Pacific Retail", p.29).

### ***NFO Worldwide of the USA buys rest of CM Research Group for \$16 million***

**NFO Worldwide Inc** of **Delaware, USA**, has approval to acquire the shares in the **CM Research Group** it doesn't already hold, for **\$16,124,000**. The group consists of three companies:

\* **CM Research Group Ltd**, previously owned by **C. Bourke, D. Bourke, J. Hall, and S. Hall** "and their respective trusts";

\* **CM Research New Zealand Ltd**, whose minority (14%) shareholders are **M. Campbell, M. Forgie, V. Green, and D. McPherson**; and

\* **Fact Finders On-line Ltd**, whose minority (10%) shareholder is **Irvine Cooper**.

NFO Worldwide Inc was until September 1997 NFO Research Inc. It changed to "Worldwide" to "reflect its broadened global reach and the scope of its expanding service offerings". It first made a public share offering in 1993, since when it has grown to a marketing information business with 4,400 employees in 21 countries, and almost four times the revenue. Almost 30% of NFO's revenues come from international operations. Its modest self-description reads:

"NFO Worldwide, Inc. is a leading provider of custom and syndicated marketing to America's largest companies as well as the international business community. Through its pre-recruited consumer panel and other specialized databases, NFO offers access to more than 525,000 US households (over 1.3 million people) and, through a joint venture, to over 100,000 European households. The Company provides its services to over 2,000 clients in key market segments such as packaged goods and foods, healthcare, financial services, hi-tech/telecommunications and travel & leisure."

(Ref: press release, <http://www.nfor.com/newsdoc/pr/pr091897a.html>, "NFO Research, Inc. announces new name, new management structure and 3-for-2 stock split", 18/9/97).

According to *Forbes* magazine in 1997, (<http://www.forbes.com/tool/toolbox/200best/1997/1878.htm>), NFO had a market value of US\$384 million, and net income of US\$9.9 million and sales of US\$124 million in the latest year.

### ***New TV operator, Prime Television of***

## **Australia, starts up**

**Prime Television New Zealand Ltd**, owned by **Prime Television Ltd** of **Australia**, has approval to start up in Aotearoa, with set up costs "likely to exceed \$10,000,000". No total value is given but the OIC states that Prime has "invested \$4,100,000 to date for the purchase of UHF licences required under the Radiocommunications Act 1989".

"... Prime Television Limited's principal business activity is the provision of regional television services throughout Australia. ... Prime Television New Zealand Limited intends to establish a free to air television service commencing in the second half of 1998."

Prime is developing a new Auckland facility for about \$A10 million (\$11.23 million) and has bought 34 UHF licences covering about 89% of Aotearoa for \$4.19 million. It aims to broadcast into "five of the largest markets in New Zealand". It has also agreed to buy the assets of the Argentinian television network, Channel Nine, though will run it as a joint venture or sell some of the assets (*Press*, 26/11/97, "Prime TV to air from 1998", p.29).

## **Kiwi Income buys central Auckland property for \$17.5m for \$144m development**

**Kiwi Development Trust**, established to acquire the shares in **Fort Street Properties Ltd**, has approval to acquire the company from **Kiwi Income Property Trust (KIPT)** for \$17,500,000 According to the OIC, Fort Street Properties owns

"0.4230 hectares of land, situated on adjacent blocks, with street frontages on both Shortland Street and Fort Street, in the heart of the **Auckland CBD**. The Commission is advised it is intended to develop a level office tower complex for commercial leasing. It is stated the investment capital estimated at approximately \$144,000,000 required for the development/construction of the office complex will be sourced utilising funds derived from the issue of units in the Trust."

Kiwi Development Trust is being established by a trust deed between **KDT Management Ltd** (as manager) and **The New Zealand Guardian Trust Management Ltd** (as trustee). The OIC has approved units in it being sold to "persons who may be 'overseas persons'" for \$144,000,000. Apparently without knowing who these "persons" are, it states (as with every approval) that "the persons who exercise control over the Trust are of good character and not the kind of persons referred to in section 7(1) of the Immigration Act 1987."

According to OIC in an August 1997 decision, Kiwi Income Property Ltd is 50% owned by **FCMI**, a public company of **Canada**, and 50% owned by residents of

Aotearoa. **Kiwi Income Property Trust** is a "New Zealand listed unit trust" which is "approximately 70 to 75% owned by New Zealand residents".

A 38 level, 170 metre tower (the tallest in Auckland other than the Sky Tower), to be called the Royal Sun Alliance Centre, will be built on the property, completion due in 2001. Law firm Russell McVeagh McKenzie Bartleet and Co would also be tenants. Of the \$144 million, \$57 million was originally reserved for institutional investors, KIPT unit holders would be offered rights, and Kiwi Income Property Trust was to have been given 5% in exchange for the land. Debt of \$51 million would finance the remainder of the cost of the tower. In the event, KIPT raised its holding to 17.3% because the offer of the units was undersubscribed by 23.8%, possibly affected by the Asian economic crisis. However the undersubscription was mainly because unit-holders in KIPT did not take up their full entitlements.

Kiwi Development Trust was created by KIPT because the development was considered higher risk than projects KIPT normally targets. However it has an option to buy the new Trust after the building is finished.

(*Press*, 4/10/97, "Kiwi Income in tower float", p.31; 5/11/97, "Kiwi Income Property revives \$144m float", p.29; 12/11/97, "Kiwi Income has tower option", p.37; 22/1/98, "Kiwi Income ups stake", p.31.)

## **Land for forestry**

\* **Rayonier Northland Ltd**, a subsidiary of **Rayonier Inc** of the **USA** has approval to acquire a 25% interest in "approximately" 1,668 hectares of land in Northland and the forestry assets and trees on the land. The interest is being purchased from **Rii Marlborough Ltd**, also owned (by pension funds and educational institutions) in the **USA**, with which Rayonier is forming a 25/75 "unincorporated joint venture". The price is suppressed.

\* **Carter Holt Harvey Ltd**, which is approximately 51% owned by **International Papers** of the **USA**, has approval to acquire "approximately" 33 hectares of land in **Kaihu, Northland** from **D.D.** and **M. Stewart** for \$80,500 for forestry planting.

"...the property being acquired is the steeper part of the vendors' land which has reverted in part into gorse. The vendors are contemporaneously acquiring approximately 14.7 hectares (subject to survey) from CHH which is more suitable for agricultural purposes."

\* Three shareholders of **Agroforestry Development (NZ) Ltd** are buying out the fourth, **Mr W.C.S. Chua**, for \$450,000. They are all resident in **Singapore**. **Mr K.G. Lee** is raising his shareholding from 30% to 42.93%; **Mr W.K. Chan** from 20% to 28.53%; and **Mr C.C. Sim** from 20% to 28.53%. The company operates a forestry nursery on 95 hectares of land in **Maungatautari Road, Cambridge, South Auckland**.

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In July 1997 we reported that Agroforestry sold its remaining 25% share of Mangamuka Forest to Fortknox Investments Ltd, which is owned by the Government of Foshan City, Guang Dong, China, for \$1,050,000. Inconsistently with the report of the present transaction, in April 1994, Agroforestry Development (NZ) Ltd had sold 75% of its shares to Fortknox for \$5,855,000. Before the transaction, Agroforestry, and its subsidiary Sweetwater Nurseries (NZ) Ltd, transferred two pieces of rural land they owned to Cambridge Nursery Ltd, set up for the purpose and owned by Messrs W.C.S. Chua and K. G. Lee of Singapore, the former owners of Agroforestry. One of the pieces of land was the present 95 hectare block, for \$1,500,000. This block was formerly Crown land being sold "in terms of the Government's policy to sell non-forest properties which are surplus to requirements", purchased for \$925,000. Agroforestry said it intended to use it for growing "chestnut products", paulownia (tree crop) for timber, and herbs, all for export.

\* **Rayonier New Zealand Ltd**, another subsidiary of **Rayonier Inc** of the **USA**, has approval to acquire forestry rights over two blocks of land. In both cases the price has been suppressed:

- \* a seven year forestry cutting right over "approximately" **586 hectares** of land in the **Waro Survey District, Taranaki** and owned by **Waitaanga Forests Ltd**;
- \* rights over **1,519 hectares** of **Maori** land which are parts of the **Waiorongomai Block, (Raukumara and Mangaoporo Survey Districts) Gisborne**, owned by a **Maori Incorporation** and which "has primarily been used for grazing".

**Blakely Pacific Ltd (BPL)** of the **USA** has approval (as trustee of the **South Blakely Trust**) to acquire **1,176 hectares** of land at **Fletts Bridge Road, Milton, Otago** from **J. H. Flett Ltd**, for a suppressed amount. "The property is presently utilised for pastoral activities with approximately 106 hectares of the property being planted in Radiata pine/Douglas fir. The vendors wish to sell the property and retire from farming. BPL propose to convert the property into a viable commercial forestry plantation, primarily Douglas fir". In September 1996 Blakely acquired 1,849 hectares in Otago for forestry. They also have over 6,500 hectares in the North Island.

## **December 1997 decisions**

### **Man, Mackay and CSR join forces in sugar refining**

**E. D. and F. Man New Zealand Ltd** (a subsidiary of **E. D. and F. Man Group Ltd** of the **UK**) and **Mackay Sugar Co-operative Association Ltd** each have approval to acquire **25%** of **Chelsea Investments Limited**, which is owned by **CSR Ltd** of **Australia**. Chelsea Investments owns the **Chelsea Sugar Refinery in Chelsea Bay, Birkenhead, Auckland**, which includes

a lease over approximately **48 hectares** of land.

In August 1992 we reported that a joint venture between Man and Mackay, later to be called Mackay Refined Sugar (MRS), was setting up in competition to the Chelsea Sugar Refinery, with the intention of importing sugar. NZPA reported that advising the new entrant was Sir Roger Douglas (along with his former press secretary and business associate, Bevan Burgess) who had deregulated the sugar market in 1986. In the event not much happened until 1994, when Mckay and Man completed their new refinery in Mackay, central Queensland. War between MRS and New Zealand Sugar (CSR's local subsidiary) was declared, focusing on large commercial sugar users such as confectionary, soft drink and beer manufacturers. At risk were the jobs of 200 employees at the Chelsea Sugar Refinery - already reduced from 240 in redundancies by CSR. MRS set up a \$1.6 million sugar warehouse at the port of Timaru and planned similar facilities elsewhere, saying it would use a purpose built 20,000 tonne sugar carrier to bring the refined sugar from Australia.

By the end of 1994, MRS was claiming more than \$A50 million (\$NZ60.75 million) against CSR for damages sustained in Australia and Aotearoa, alleging that CSR took "advantage of its substantial power in the refined sugar markets in order to prevent MRS entering those markets". It claimed CSR had deliberately forward sold sugar below cost. In Aotearoa, however, the Commerce Commission found no evidence of predatory pricing, despite CSR's 85% share of the sugar market, and it was not until this finding in March 1996 that MRS considered court action here. "When we entered the market in 1994 we found New Zealand Sugar was quick to extend unusually long contracts to large multi-national users at surprisingly low prices," its chief executive, James Proudlock, said. By that stage, MRS had put plans for a storage silo near the Port of Tauranga on hold, and had made only two voyages to Aotearoa of its bulk carrier. CSR had cut its refinery staff further, to 160, in part because it was cheaper to import some new products from Australia than produce them here. MRS started its legal action in Aotearoa in October 1996, seeking \$11.3 million.

CSR and MRS had planned a joint venture back in 1993, but were overruled by the Australian Trade Practices Commission. Now there is "an Australasian wide rationalisation" of their refining operations:

"Man and Mackay have negotiated with CSR Limited to form a new venture through which all three parties will operate together in the Australian refined sugar market. As part of the new venture it is proposed that Man NZ and Mackay are to take an interest in CIL's assets through the proposed share acquisition of 25 percent respectively of CIL."

The Commerce Commission investigated the merger after



its announcement in June 1997, and the companies signed a deed preventing Chelsea Investments and MRS from mixing assets. By March 1998, a joint venture deal had been all but settled, only requiring Commerce Commission approval. It involved MRS paying \$34 million to CSR, reflecting the value of CSR's Australasian business and a settlement of legal actions in both countries. The combined joint venture in Australia is called Sugar Australia and is owned 50% by CSR and 25% each by Man and Mackay Sugar Co-operative. It includes both CSR's and MRS's refined sugar business in Australia. A similar deal in Aotearoa has Man and MacKay Sugar Co-operative each buying 25% of CSR's refined sugar and retail pack businesses here. The joint venture represents only 15% of CSR's total sugar business.

However customers remained concerned. Cerebos Greggs, a major New Zealand Sugar customer, said that, while it might try to import its own sugar if necessary, that would not be easy, sugar being a low value, high volume commodity which requires special handling systems.

(*Press*, 13/7/94, "Trans-Tasman sugar invasion threatens Chelsea Refinery", p.29; 21/9/94, "Warehouse on schedule", p.31; 9/12/94, "Mackay's \$A50m claim confirmed", p.22; 6/3/96, "Chelsea sugar embroiled in \$68m claim", p.27; 9/10/96, "NZ Sugar Corp faces legal action", p.28; 20/9/97, "Probe into sugar merger", p.27; 24/9/97, "Concern over sugar merger", p.26; 2/3/98, "CSR to get \$34m in merger", p.27; *Independent*, 8/3/97, "Sugar price war heads into bitter court battle", p.9).

### ***Xena and Hercules change hands***

It appears that the ownership of the two TV series, ***Xena, Warrior Princess*** and ***Hercules: The Legendary Journeys*** is being split. In three related decisions, the OIC has given approval to **BNZ Investments Ltd**, **Universal Television Enterprises Inc**, and **Shooting Star Pictures Inc**, each to "acquire property being the copyright and other assets associated with" the two series. BNZ Investments is paying **US\$58,381,837**, Universal is paying **\$US65,679,567**, and Shooting Star is paying **\$US65,579,567**.

BNZ Investments, a subsidiary of the **Bank of New Zealand Ltd**, owned by **National Australia Bank Ltd** of **Australia**, is acquiring its share from Universal Television Enterprises. Universal Television Enterprises, a subsidiary of **Universal Studios Inc**, whose majority shareholder is **The Seagram Company Ltd** of the **USA**, is acquiring its share from **Screen Holdings Ltd** and **Iraklis Eleven Ltd**, both subsidiaries of the BNZ. Shooting Star Pictures Inc is owned by Richard F. Reiner, a citizen of the **USA** and is acquiring its share also from Universal Television Enterprises.

In each case it is stated that "The transactions form part of Universal's strategy to produce and distribute films

and television series both within New Zealand and worldwide". The BNZ's involvement is "to generate a return on capital, support the New Zealand film industry, and to provide further investment opportunities in the film industry". Reiner's involvement is "to facilitate and manage the investment made by BNZ Investments Limited".

### ***Rexel of France buys GEC (New Zealand) and 37% of NZ Electric Lamp***

**Rexel SA**, 70.44% owned by **Saprodia SA** of **France**, has approval to acquire **GEC (New Zealand) Ltd** from its parent, **General Electric Company Plc** of the **UK** and 37% of **New Zealand Electric Lamp Manufacturers Ltd** for "a value in excess of the book value of the relevant companies". It is not clear what the current ownership of New Zealand Electric Lamp Manufacturers is.

"Rexel state the acquisition will enable the company to expand its worldwide network into the Australasian markets... the acquisition of the GECNZ business will provide opportunities of economies of scale within the wholesale and distribution of electrical products ..."

The deal is part of an agreement to buy the activities of GEC in both Australia and Aotearoa, which together have annual sales of about \$466 million, of which \$99 million is in Aotearoa (*Press*, 10/1/98, "Rexel takes GE arms", p.23).

### ***Goodman Fielder's Bluebird Foods buys Burns Philp's NZ Food Industries***

**Bluebird Foods Ltd**, a subsidiary of **Goodman Fielder Ltd** of **Australia**, has approval to acquire **New Zealand Food Industries Ltd** from **Burns Philp and Company Ltd** of **Australia** for **\$677,089**. The acquisition includes a 0.4446 hectare property at **60-66 Kingsford Smith St, Lyall Bay, Wellington**. "The proposal represents part of the recently announced acquisition by Goodman Fielder Limited of the financially troubled Burns Philp and Company Ltd's New Zealand and Australian consumer foods business..."

The decision represents only a small part of the total deal between Goodman Fielder and Burns Philp. Goodman Fielder bought Burns Philp's consumer foods businesses in Australia and Aotearoa for \$27.38 million. In Aotearoa this constitutes Empire Foods in Wellington and Opco Foods in Auckland. Brands include Empire herbs and spices, Top Cook salad and cooking oils, Spice Islands marinades, Lavazza Italian coffee, Paul Newman's Own range of dressings, pasta sauces and salads, Cornwell's, Patak's, Song Gai, Winn's, and Chicken Easy.

The sale was forced by Burns Philp (largest shareholder, Graeme Hart of Aotearoa) failing to sell its loss making

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international herbs and spice business in September 1997, which they then proceeded to write down by \$A700 million. The company owes \$A1.3 billion to its banks and has breached its banking covenants as a result of the write-down. Its share price has crashed (*Press*, 22/10/97, "GF adds to its brands", p.30; 2/12/97, "Burns Philp sell-off", p.29).

### ***Credit Suisse buys Lucrum Holdings***

**Credit Suisse First Boston**, owned by **Credit Suisse Group of Switzerland**, has approval to acquire **Lucrum Holdings Ltd**, which is engaged in investment banking. The price has been suppressed.

At about the time of this decision, CS First Boston announced that it was buying back the 75% of sharebroking firm and investment bank, First New Zealand Capital, that it did not own. Day to day management would remain the same. Whether this is connected to the present OIC decision is not clear. First New Zealand Capital was built on Jarden and Co which CS First Boston bought in 1990. In mid 1995 it sold 75% to senior management. According to its chief executive, First New Zealand Capital had raised more than \$2.3 billion in corporate debt and advised on more than \$16 billion of mergers and acquisitions involving New Zealand companies since 1992. This advice has included a number of privatisations and related advice to government (*Press*, 17/12/97, "First NZ Capital sale", p.32).

### ***Taiwan-based Hawera Forest Owners Association buys 668 ha. land for forestry***

Members of the **Hawera Forest Owners Association**, consisting of "22 members, of which 17 are 'overseas persons'", has approval to acquire a total of **668 hectares** of land at **Morea Valley, Hawera, Taranaki** for **\$2,805,600** for forestry. In fact there are 18, not 17, decisions approving purchase of blocks of land by the members, and each "member" appears to be one to five people in each instance: a total of 47 individuals. All are domiciled in **Taiwan**. The seller of the land is in each case **New Zealand Forestry Group Ltd**, and the OIC states that

"In essence the proposal is a joint venture between overseas persons who are providing capital for development purposes and a New Zealand forestry company which is providing the necessary expertise to the forestry operation."

The New Zealand Forestry Group appears to specialise in these modus operandi: it gets small-holders (often overseas) to buy small blocks of a larger block of land it owns, and then contract it to manage the land for forestry. It is the same company that has been selling land in Paparangi, Wanganui and elsewhere. The blocks sold in this case vary between 18 and 53 hectares.

### ***Ataidar Forests (USA, Japan), takes Northern Pulp 435 ha. lease in Northland***

**Ataidar Forests Ltd**, 78% owned by a **Carter Holt Harvey Ltd** subsidiary and 22% by two **Itochu Ltd** subsidiaries, has approval to acquire the lease of **435 hectares** of land in the **Pungaru B30J2 Block, Northland** for a "nominal" consideration. The acquisition is part of the debris of the failure of **Northern Pulp Ltd**.

"It is stated on 22 February 1979 Northern Pulp Ltd (in receivership) took a lease over the land. Ataidar Forests Ltd (under its former name of Wood Exports Limited), in turn subleased the land from Northern Pulp Ltd and established a forestry operation on the property. The Commission is further advised that as a result of Northern Pulp Ltd being placed in receivership, discussions and arrangements have been made for Ataidar to take over the interest of Northern Pulp in the leasehold estate for a nominal consideration, but with Ataidar assuming all obligations imposed under the lease, including the accounting of the Lessor of a stumpage share of the trees. Upon such assignment the existing interest of Ataidar Forests Limited under the sublease will merge in to the head-lease given by the land owners. Ataidar Forests Limited state that they wish to acquire the head leasehold interest currently held by Northern Pulp Limited to better protect the investment that it has established in the forest many years ago under the sublease."

The land is owned by "the **Trustees** of the Pungaru B30J2 Block", and the block was "created by Partition Order of the Maori Land Court on 18/3/92 at Whangarei. The term of the lease is 45 years effective from 1/10/78".

We last heard of Ataidar (then spelt "Atadair") in September 1996, when we reported:

"Atadair Forests Ltd ... is taking over the lease of 813.28 hectares of land from Parengarenga A Incorporation for a 'nominal amount'. It is 'part of the Parengarenga B3C Block created by partition order of the Maori Land Court on 5 May 1977'. The transaction is another result of the bankruptcy of Northern Pulp Ltd which had established a Triboard mill in Kaitaia, Northland, with associated forestry rights. The acquisition of the mill by Juken Nissho of Japan was highly controversial because the Muriwhenua Corporation had wanted to buy it as a

development project for its people. Muriwhenua unsuccessfully challenged the OIC's decision to approve Juken Nissho's purchase. The current transfer of the lease is a takeover of 'the interest of Northern Pulp'. Atadair 'intend to continue to maintain the forest they established in pinus radiata back in 1979/80'".

The formal ownership of Ataidar ("radiata" spelt backwards!) is:

\* **78%** is owned by **Carter Holt Harvey Forests Ltd**, a wholly owned subsidiary of **Carter Holt Harvey Ltd**, itself approximately **51%** owned by **International Paper Products of the USA**;

\* a further **19.9%** is owned by **South Wood Exports Ltd**, which is **100%** owned by **Itochu Ltd of Japan**;

\* finally, **2.1%** is owned by **Itochu New Zealand Ltd**, another subsidiary of Itochu Ltd.

Until July 1997 (see our commentary for that month), South Wood Exports was 49% owned by the M.K. Hunt Foundation. Its main operations are owning and managing forests in Southland, largely for Southland Plantation Forest Company of New Zealand Ltd, which is ultimately owned by New Oji Paper Company Ltd and Itochu.

### ***US firm buys Waikana Timber Company in Otautau, Southland***

**Bright Wood NZ Ltd**, whose shareholders are **C.A., K.K., C.L. and D.R. Stovall**, of Oregon, USA, have approval to acquire the **Waikana Timber Company Ltd** for a suppressed price. The purchase includes **nine hectares** of land in **Eton St, Otautau, Southland**.

"It is stated the acquisition will provide an additional 15 employment opportunities within the local community and will provide an increase in exportable wood products totalling approximately NZ\$10 million worth of sales. In addition, it is stated Bright Wood intends to expand/enhancing the current sawmilling operations of Waikana".

### ***Other land for forestry***

\* **Deborah Miller** is selling blocks of land again. This time it is **129 hectares** in the **Far North District**, to **Asian Power International (NZ) Ltd of Hong Kong** for **\$631,333.20**. As usual, it is being sold by **Far North Afforestation (NZ) Ltd** which will continue to manage the afforestation of the land: "... in essence the proposal represents a joint venture between the overseas party who is providing risk capital and Far North Afforestation (NZ) Limited who is providing the forestry expertise". Asian Power is owned by **Lau Siu Tuen Chan** and **Wai Tong Kelvin Chan** of **Hong Kong**, but it is claimed that the company is "based and managed in New Zealand". Miller did a similar deal with Asian Power in March 1996 when Asian Power acquired 60 hectares of land in

Humphries Road, Kohukohu, Northland (Far North District), for \$285,000. In April 1996 the two shareholders bought 20 hectares at Mangamuka, Northland for \$95,000 through their company Penzance Developments Ltd. Asian Power first came to our notice in June 1994 when it bought 489 hectares of afforested land in Broadwood in the **Far North District** for \$785,000.

\* A newly form company, **New Zealand Plantation Forest Company Limited**, owned by "substantial Japanese companies, involved in forestry and commence within Japan" has approval to acquire forestry cutting rights over "approximately" **100 hectares** of land in **Tinopai, Northland** for a suppressed amount. The Japanese companies are **Chuetsu Pulp & Paper Co Limited (30%)**, **Hokuetsu Paper Mills Limited (30%)**, **Marusumi Paper Co Limited (30%)**, and **Marubeni Corporation 10%**. They are acquiring the rights from the trustees of the **Richard and Elizabeth Perkins Trusts**. The land is currently used for mixed farming. The forestry right will be "for a term of 22 years, for the purpose of establishing a commercial forestry operation on the property".

\* **Highland Timber Plc** of the **UK** has approval to acquire two blocks of land for forestry:

\* **212 hectares** (gross) and **175 hectares** (net) (what gross and net means in the context is unexplained) in **Russell Road, Wanganui**, from **M.G. and M.M. Reid**, for **\$1,850,000** plus GST;

\* **452 hectares** at **Te Haroto on State Highway 5 (Napier-Taupo Highway)**, **Napier, Hawkes Bay**, from **Fletcher Challenge Forests Ltd** for a suppressed price.

\* **Mt Duncan Afforestation Co. Ltd**, a subsidiary of **Rayonier Inc** of the **USA**, has approval to exchange **3.02 hectares** of its land for **2.83 hectares**, for **\$1**. The land is in **Marlborough**, and the land it is acquiring was owned by **W.C., B.A. and A.W.C. Coleman**. The exchange represents a "tidying up" of boundaries. Rayonier acquired Mt Duncan Afforestation, which owns approximately 299 hectares of land in the Lakes Water Survey District, Marlborough, in July 1997, "to gain access to the trees on the land owned by Mt Duncan and to continue with subsequent plantation forest rotations."

\* **Southland Plantation Forest Company of New Zealand Ltd**, owned by **New Oji Paper Company Ltd** and **Itochu Ltd**, both of **Japan**, has approval to acquire **348 hectares** of land in **Tahakopa Valley Rd, Otago**. "SPFC wish to acquire the property to form part of its existing forestry plantation holdings in the Otago region".

### ***Georges Michel, French winery business, buys Merlens Winery in Marlborough***

**Georges Michel Ltd**, owned by **Georges Michel**, a citizen of **France** and a resident of the **Island of Reunion**, has approval to acquire a vineyard owned by **Merlens Winery Ltd** (in receivership and liquidation)

*(Continued on Page 52)*

for \$620,000. The property is **six hectares** of land in **Rapaura Rd, Blenheim, Marlborough**, and

(*OIC Decisions: Continued from Page 51*)

"The proposal represents the introduction of the Georges Michel Group, a leading winery business established in France in 1993, into the New Zealand viticultural industry. The property, which forms part of the business assets of Merlens Wines Limited (in receivership), which are to be sold as a going concern. Mr Michel states it is their intention to improve the quality and quantity of grape production on the property utilising the company's technical and management expertise. In addition it is stated that the applicant will provide capital to further develop the viticultural operation on the property."

### ***John Coney of Canada, owner of Morton Wines, restructures***

**Morton Estate Wines Ltd**, trustee for the **Morton Estate Wines Trust**, whose principal beneficiaries are **John Mark Coney** and members of his family of **Canada**, has approval to acquire a total of **177 hectares** of land from **Ascross Investments Ltd** in a "restructuring of John Coney's New Zealand viticultural interests". The land, whose value is put at **\$10,000,000**, is made up as follows:

\* 0.3556 hectares of land known as the "**Katikati Property**" adjacent to State Highway 2, **Bay of Plenty**.

\* 96 hectares of land, known as the "**Riverview Property**", in **Hawkes Bay**;

\* 16 hectares of land known as the "**Mill Road Property**", in **Hawkes Bay**;

\* 24 hectares of land, known as the "**Colefield Property**", in **Hawkes Bay**;

\* 41 hectares of land, known as the "**Marlborough Property**", in the central Wairau, ten kilometres north west of **Blenheim**.

### ***Other rural land sales***

\* **AWASSI NZ Land Holdings Ltd** of **Saudi Arabia** and **Australia**, has approval to acquire further land for sheep breeding. This time it is **134 hectares** in **Tikokino, Hawkes Bay**, on the corner of State Highway 50 and Butler Road. It is being acquired from **A.R. and G.E. Eddy, G.K. Bryant, and G.R. Mansfield** for **\$661,700**. The OIC states that "... the applicant company is one of the largest importers of live sheep and cattle into Saudi Arabia, the Middle East and Gulf countries and has been operating in New Zealand since 1989". It

"has established a niche market for the export of life sheep (namely AWASSI fat tailed sheep) to Saudi Arabia. It is stated that to date a total of \$20 million has been spent in establishing the New Zealand operation to supply the niche market... The proposed further development will require the investment by the applicant of a further \$10 million."

The owners of AWASSI are **Hmood Al Ali Al Khalaf**, a **Saudi Arabian** citizen and **George Antonios Assaf**, a citizen of **Australia**. In May 1997 we reported that AWASSI was given approval to acquire 70 hectares of land at Geraldine, Canterbury, for \$270,000. That land was already utilised by AWASSI as a feedlot for its South Island live sheep export operation. The two had already acquired land in Hawkes Bay in June 1995 through their company, the Hmood Al Ali Al Khalaf Trading and Transportation New Zealand Ltd. That was 393 hectares of land for \$2,050,000 to "establish the Awassi sheep, a Middle Eastern sheep ... which is renowned for its milking capacity and the applicant also states a sheep milking industry can be readily established using Awassi ewes."

\* Two veterinarians, **Cornelis de Vos and Belia de Vos-Kroeze** of the **Netherlands** have approval to acquire **607 hectares** of land in the **Upper Wangapeka Valley, Nelson**, adjoining the **Kahurangi National Park** for **\$800,000**. They "propose to relocate to New Zealand and both hold New Zealand permanent residency status", and "intend to establish a practice on the property which will provide veterinary service to a number of farms located in the Wangapeka Valley area" and "expand the adventure tourism potential for the property". They also intend to continue farming.

\* A citizen of the **USA**, **Anthony J. Mathios**, has approval to acquire approximately **20 hectares** of land in **Glassnevon Rd, State Highway 1, Waipara, Canterbury**, for **\$250,000**. "It is proposed to develop a vineyard on the property. The development will be undertaken in conjunction with the development of two other viticultural operations on adjoining properties". We have seen no mention of Mr Mathios having acquired these other properties however.

\* **Bondoak Pty Ltd**, which is owned 50% by **Sudi Pty Ltd** and 50% by **Neil Investments Pty Ltd**, both of **Australia**, has approval to acquire **25 hectares** of land in **Milton Rd, no. 7 RD, Ashburton, Canterbury**, for **\$250,000**. "The applicants wish to acquire the property in order to graze standard bred yearlings, weanlings, brood mares and racehorses". Sudi is owned by **Frederick James and Ivorene Whymys** of **Australia**, and Neil Investments is owned by **Peter Francis and Marie Neil** of **Australia**.

### ***January 1998 decisions***

#### ***High country Makarora Station near Lake Wanaka, sold to US company***

The sale of the **2,185 hectare Makarora Station, Makarora, near Lake Wanaka, Central Otago** has been approved, to **H. & H. Minerals Incorporated**, of **Texas, USA**. The price is suppressed. H. & H. Minerals is owned 46% by **Bobby F. Hill** of the **USA** and the station is being purchased from **Makarora Ltd**, and **Wilkinvale Farm Partnership**. "The land is currently utilised as an economic farming unit, currently running approximately 8,000 stock units". The vendors wish to

retire, and H. & H. Minerals state that they "intend to increase production and stock performance on the property through the introduction of development capital".

### ***Digital Microwave Corp. of the US approval to take over MAS Technology***

**Digital Microwave Corporation**, a listed company from the USA whose major shareholder is **Kopp Investments Advisors Inc** of the USA, has approval to acquire **MAS Technology Ltd** which has recently listed on the US Nasdaq Stock Exchange. "The listed shares of MAS are held by various overseas persons primarily from the United States of America. The unlisted shares of MAS are largely held by New Zealand persons". The price is "to be advised".

"It is advised DMC designs, manufacturers and markets advanced wireless solutions for worldwide telephone network, interconnection and access. MAS designs, manufactures and markets, low frequency, medium to long haul digital microwave radio links for use in the worldwide telecommunications markets. DMC and MAS anticipate the proposed amalgamation of the two companies' businesses will provide substantial benefits through synergies between the two companies. In addition, it is anticipated the combined companies will be able to broaden their offering of wireless connection solutions to the market place."

MAS was previously Marine-Air Systems, and was founded in 1975 as Marine Safety by Neville Jordan. It began by acting as a distributor of US radar, communications and other "defence" products from Magnavox. In 1984, based in Lower Hutt, it began its own product development, beginning with earth receivers for satellite TV, then exercise limpet mines for the Navy and battlefield simulation equipment for the Army. In 1989 it won an international tender from the US government for 40 stations for the Peacesat education satellite in the Pacific. It now specialises in digital microwave links, although in 1995 it won an Australian Defence Industry Quality and Achievement award for design and supply of a battlefield effects simulation system for the Australian Army.

It has strong military links, and was named by researcher Owen Wilkes as one of "the three 'worst' arms industries in Aotearoa" in an article of that name in May 1993. Wilkes stated:

"Marine-Air have been particularly successful with their 'Vanguard' artillery computer, which calculates the correct elevation and direction to point large guns, taking into account such factors as wind, distance to and velocity of target, type of ammunition, and the degree

of wear in the gun barrel. They also advertise transportable ground stations for military satellite communication systems, the 'Bullseye' aerial bombing scoring system, and various remote monitoring and control systems.

"Marine Air Systems has got to its present position with a lot of New Zealand Government help. Their modus operandi has been to get development contracts for specific items of equipment from the New Zealand military, generally the Army. Often in the past the development has been jointly undertaken with the Department of Scientific and Industrial Research. Presumably the same cooperation now takes place with the appropriate Crown Research Institutes. Once the development has been completed, at taxpayer expense, M-AS not only gets the contract to build that item for the New Zealand military, but also gets Tradenz assistance to market the same item abroad.

"M-AS also works closely with foreign arms manufacturers. In 1986 Texas Instruments (the 26th biggest arms manufacturer in the world) sponsored M-AS to do the research and development which led to the 'Bullseye' electronic scoring system for bombing and missile exercise ranges. British Aerospace (the 4th biggest arms manufacturer in the world) and Boeing (8th biggest) have funded other M-AS development work.

"Marine-Air have been quite secretive about specific contracts with specific foreign military forces, but in general they are selling considerable quantities, especially of the Vanguard System, to Australia, Canada, several NATO forces, Singapore and probably India and Pakistan. The US Army Field Artillery School is said to be interested. Of these customers we should be suspicious about Singapore, which has a bad reputation for issuing false end user certificates and then selling on to countries which are being embargoed for human rights abuses etc. And it is sad to see a New Zealand corporation promoting both sides of the South Asian (India/Pakistan) arms race".

At the time Wilkes wrote this, Jordan was president of the 'Defence' Manufacturers Association of New Zealand and T-JAG, the Joint Advisory Group to Tradenz.

In 1996, MAS bought a South African distributor, NZ Telecoms, and put the chief executive of the Crown Companies Advisory Unit, Peter Taylor, on its Board. Earlier that year it had been advertising a large

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*(OIC Decisions: Continued from Page 53)*

international expansion, claiming exports to 50 different countries and branches or subsidiaries in Australia, Argentina and Denmark.

Until 1997 the company was owned by Jordan, his staff and about 10% by two investment companies. In May 1997, while still being an unlisted company in Aotearoa, it listed on the Nasdaq computer-based US stock exchange, raising \$37 million, leaving Jordan and the staff with just under half the shares. New shareholders included George Soros, AmericanExpress, Fidelity, Wells Fargo, General Motors, Credit Suisse (Switzerland), Lloyds Bank (U.K.), and Societe Generale (France) and interests in Aotearoa (5%). By then it had sold its products in 54 countries including Greenland, Chile, Argentina, Philippines, Indonesia, Vietnam, and several African countries. Its revenue was growing by 30% a year, to \$50 million, and it employed 175 people in Petone. Its Chairman was Peter Troughton, former chief executive of Telecom.

According to the *Press* (24/12/97, "US offer to MAS shareholders", p.18), the Digital Microwave takeover offer was made just before Christmas on the basis of a share exchange, putting the value of MAS at about \$192 million (\$US110 million). Jordan described it as a merger, leaving him in charge of the local operations, still as MAS. MAS shareholders would end up with about 17% of Digital Microwave, which has a market capitalisation of about \$1.7 billion. Digital Microwave is based in California, with a factory in Scotland, and makes wireless products for telephone systems.

(*Press*, 9/4/94, "Brain waves bring NZ millions", by Neill Birss; 29/11/95, "NZ firms applauded", p.30; 3/2/96, advertisement, p. Weekend 27; 10/8/96, "Marine-Air switch", p.24; 27/5/97, "High-flyer leapfrogs NZSE", by Neill Birss, p.29; 5/7/97, "Listing lifts MAS by \$37m", p.33; 26/7/97, "MAS Technology profit surges in quarter", p.21).

### ***ICI buys business of Supply Services, Mount Maunganui***

ICI New Zealand Ltd, a subsidiary of ICI Australia Ltd, of Australia, has approval to acquire "property being certain business assets and undertakings **Supply Services Limited** and **Supply Services Holdings Limited**". The price is suppressed.

"ICI's main business activities include the supply of chemicals. The proposal enables ICI to service its existing customer base within the pulp and paper and soap industry and also provides the ability for ICI to attract new customers within the market."

### ***Kiwi Income buys Rozel, half owner of Majestic Centre, Wellington***

**Kiwi Income Property Trust**, a unit trust approximately 25 to 30% owned by overseas residents, and **Kiwi Income Properties Limited**, 50% controlled by **FCMI Financial Corporation**, of Canada, and 50% owned by New Zealand residents, which acts as agent and manager for Kiwi Income Property Trust, have approval to acquire **Rozel Investments (NZ) Ltd** for \$17,203,090. Rozel, which is a subsidiary of **Rozel Investments Ltd** of the USA, owns (among other things) a half share in the **Majestic Centre Limited** in Wellington's CBD. The other half interest in the property is held by **Kiwi Income Property Trust**.

### ***Telegroup of the USA acquires business in Wellington***

**Telegroup Network Services New Zealand Ltd**, a subsidiary of **Telegroup Inc** of the USA, has approval to acquire "the New Zealand business assets and undertakings" of **Le Heron Corporation Limited**, **Global Telecommunications (International) Limited** and **Telegroup Australasia Holdings Limited**. The price has been suppressed (as has most of the rationale), and it is not clear what the relationship of the three sellers is to Telegroup Inc. Telegroup is an international callback toll call provider.

### ***Land for forestry***

\* **John Gordon Abbott**, a UK citizen currently resident in Japan, has approval to acquire 200 hectares of land at **Omahina RD2, Waverley, Taranaki** for \$450,000. The land, which adjoins **Lake Momahaki**, is arable land which will be used for forestry, supplemented by livestock farming. Abbott owns a neighbouring 118 hectare block.

\* **Carter Holt Harvey Ltd**, approximately 51% owned by **International Paper Products** of the USA, has approval to acquire two small blocks of land for forestry in **Kururau Road, Taumarunui, King Country**

- \* 0.0350 hectares for a "nominal" sum "to formalise an existing boundary of convenience between CHH and the McNie's";
- \* 0.0297 hectares for ten cents "to enable the applicant [CHH] to gain better access to its adjoining land".

\* **Southland Plantation Forest Company of New Zealand Ltd**, which is owned by **New Oji Paper Company Ltd** and **Itochu Ltd**, both of Japan, has approval to acquire 284 hectares of land at **Tuturau, Southland** for \$500,000. "SPFC wish to acquire the property to form part of its existing forestry plantation holdings in the Southland region".

### ***Other rural land sales***

\* **Telecom Corporation of New Zealand Ltd** has approval to acquire further land for a cellphone site at **Medlands, Great Barrier Island**, for a suppressed amount. The land is leasehold land of 0.0400 hectares but Telecom apparently owns adjoining land which, with this land, amounts to more than 0.4 hectares. "...the lease interest and associated easements are being

acquired in order to expand Telecom's existing cellular network located on Great Barrier Island." The acquisition is via cellular network subsidiary, **Telecom New Zealand Ltd.**

### **Decisions released on appeal**

#### **May 1995 decision**

##### **Surelight of Hong Kong to buy two ha. in Symonds St, Auckland for \$12.6m**

**Surelight Holdings Ltd** of Hong Kong has approval to acquire "approximately **two hectares** of land in central Auckland known as the Symonds Street site" for **\$12,600,000** from the **Auckland City Council**. It may work through nominee companies **Glenside Investments Ltd** or **Symonds Street Developments Ltd**. Surelight is owned by "Messrs Chan, Li, Wong and Chan" of Hong Kong. Surelight "propose to develop the property into a residential/retail/commercial complex". This decision was originally completely suppressed and was released on appeal only in August 1997.

#### **October 1996 decision**

##### **CS First Boston takes over Feltex Carpets**

**Fairbanks Investments Ltd** which is owned **96%** by a nominee for **CS First Boston (Europe), AG**, and **4%** by **Messrs Davis** and **Steedman**, both residents of **Aotearoa**, has approval to acquire the business assets of **Feltex Carpets Ltd**. **CS First Boston (Europe)** is approximately **65%** owned by **CS Holding** of **Switzerland** (i.e. the major bank, **Crédit Suisse**). The purchase includes the following land:

- \* six hectares of leasehold land in **Duncan St, Foxton, Manawatu**;
- \* seven hectares of leasehold land in **Miller St, Dannevirke, Hawkes Bay**;
- \* five hectares of leasehold land "more or less situated in or adjoining the bed of the **Rangitikei River**", **Sandon** (presumably **Sanson**), **Manawatu**; and
- \* 35 hectares of freehold land in **Halcombe Road, Kakariki, Manawatu**.

The whole decision was originally completely suppressed. It was released in August 1997, but with the price still suppressed.

Feltex was owned until 1996 by **BTR Nylex**, of the UK, which bought it as part of **Feltrax International** from the corpse of **Equiticorp** in 1989. It apparently decided to sell **Feltex Carpets** in March 1996. Feltex is the third largest manufacturer in Aotearoa and 25th largest exporter (exporting two thirds of its output), employing 1,200 people. It also has a carpet factory in Christchurch. The Mr Davis mentioned above as a

shareholder is **Chris Davis**, general manager of **Feltex Carpets** (*Press*, 22/6/96, "Feltex Carpets for sale", p.27; 11/12/96, "Management may buy Feltex", p.28; 12/12/96, "Feltex confirms sale", p.32).

In January 1997, the Commerce Commission gave **Alliance Textiles** clearance to buy **Feltex Yarns**. This included yarn plants at **Wainuiomata** and **Kakariki**, which it closed down with the loss of 100 jobs. The purchase made **Alliance** the biggest yarn producer in Aotearoa (*Press*, 22/1/97, "Feltex deal approved", p.29).

#### **March 1997 decisions**

##### **Peters and Brownes Foods of Australia takes over Tip Top Ice Cream**

**Peters and Brownes Foods Ltd (PBFL)** of **Australia** has approval to acquire **Tip Top Ice Cream Company Ltd** and **Tip Top Investments Ltd** from their owner, the **Heinz Group** of the **USA**. **Tip Top** is the Aotearoa brand leader in ice cream and ice cream products. **Heinz** decided that it no longer fitted with its line of business, having acquired it as part of its takeover of **Watties** in 1993.

"PBFL's ice cream operations date back to 1929 when ice cream was first introduced into Australia by **Frederick Peters**. It is stated that **PBFL** and **Tip Top** are experienced marketers of ice cream products but separately do not have the volumes of sales over which to amortise the costs of developing certain niche markets, namely the marketing of novelty products. To this end the combination of the two companies will improve competitiveness in this and other critical areas."

The sale includes **seven hectares** of industrial zoned freehold land at **113 Carbine Road, Mt Wellington, Auckland**. The decision was originally suppressed in total and was released on appeal on 5/8/97 with the price still suppressed.

**Heinz** put **Tip Top** up for sale (along with **Tegel Foods**) in November 1996. **Tip Top** holds about 80% of the national ice cream market (*New Zealand Herald*, 14/11/96, "Tip Top, Tegel go up for sale", by **Geoff Senescall**). This followed an attempt by **Tip Top** to take over competitor **New American Ice Cream** (owned by the **Dairy Group**) which was quashed by the Commerce Commission saying that it would give it a dominant market position. It left open the possibility of taking over only the frozen novelty, dairy desserts and scoop ice cream operations (*Press*, 25/10/96, "Tip Top trims bid for New American", p.19).

**PBFL** said it would expand ice cream production in Christchurch and would not change the **Tip Top** brand.

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It markets Peters Ice Cream in Australia. It is not itself an all-Australian company: its shareholders include Asia Dairies Pte (part of Fraser and Neave of Singapore, a major shareholder in the DB Group) and Itochu Corporation of Japan (heavily involved in forestry in Aotearoa) (*Press*, 3/4/97, "Tip Top sold to Australian company", p.30).

A major bidder for Tip Top was Nestlé, which signalled its disappointment at not winning by suggesting it may enter the ice cream market, modestly describing itself as a "global expert on ice cream". It is the second largest ice cream manufacturer in the world, and one of its international competitors, Unilever, recently started up the Streets brand in Aotearoa (*Press*, 7/4/97, "Failure to buy Tip Top a disappointment for Nestlé", p.35).

### **Misys of the UK, computer specialists in banking and securities buys Mocom**

Misys Plc of the UK has approval for two of its subsidiaries, Misys International S.A. of Luxembourg, and MKI Financial Systems Pty Ltd of Australia, to acquire two companies: Mocom Systems (NZ) Ltd and Mocom Corporation (NZ) Ltd respectively. The prices are \$55,472 and \$8,194,655 respectively. "The Misys group serves the information technology needs of a number of markets including banking and securities".

### **June 1997 decisions**

### **Schering-Plough buys Mallinckrodt Veterinary Ltd**

Schering-Plough Corporation of the USA has approval to acquire Mallinckrodt Veterinary Ltd, a subsidiary of Mallinckrodt Veterinary International Ltd of the USA for \$12.4 million. The purchase includes 146 hectares of land at Johnsons Road, Whitemans Valley, Lower Hutt, Wellington. "Schering-Plough is conducting a global acquisition of the subsidiary companies of Mallinckrodt Veterinary International... it is a global pharmaceutical development and distribution company..." with a "growing animal health business". This decision was originally almost completely suppressed, and released only after appeal in October 1997.

### **Macraes Mining buys more land for mining at Macraes, Otago**

Macraes Mining Company Ltd, which is approximately 39% owned by Union Gold Mining NL of Australia, has approval to acquire a further three hectares of land for its gold mine at Macraes Flat, Otago. This is residential land in Macraes township and includes "accommodation" which will be used to house staff and contractors. The price is \$176,000. The company has told the OIC that "the maintenance of the social fabric at Macraes Flat is of concern" to it. However, as with its usual practice, it objected to the initial publication of

this decision and it was almost completely suppressed until it was released at the end of October after appeal by CAFCA to the OIC. It is difficult to think of explanations for this secrecy other than that the mining company wants to avoid objections by locals, many of whom oppose the mine.

### **July 1997 decisions**

### **Clariant and Hoechst pharmaceutical and chemical groups merge**

In two decisions, the worldwide merger of the Clariant and the Hoechst groups is reflected in Aotearoa. Both companies are "active in the field of specialty chemicals", including pharmaceuticals. Clariant AG of Switzerland has approval to acquire Hoechst Masterbatch New Zealand Ltd, from Hoechst AG of Germany, and Clariant (New Zealand) Ltd "(formerly Hoechst New Zealand Ltd)", for a price "yet to be determined". The transactions were initially suppressed and released only after appeal, in December 1997.

1. All spelling of geographic and company names is as supplied by the OIC unless otherwise it is clear from the context that the source is from elsewhere. Errors are those of the OIC. Areas are rounded to the nearest whole number. Information quoted, unless otherwise noted, comes from the "decision sheets" of the Commission.

### **"CLEARCUT": Sold Out**

**CAFCA is delighted to report that we have completely sold out of Murray Horton's "Clearcut: Forestry In New Zealand" (1995). The last few spare copies sold at the Taking Control conference. There is no plan to reprint or update it. Watchdog keeps a watching brief on forestry.**

## **CHEQUES**

### **Please Make Them Out Correctly**

Please ensure that your cheques, for membership, donations, purchases, etc, are made out to CAFCA, and nobody else. If you wish to make a donation towards Murray Horton's pay, then make your cheque out to the CAFCA/ABC Organiser Account (which is a separate account).



# WASTE MANAGEMENT

- Murray Horton

## WM Dumps On Canterbury

Since 1995, *Watchdog* has been chronicling the trundle of Waste Management's increasingly ubiquitous wheelie bins throughout New Zealand. Throughout that time, we observed that it was principally located in the North Island, without having established much of a Mainland presence. That has now changed. In 1997, it was unofficially revealed that WM was one of the frontrunners in the race to operate the new Christchurch landfill. In March 1998, it was announced that the landfill, at a yet to be disclosed location, will probably take all of Canterbury's rubbish and possibly that of Marlborough and the West Coast.

The Canterbury local authorities (headed by the Christchurch City Council) will share 50% ownership of the new joint venture company. The other 50% will be evenly split between WM and Envirowaste Services (Envirowaste is itself a 50/50 joint venture between Fulton Hogan and Northern Disposal Systems. The latter is owned by the Auckland Regional Services Trust; Fulton Hogan is owned by Shell). So, in one fell swoop, Canterbury local authorities have got into bed with the world's biggest and nastiest garbage TNC and with one of the oil industry's Seven Sisters. The landfill will have a 30-50 year life, and will be Christchurch's last one. The City Council aims to eliminate the need for a landfill by 2020, by policies of waste minimisation and recycling. CAFCA released the following statement (which no media ran):

### **CITY COUNCIL SHOULD USE \$120M TO PAY FOR NEW LANDFILL AND CUT ALL TIES WITH WASTE MANAGEMENT**

The Christchurch City Council is taking \$120 million as a special dividend from Southpower to reduce debt and keep rate increases down. CAFCA has got a better idea of how to use this money (rather than as an election year bribe for ratepayers). It should be used to pay for the new regional landfill. That would use Southpower's obscene profits to provide for another civic essential - rubbish disposal. The City Council is letting all sorts of dubious transnationals get their hands on Christchurch's lucrative rubbish. Firstly, it contracted out the city's rubbish collection to French company, Onyx\*.

Now it has entered into a joint venture with US garbage behemoth, Waste Management, to operate the new landfill. That is highly ironic - in 1995, Waste Management NZ very clumsily offered to withhold

threatened court action if the City Council entered into a joint venture with it. Cr David Close said then it was "inappropriate for a private investor to be 'making the running' over the city's future landfill needs" (*Press*, 16/3/95). Cr Garry Moore said: "I believe that we are being subjected to the threat of litigation to get a commercial advantage. Anyone who threatens a city council with that should be told to go to hell" (*Christchurch Star*, 22/3/95). Does mayoral candidate Moore still believe that Waste Management should be told to go to hell?

CAFCA does - and so do a lot of other people around the world. Waste Management is one of the most controversial transnationals in the world. We hold bulging files of material about its exploits in the US and around the world. In 1997, it was one of the first five corporations inducted into the US Hall of Shame. The 1997 *Peoples Annual Report* described it as a "corporate criminal". Between 1980 and 1992, it paid more than **\$US80 million** in fines, penalties and settlements in criminal and civil cases. In a more recent court case (December 1996) a Tennessee federal judge ordered it to pay more than **\$US90 million**. He said: "...fraud, misrepresentation and dishonesty apparently became part of the operating culture of the Defendant company". As for Waste Management NZ - in May 1995 an Auckland judge fined it \$25,000 in relation to the death of one of its operators, censuring it for sticking with "inadequate" US safety standards.

We say to the City Council - if you lie down with this dog, you're going to get up with fleas. Dump Waste Management, and use the Southpower dividend to buy the landfill. Keep transnationals out of our essential publicly owned utilities and services.

\* See *Watchdog 86* for details on Onyx's move into Christchurch. (French TNCs are steadily muscling into the NZ waste business. Waste Care, NZ's second biggest waste services company, has been sold to Suez Lyonnaise des Eaux. The previous owner was Browning-Ferris Industries, of the US, the second biggest US garbage TNC).

### **Add Cannibalism To The Charge Sheet**

Waste Management NZ declared a \$9.07 million profit for the year ending December 1997, a 20% jump in after tax profit over the previous year. It had made acquisitions in Whakatane and Papakura, and had won

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(Waste Management: Continued from Page 57)

collection and transfer station contracts with the Waimakariri, Kawerau and Thames Coromandel District Councils. It ran a trial project transporting rubbish by rail, and was hoping to use that means to transport Thames' rubbish to its massive Redvale landfill, north of Auckland. When WMNZ started, in 1987, rubbish collection provided all its revenue. By 1997, that had dropped to 78%, with disposal providing 18% and water services 4%. By 2007, collection is forecast to drop to 50%, with disposal and water splitting the other 50%. In 1997, it formed joint ventures with British TNC, Anglian Water, to bid for the Papakura water franchise and Auckland's new sewerage plant at Mangere (both unsuccessful). It already provides water and waste water services in Thames and Coromandel. The company expressed confidence in a rosy future of joint ventures with local authorities, or outright ownership of local utilities.

The Waste Management present is none too rosy for some people. A joint venture between WM and Living Earth has been contracted by the Wellington City Council to "dewater" sewerage sludge from the new Moa Point treatment plant (which is being built by Anglian Water) and turn it into useable compost. Trouble is, the sewerage sludge will include human body parts and body fluids, gleaned from hospitals, morgues and funeral parlours. The Council has confirmed that the material to be mixed with grass clippings would contain traces of human materials. This compost would be used to grow vegetables, which people will eat. That whole prospect is "abhorrent" to a Maori group, Te Runanganui o Taranaki Whanui ki te Upoko o Te Ika a Maui Inc, which has filed an appeal with the Environment Court. "That body parts and body fluids could not be eliminated, and consequent use of the biosolids has serious implications for Maori. The councils gave quite inadequate weight to those considerations in allowing the applications" (*Press*, 20/4/98). They called for the proposed practice to be banned. Pakeha would be rather squeamish about it too. Instead of you are what you eat, how about you are who you eat?

### The US: Crimes and Misdemeanours

*Watchdog* has been chronicling Waste Management's

appalling record of criminal and civil convictions in the US. The list just keeps growing longer. We are indebted to three American organisations - the Citizen's Clearinghouse for Hazardous Wastes Inc, the Center for Health, Environment & Justice and the Environmental Background Information Center - for being so generous with their resources. For example, we now have the complete transcripts of several US court judgements against WM, including the December 1996 one by Tennessee federal judge Odell Horton (*no, no relation. Ed.*) to pay over \$US90 million damages (this was detailed in *Watchdog* 86). For example, here are some of the conclusions reached by Edwin L. Miller, the San Diego District Attorney, in a March 1992 report on Waste Management:



McKale USA

"Waste Management Inc's, methods of doing business and history of civil and criminal violations has established a predictable pattern which has been fairly consistent over a significant number of years. The history of the company presents a combination of environmental and anti-trust violations and public corruption cases which must be viewed with considerable concern. Waste Management has been capable of absorbing enormous fines and other sanctions levied against it while still maintaining a high earnings ratio. We do not know whether these sanctions have had any punitive effect on the company or have merely been considered as

additional operating expenses.

"We have reviewed recent practices and problems and our concerns have not diminished. The company's recent business practices and violations do not appear to be different from the past. We have been unable to determine whether Waste Management's history, as reflected by this report, has been due to a failure of proper management, or has been the result of deliberate corporate policy. Whatever the case, the company's history requires extreme caution by the San Diego County Board of Supervisors or any other governmental entity contemplating any contractual or business relationship with Waste Management.

"Our examination of the activities of Waste Management in San Diego County causes us additional concern. When viewed in the context of their established history

of business practices, it is clear that Waste Management engages in practices designed to gain undue influence over government officials.

“One such practice was demonstrated by the treatment of Councilman Mark Lewis. First, a favor was offered; then, there appears to have been attempts at coercion to bring about Lewis’s cooperation. Another such practice has been Waste Management’s penchant for donating large sums of money, all with the appearance of altruistic or beneficent ends, to charitable entities or projects which are targeted for the greatest impact on persons exercising crucial approval authority over Waste Management business projects which are either proposed, pending or under review. This kind of practice appears to be Waste Management’s primary reason for their \$US50,000 contribution to the financially troubled Sail San Diego. These practices suggest an unseemly effort by Waste Management to manipulate local government for its own business ends. If unchecked, these practices, like other more direct forms of improper attempts to gain influence, may have a corrupting impact on local government and lead to decisions unsuitable to the best interests of the public...”

Canterbury local authority councillors and officials should read this California report with the closest attention. The Ventura County (California) Sheriff’s Department Report on Waste Management is just page after page of records of criminal and civil cases against WM. Very sobering indeed.

There are more recent examples: In October, 1994, a jury hit WMI with a \$US587,900 penalty. The money was awarded to a former whistle blower who worked at Chemical Waste Management’s South Side Chicago toxic waste incinerator. He was fired after attempting to bring operating violations to the attention of WMI CEO Dean Buntrock. “They fired me for telling them what they didn’t want to hear” said Jack Tursman (*Chicago Tribune*, 24/10/94; “A \$587,900 Lesson On Whistle-Blowing: Incinerator Staffer’s Retaliatory Firing Suit Zaps Chemical Waste”; Casey Bukro). In November, 1994, WMI paid \$US60,000 to settle a class action lawsuit charging improper cleanup and monitoring of groundwater contamination at Waste Management’s GROWS landfill in Bucks County, Pennsylvania.

And more recent still: “A consultant to Waste Management Inc.—the nation’s largest trash company, and one that wants to create a huge garbage dump in the High Desert—wiretapped the phones of the project’s main opponent and stole computer data from its offices, authorities alleged...The charges grew out of an unrelated criminal investigation into the consultant that turned up evidence linking Waste Management to the wiretap and computer data theft, said San Bernardino County Sheriff’s Department spokesman Sgt. Paul Cappitelli

“A subsequent investigation, which began six months

ago, in turn led to the arrest of Glen Odell, project manager of Waste Management’s Rail-Cycle landfill proposal east of Barstow. Odell, 55, of Irvine, was arrested on charges of wiretapping, unauthorized use and copying of computer data and criminal conspiracy...” (*Los Angeles Times*, 11/3/97; “Spying Allegations Raised in Garbage Dump Battle”; Tom Gorman).

In June 1997 the Indiana Department of Environmental Management turned down Chemical Waste Management’s application for a permit to operate a hazardous landfill in Fort Wayne. Carl Miller, an associate attorney for the city of New Haven, Indiana, remarked that the state “would have to grant a permit to Satan before they could grant a permit to this outfit” (*Indianapolis Star*, 14/6/97; “Company Loses Bid To Expand Landfill”).

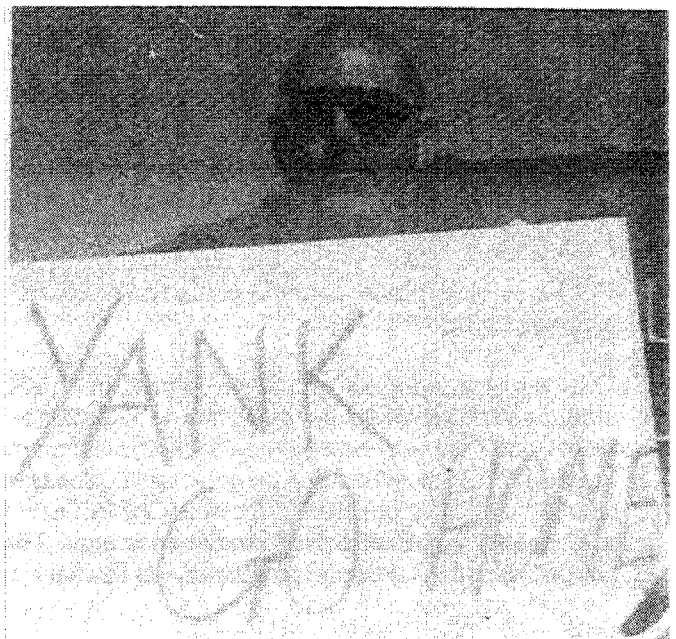
WM spokespeople routinely defend this rampant criminality by blaming it on renegade employees violating company policy. This bullshit doesn’t wash with the likes of Tennessee’s Judge Horton (see his quote in the box).

#### **Change Of Ownership. Enter The Garbage Man.**

March 1998 saw a major change in WM’s ownership. The world’s largest waste corporation agreed to be acquired by a smaller rival company, USA Waste Services, the third largest waste corporation. In a deal valued at \$US20 billion, USA Waste’s sales of \$US2.6 billion would more than quadruple, making it twice as big as its nearest rival, Browning-Ferris Industries Corp. Roman Szuper, a Standard and Poors analyst, said: “This is the culminating event of 20 years of industry consolidation” (*Waste Age*, April 1998).

The combined company, which becomes the premier trash company in the United States, will be named Waste

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*(Waste Management: Continued from Page 59)*

Management. "USA Waste is not a good name for a global company," quipped Robert S. Miller, interim chairman of Waste Management. Officially the \$US20 billion stock-and-debt deal was billed as a merger. Shareholders of Oak Brook-based Waste Management will own 60% of the combined company. But senior management will come from the USA Waste side, and headquarters will be consolidated at that company's Houston site. John E. Drury, USA Waste chairman and CEO, becomes CEO of the new company. USA Waste has the same sort of depressing background as WM - a history of violations and court cases, takeovers, etc. It's a marriage made in Heaven.

"The merger, would conclude the humbling saga of Waste Management's botched drive in the late 1980s and early 1990s to become the world's first global 'environmental services' company. That ambition led Waste Management to acquire a range of profit draining businesses, including hazardous waste management, lawn care, asbestos removal, and Rust International, a large engineering concern. The eventual result was angry shareholders, turmoil in the board room and a disruptive series of management purges and sudden resignations, followed by revelations late last year of accounting irregularities..." (*New York Times*, 12/3/98). "Stanley Druckenmiller, senior investment officer at the Soros Fund, a major shareholder in Waste Management and one of the company's harshest critics in recent years, applauded the merger. 'Waste Management was probably the worst managed company I have ever seen. What we have coming from USA Waste is a proven manager, John Drury. This guy is a garbage man'" (*Washington Post*, 12/3/98). What higher praise can one Big Business CEO have for another than to call him a garbage man?

The merger will make Houston the undisputed solid waste capital of the United States, as corporate headquarters of both the No. 1 (Waste Management) and the No. 2 (Browning-Ferris) companies in the industry. USA Waste also is assuming \$US7 billion of Waste Management debt as part of the deal. Waste Management currently accounts for about 15% of the U.S. trash hauling business, while USA Waste has 5%. Company officials said they did not expect antitrust problems since 80% of the market is still open. *Waste News* (23/3/98) did not share this optimism, pointing out that the merged company will control about 40% of the New York City garbage market.

This merger was expected to result in 1,800 redundancies at WM's headquarters at Oak Brook, Illinois, and widespread layoffs across the company were expected, plus a a selloff of "non-core" businesses among the 1,339 subsidiaries (of which WMNZ is but one. It is 61% owned by the parent company). The merger topped off a period of upheaval at the top - in the previous year, WM had been through two chief executives, two chief financial officers, and several

outside directors. In February 1998, a revised set of accounts was issued for the previous five years, and these wiped \$NZ2.9 billion off the assets.

There's obviously big money in garbage, as some of the biggest names in capitalism now own Waste Management. The biggest of them all, George Soros, is now the largest single owner, with just over 5% of the stock. This is the currency speculator who has several times in the last few years made profits into the billions of US dollars by speculation in British and European currencies and distinguished himself by becoming the first man to "earn" an income of over \$US1 billion in one year. In 1997, he wreaked havoc in South East Asian economies, havoc that is still ongoing and which has already adversely impacted on New Zealand's economy. (Interestingly, having made his multibillion dollar fortune from speculative capitalism, Soros has had a road to Damascus conversion. He wrote an extraordinary 7,000 word article in the February 1997 *Atlantic Monthly* entitled "The Capitalist Threat". He concluded that: "The arch enemy of an open society is no longer the Communist threat but the capitalist one...I now fear the untrammelled intensification of laissez faire capitalism and the spread of market values into all areas of life is endangering our open and democratic society").

So these are the people and this is the company that is now about to entrench itself in Canterbury, courtesy of the region's local authorities. It's not too late for them to pull the plug. If they don't want to be judged by the company they keep, then we urge them to do so.

*Thanks to the Environmental Background Information Center, in the US, we now hold a wealth of financial material on WM. They sent us WM's entire 480 page (!) 1997 annual report, filed with the US Securities and Exchange Commission. Contact CAFCA for details, and other information on WM's shameful record in the US and globally.*



# SHIPLEY AND BRASH IN THE SAME BED

- Wolfgang Rosenberg

John Maynard Keynes, whose insights enabled New Zealand to abolish unemployment and create social security for the nation for four decades (1935 - 1975), wrote, when attacking the theories which created mass unemployment and insecurity in the capitalist world:

“Practical men who believe themselves to be quite exempt from any intellectual influences are usually the slaves of some defunct economist”. Applying this remark to New Zealand of the 1990s we may have to adjust it by saying:

“A practical woman like Jenny Shipley who knows nothing about economics may be in fact the slave of economists who repeat the errors of defunct economists.”

So did Jenny Shipley P.M., after receiving news that New Zealand’s current account deficit had risen to \$7.52 billion, say:

“Until we start falling in love with savings to a greater extent, as New Zealanders, the balance of payments is going to be a problem” (*Press*, 28/3/98).

The *Press* headed this foolish remark, “Shipley urges savings passion”. Where did Mrs Shipley pick up this fallacy that our balance of payments problem is our own fault? Because “we” (who is that - probably the working population!) have caused the balance of payments deficit of \$7.5 billion by living in luxury instead of “saving”.

The immediate source of the Prime Minister’s remark is Reserve Bank Governor Don Brash - who himself, in his blind faith in free trade and foreign investment - is the slave of defunct economists. Don Brash’s explanation of the unsustainable foreign deficit was in the *Press* (30/1/98):

“The current account deficit, already one of the highest in the world at 6.4% of GDP, is expected to reach 8% this fiscal year. Foreign investment pouring in is the key reason. To reduce this people need to save more”.

Don Brash failed to explain how “foreign investment” was the main reason of our disastrous balance of payments deficit. Had he said “the cost of foreign investment” is the reason of our deficit, he would have hit the nail on the head. But he would have revealed at the same time that it is not the spendthrift nature of

working and unemployed New Zealanders which caused our troubles, but the maladministration of a far Right government (which has sold, and is selling, New Zealand assets to foreigners because it wants to reduce taxes on the rich) and the greed of local capitalists who are encouraged to turn to foreign capital to take over New Zealand business and real estate.

Now, the vast majority of Big Business and all finance in New Zealand have fallen prey to foreign investment - the entire policy of Government is coordinated to increase business profits, that is New Zealand produced incomes which accrue as debt owed to foreigners. Consequently our exports serve no longer to supply New Zealand with imports, but revenue from exports is mortgaged in the first instance to payment of interest and profits due to foreign investors.

This is what our provisional balance of foreign transactions looked like (latest available data was year ended March 1997):

TABLE 1

Exports	\$NZ28,273 million
Imports	<u>26,678</u>
Export Surplus:	1,595 million
Less	Net property and entrepreneurial transfers abroad
	<u>7,695</u>
	Balance of Payments Deficit: 6,100 million

## Falling In Love With Savings

How can any rational thinker (even though s/he may be educated in economics) say that - except for our readiness to accept foreign investment into New Zealand, uncontrolled and unrestricted - ordinary New Zealanders are at fault that we cannot pay for foreign debt accumulated here? In other words, that lack of “saving” is the reason for our balance of payments deficit and that everything would be resolved if we “fall in love with savings”?

The answer to the above question can be presented in the form of the tautology (circular argument) which is the basis of Don Brash’s thinking. Don Brash learned in his economics studies (*one of his lecturers at the University of Canterbury was a certain Wolfgang Rosenberg. Ed.*) that for many purposes it is useful to speak of an equality (which becomes an identity if

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(Shipley & Brash: Continued from Page 61)

formalised) between a nation's value of production and the expenditure which is required to pay for that production.

This equality between national product and national expenditure is, of course, a reflection of double-entry book keeping principles where, for every "debit" entry, there must be a corresponding "credit" entry.

That - in national accounting - expenditure which is set against product need not be contemporaneous or indeed factual leads to the possibility of confusion when analysts deal with these accounts. It is not a matter that expenditure necessarily caused the particular production, but merely that we must always put an "expenditure" item against a product item to obtain identity between product and expenditure.

In general terms, economists assume that the Product of a national economy consists of

Consumers Goods and Services (C)

and Investment Goods (I)

Investment can be subdivided into capital accumulation at home (I<sub>h</sub>) and capital accumulation abroad (I<sub>f</sub>).

Capital accumulation abroad appears as a money asset, not as a real asset within the frontiers of the nation. It becomes a debt by the foreign economy where the accumulation has occurred. The account where these debt transactions are registered is the balance of international payments. If we accumulate a surplus of foreign payments for goods and surpluses which we have supplied to the rest of the world this surplus is called our I<sub>f</sub> (Investment abroad). If we have to make more payments abroad than we can pay for out of current earnings - run a "deficit" - that is called negative investment.

Summarising this, the National Product is made up of C + I<sub>h</sub> + I<sub>f</sub> where I<sub>f</sub> may be positive or negative.

So much for the "National Product" C + I.

National Expenditure which must equal National Product is made up of expenditure out of the income created by creating the National Product in the form of wages, profits, and interest.

Those wages and profits are spent either on Consumption (which must be equal to Consumers' Goods production C) or they are saved. (Sometimes income may be spent directly on Investment as in the construction of your own house, but in national accounting you are said to have "saved" the money you have spent on an investment goods item). If "Consumer Goods" produced during the year were not sold, so have not been consumed, they are called "increased stocks" or "inventories" and are counted as Investment.

Thus the national income accountant creates his identities between product and expenditure by saying

$$C + I_h + I_f = C + S$$

Now, since all non-consumption of the product (which may include negative Foreign Investment - the balance of payments deficit) is called Savings, we come to the conclusion that

$$I_f = S - I_h$$

To Jenny Shipley and Don Brash this means if I<sub>h</sub> (investment at home) is larger than Savings, there is a Savings deficit. That savings deficit is the foreign deficit I<sub>f</sub> - by definition. So to make I<sub>f</sub> positive, an increase in S is required: you must fall in love with Savings.

Looking at the provisional New Zealand national accounts for the March year 1997, this looked as follows:

**TABLE 2**

Investment (local) \$NZ20,618 m	Savings \$NZ14,518
	Balance of
	payments
	deficit
<u>20,618</u>	<u>6,100</u>
	20,618

However, when you look at the Balance of Payments as shown in Table 1 you can see that the deficit is made up of an export surplus of \$NZ1,595 million, minus profits etc on Foreign Investment of \$NZ7,695 m = \$NZ6,100 m.

Since profits are the main source of Savings in the real world, the "shortage of savings" which has created our balance of payments deficit is the loss of \$7,695 m abroad. It is not New Zealanders who have failed to save, it is foreigners who have taken our savings out of the country which are to blame for our foreign deficit.

If Jenny Shipley looked at this matter in this way she would design policies to stop us from signing the MAI (freedom for foreign investors) and she would introduce measures of protection for New Zealand producers to reduce imports while maintaining an export-industry friendly attitude.

Instead she will advocate high interest rates to stimulate "savings" in New Zealand and reduce social welfare to force people to consume less. Such is the action of "practical women who believe themselves quite exempt from intellectual influences but are the slaves of defunct economists".

Source for tables: Provisional National Accounts for Year Ended 31/3/97; "Hot off the Press"; Statistics NZ; 12/11/97.

# COMALCO

## International Union Campaign Against Rio Tinto

Rio Tinto, the world's biggest mining company, employs 51,000 people and operates more than 60 mines and processing plants in 40 countries (of which Comalco's aluminium smelter at Tiwai Point, Bluff, is but one). Not only is this British TNC very big but it's extremely nasty. For decades *Watchdog* has chronicled the details of its bastardry around the world. So it's heartening that Rio Tinto has been singled for an international union campaign. Particularly so at a time when the NZ Council of Trade Unions (CTU) is plumbing new depths of gutlessness in pushing the policy of "partnership" between unions and employers. Very similar to the partnership between cat and mouse, we would have thought.

The campaign is focused on Rio Tinto's global union busting moves. Throughout 1997, the company fought hard to break the unions in its Hunter Valley coal mines, in New South Wales (coal is Australia's biggest export). This battle was detailed in *Watchdog* 86. The campaign was officially launched at a February 1998 conference in South Africa, organised by the International Federation of Chemical, Energy, Mine and General Workers Unions (ICEM). Delegates from unions in 14 countries where Rio Tinto is active participated: the US, Britain, Canada, Norway, Portugal, Sweden, Turkey, India, Australia, Papua New Guinea, Brazil, Namibia, Zimbabwe and South Africa. New Zealand unions were conspicuous by their absence (Comalco was one of the first to take advantage of the 1991 Employment Contracts Act and de-unionise Tiwai Point). ICEM has 20 million members worldwide, so it is no lightweight. CAFCA was invited to send a solidarity message and was happy to oblige.

In this part of the world, the driving force behind the campaign is the Australian Construction, Forestry, Mining and Energy Union (CFMEU). It is the union of the Hunter Valley coalminers and has borne the brunt of Rio Tinto's attempts to smash the union. Viewed with hindsight, it bears an uncanny resemblance to the brutal (and unsuccessful) attempt by Patrick Stevedores and the Australian government to smash the Maritime Union of Australia, in 1998. It had many of the hallmarks eg Rio Tinto proudly displaying a plaque bearing the first lump of coal to be mined by non-union labour, and the same Cabinet Minister, Peter Reith, urging on the transnational to smash the union.

What is significant is that the CFMEU and the international campaign are strongly supported by the Australian Council of Trade Unions (ACTU), which sent a big contingent to the South African conference. ACTU president, Jennie George, said: "No Australian should

expect to have to negotiate as an individual with a giant multinational like Rio Tinto on community or environmental concerns. It is equally unreasonable to expect single workers to contract individually with Rio Tinto. They should have the right to negotiate their pay and conditions as a community of workers". She went further: "This is not just on Rio Tinto. This...will be the prototype of further campaigns that we will consider running against companies that have an ideological obsession about getting rid of union intervention in their operations here in Australia" (*Sydney Morning Herald*, 21/12/97; "Unions go global in fight with Rio Tinto"). The ACTU and Jennie George were staunch in their backing of the wharfies in this year's all out class warfare too. Ken Douglas and the NZCTU leadership don't bear comparison.

Even more striking was the person chosen by the South African conference to head the international campaign - none other than Bob Hawke, former long serving Australian Labor Prime Minister, and former head of the ACTU. "He said he was 'concerned about the rights of workers to organise, to maximise their power against a very powerful employer'. He criticised Rio Tinto for being 'monumentally hypocritical' by implementing the two-party work relationship" (*Australian*, 11/2/98; "Hawke heads union assault on Rio Tinto"). "Former Australian prime minister Bob Hawke, who said he was 'dragged out of retirement' to spearhead the campaign, said the aim of the gathering was to make Rio Tinto 'a good corporate citizen'. Delegates were incensed by the company's policy of discouraging trade unionism and entering into what it calls a 'direct, two-party work relationship' with employees (i.e. individual contracts). Describing this phrase as 'psycho-babble', Hawke told the press conference the company was trying to 'eliminate trade unions ... They are mining our resources and undermining our trade union movement', he said.

"The selection of Hawke as the campaign's figurehead surprised some delegates. It was Hawke's Labor government which paved the way for individual contracts in Australia, and smashed the Builders Labourers Federation and the airline pilots when they attempted to defy the 'wage restraint' provisions of the Australian Labor Party-ACTU Accord. It was also the Hawke Labor government which bankrolled the PNG government's war against the people of Bougainville, who had rebelled against the environmental devastation of the Rio Tinto-owned Panguna copper mine" (*Green Left Weekly*, 18/2/98; "World trade union network against Rio Tinto launched"). We share these reservations about Hawke, who had an appalling record in office, and consider that this illustrates the old weakness of the trade union/Labor Party relationship that has so frequently betrayed workers around the world. Nonetheless, we can't imagine

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(Comalco: Continued from Page 63)

any of NZ's former Labour PMs - Messrs Lange, Palmer and Moore - heading this or any union campaign for that matter. Roger Douglas now heads Brierley's; Richard Prebble heads ACT. Nuff said.

"The conference decided to:

"1. establish a network of trade unions with membership within Rio Tinto mines and plants. This structure will have the capacity to exchange information rapidly and efficiently on matters such as conditions of work and pay, social and environmental issues.

"2. build up a thorough understanding of the company's operations and policies. A database of information will be established which will be shared with the members of the network and with the public at large.

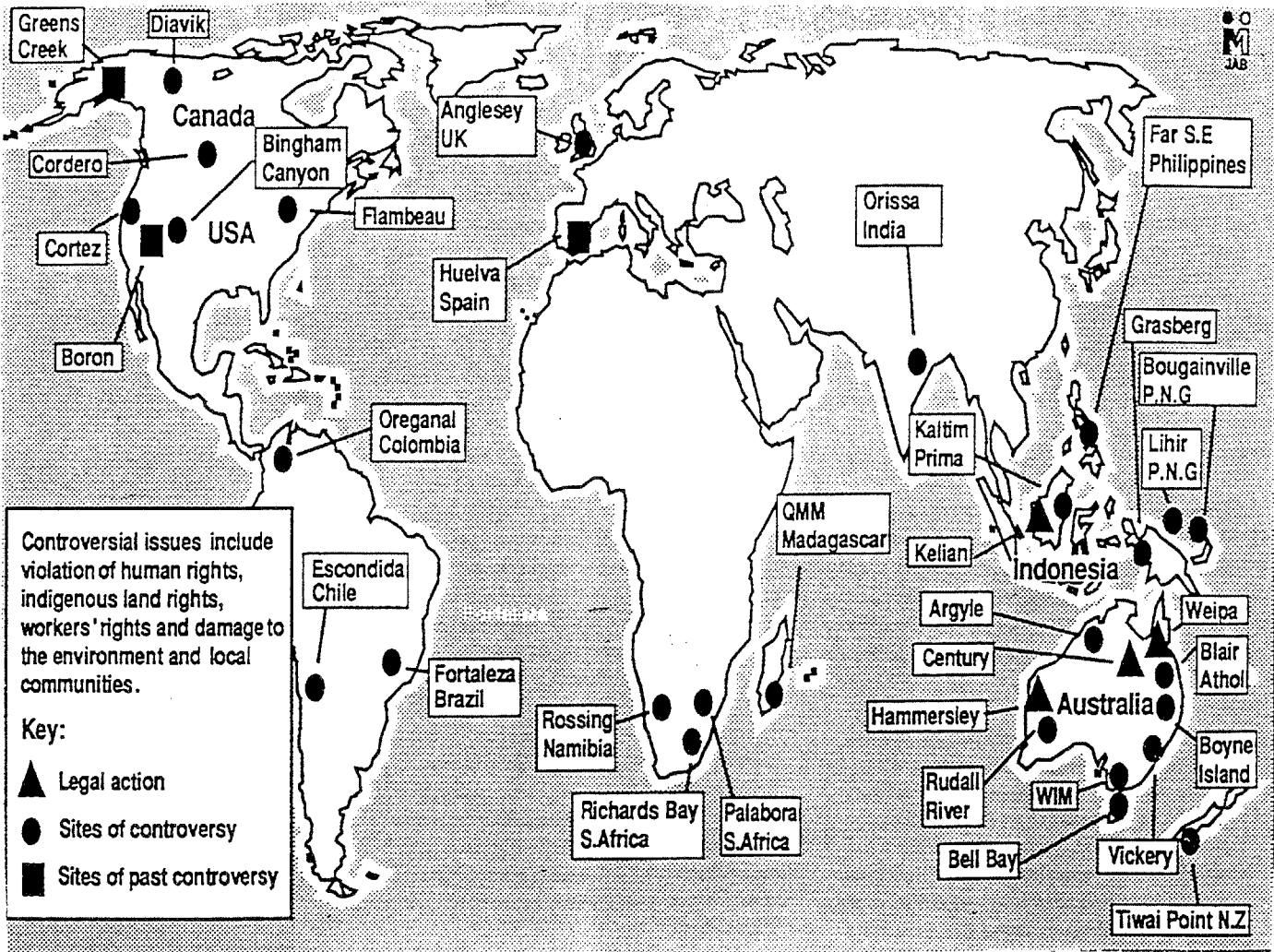
"3. adopt a concerted strategy to ensure that Rio Tinto respects basic human rights and trade union rights. This will be backed by an action programme which will unfold in the coming months.

"The action programme will be implemented together with other international trade union bodies, community groups, environmentalists, churches and other progressive organisations which recognise the damaging impact of Rio Tinto's operations. Union action at local level will be backed by the entire network globally" (Guardian [Australia], 1/4/98; "Unions target Rio Tinto").

On April 6, there were coordinated protest actions outside Rio Tinto's world headquarters in London, and its Australian headquarters in Melbourne. In genteel St James Square, London, a mechanical digger displayed a giant banner reading "Rio Tinto Dumps On Human Rights". A leaflet titled "Why Does Rio Tinto Riot Into People's Rights?" was distributed to publicity shy Rio Tinto staff and passers by. In Melbourne, the banner read "Rio Tinto, Corporate Greed, Global Grief". MPs in several countries asked Questions and tabled resolutions condemning Rio Tinto. There were protests outside Rio Tinto's London AGM, in May.

The encouraging thing about this international campaign is that it is reaching out beyond the trade union movement. In February 1998, the CFMEU did some joint work with Community Aid Abroad (CAA), a major

## Rio Tinto projects... "Bringing out the best in the world"?





Australian development agency. CAA is running a campaign on Australian mining companies in Indonesia. The CFMEU hosted a meeting between Hunter Valley coalminers and representatives of the indigenous people of Kalimantan (Indonesian Borneo), who have suffered the incursion of Rio Tinto's Kelian gold mine onto their land. These Dayaks held an ingenious protest in Australia - they went, in traditional Dayak dress, to the ritzy Toorak (Melbourne) home of Rio Tinto's executive director, Lee Clifford, and claimed it for development of rice paddies and fish farms.

*CAFCA intends to be involved in this international campaign, we see it as the most hopeful development in years. If you want to directly contact the union campaign, then the CFMEU has an Internet web site with an area devoted to the campaign, and links to the websites of other organisations campaigning on Rio Tinto. The address is*

*[www.cfmeu.asn.au/mining-energy](http://www.cfmeu.asn.au/mining-energy)*

## **NEW VIDEO AVAILABLE**

### **RIO TINTO:**

has violated UN resolutions,  
caused environmental pollution,  
and been found guilty of workplace discrimination.

Risk dealing with the world's largest mining  
company alone and you might as well walk ...

### **"NAKED INTO THE JUNGLE"**

***a documentary film on Rio Tinto,  
workers and communities***

This documentary has been produced as part of a  
campaign involving trade unions, human rights  
agencies and environmental groups which is being  
coordinated by the Construction, Forestry, Mining  
and Energy Union, Australia.

Copies of "Naked Into The Jungle" plus a  
background information kit are available for A\$25  
from the **CFMEU Mining and Energy Division's  
national office:**

**3rd Floor, 361 Kent St.  
Sydney NSW 2000 AUSTRALIA  
Tel: (+61)(2) 9262 1011  
fax: (+61)(2) 9262 1928  
email: [admin@cfmeu.com.au](mailto:admin@cfmeu.com.au)**

*As part of our support for the international campaign,  
CAFCA has bought a copy of this 23 minute long  
documentary. We also have a copy of the information  
kit. The video is very good and very timely. It is  
available for hire for \$10 (including postage), for one  
week. Make cheques to CAFCA, Box 2258,  
Christchurch, NZ.*

## **Bougainville**

April 1998 saw the signing of the Bougainville ceasefire, the one agreed in the epochal Lincoln Agreement in January (yes, we will praise the National government. The two sets of talks at Burnham Army camp in 1997, followed by the larger session at Lincoln University, broke the decade long log jam. Not only that, but the NZ military played a constructive role as unarmed truce monitors on Bougainville. Much more relevant to New Zealand than Bosnia or Kuwait).

But two central questions remain unresolved, put into the too hard basket for now (as is the way with all peace talks). Namely, those of Bougainvillean independence and what happens to Rio Tinto's Panguna mine, closed since 1989, and the spark for the whole war of independence. Bougainvillean independence is not our subject but the future of the mine certainly is. We tend to forget what this life and death struggle is all about. Here's a very succinct summary, courtesy of a solidarity message from the Bougainville Freedom Movement to the international union campaign (see above).

"Over 15,000 people are dead on Bougainville because they dared to say 'no' to Rio Tinto. Rio Tinto destroyed forests, fauna, the river systems - all for the sake of money without any respect for the people of Bougainville or their lives. Rio Tinto's Panguna copper/gold mine polluted the rivers so badly that even the few remaining fish had ulcers on them. When the people of Bougainville presented such samples of the fish to the management of the Panguna copper mine Rio Tinto denied that the ulcerations on the fish were due to the pollution from the mine.

"Rio Tinto today still inform their shareholders that the war on Bougainville 'has nothing to do with the Panguna copper mine'. Rio Tinto tells their shareholders that 'the war on Bougainville is due to an inter-tribal problem'. Rio Tinto's chairman Mr Uhrig quoted that ... 'some of the natives have very dark skin with tight frizzy hair whilst the others have lighter skin with less frizzy hair', showing his racism rather than his understanding of the fundamental reasons for the war on Bougainville.

"The people of Bougainville opposed the mine from the very start. The indigenous land owners, primarily women, resisted police and lay down with their babies in front of bulldozers in an attempt to stop the mining of their land. After 20 years of protests, petitions, lobbying and attempts to negotiate an equitable agreement with Rio Tinto the land owners had had enough. In 1989, the people of Bougainville forcibly closed Rio Tinto's copper mine at Panguna and they have kept it closed ever since. The Papua New Guinea and Australian governments responded to the action of the Bougainville people and have waged a prolonged and brutal war against the people with the purpose of reopening the Panguna copper mine..." (3/2/98).

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(Comalco: Continued from Page 65)

For a much more detailed account of the impact of Rio Tinto and Panguna on Bougainville, see the paper presented to the 1998 Taking Control conference, Christchurch, by Moses Havini, Australian representative of the Bougainville Interim Government. A set of conference papers, including his, is available for \$10. Send cheques to CAFCA, Box 2258, Christchurch, NZ.

Bougainville Copper Ltd (BCL), the Rio Tinto subsidiary which operated the mine until its forcible closure in 1989, remains the mine's owner and has made clear that it has no intention of abandoning its claim to Panguna. It is still trading and indeed announced a 1.4 million kina profit for the year ending December 1997. Papua New Guinea would dearly love to have the mine running again, because it was the economy's biggest single revenue source. The Governor General made a speech in January 1998, calling it the jewel in Rio Tinto's crown, and urging its reopening. However there are several flies in BCL's and PNG's ointment. Firstly, no company personnel have been to the mine since 1989, and any reopening would cost serious money (NZ Minister of Foreign Affairs, Don McKinnon, has put the cost at \$US500 million and the timescale at ten years). Secondly, even though the peace deal has been signed, Panguna remains firmly in the control of Francis Ona, the founding father of the Bougainville war of independence, and a man who refuses to join the deal. He remains committed to independence. Although the Bougainville freedom fighters are deeply suspicious of the Australian troops who have replaced the New Zealand peacekeepers (because of Australia's history as the colonial power; its role as the government which forcibly imposed Panguna on Bougainville; and, more recently, as the chief military backer of the PNG military's brutal war of repression), the Aussies have not tried to enter Panguna or any other area under Ona's control.

BCL has offered an olive branch. Any reopening will necessitate a new mining agreement between the

company and the shareholders (no mention of the Bougainvillian people though). The existing agreement has been untouched since 1974, before PNG became independent from Australia. Deputy Opposition leader, Peter Peipul, made the most sweeping and common sense proposal: "Therefore, the Opposition believes, as regards BCL and its opening of the Panguna copper mine, that the mining lease owned by CRA (*the former name of Rio Tinto. Ed.*) should be allowed to lapse. We understand that CRA has four years of the agreement left. The four years in the agreement should be allowed to expire and the National Government of Papua New Guinea ought ... (to) transfer 100 per cent of BCL to the people of Bougainville.

"After having transferred the mining lease to the people, (the government should) allow Bougainvillians to take over the copper mine and develop it for the benefit of Papua New Guinea. If CRA would like to continue to develop the mine, they should approach the North Solomons provincial government (the official PNG name for Bougainville. Ed.) and Francis Ona to provide a management service (for) the owners who are the landowners of the copper mine. This is the most amicable and most logical way to allow the owners of the resource to take control of the copper mine" (*National*; 5/5/98; "Give people control of mine: Peipul").

This was going way too far for the PNG government, which condemned the proposal. The future of the mine remains a major sticking point. But the recent past is still yielding a treasure trove of scandal. It was the disastrous 1997 decision by the previous Chan government to pay a king's ransom to the international mercenaries of Sandline that provoked a military/civilian uprising, the expulsion of the hired killers, and the demise of that government. It also kickstarted the peace process which concluded in April 1998. The Sandline affair led to two commissions of inquiry and all sorts of revelations. For example, former Defence Minister, Benias Sabumei, refused to answer questions about whether he had been paid \$US500,000 by Sandline. He didn't, and couldn't, deny receiving hundreds of thousands of dollars - he wouldn't say where they came from, to avoid incriminating himself. Other revelations concerned the rise in BCL shares when the Sandline operation (to use mercenaries to invade Bougainville and reopen the mine) was being planned in secret - somebody was planning to profit from inside knowledge.

Sacked former military commander, Jerry Singirok, (whose "mutiny" sparked the 1997 crisis) testified that the Chan government had unsuccessfully asked the former CRA to fund military operations on Bougainville. Mindful of adverse Australian public opinion, CRA declined. So Chan turned to the mercenaries. Operation Oyster was revealed to the second, civilian, inquiry. Oyster's aim was to use the mercenaries to murder as many people as necessary in central Bougainville in order to reopen Panguna, kill the leadership of the independence movement and to kill all witnesses,



including the Government's own "Bougainville resistance fighters" (a pro-Government Bougainvillean militia). The military/civilian uprising stopped that murderous plan.

The Sandline affair was a traumatic event in the short history of PNG. The Chief Ombudsman, Simon Pentanu, said in a speech (16/3/98): "Sandline proved conclusively that, in PNG: truth is stranger than fiction. How could such a stupid, costly decision - such as engaging Sandline - be made? The engagement of Sandline to be used on Bougainville was a criminal act. It was a decision of leaders who were quite mad at the time. We are still convalescing from Sandline".

As for Sandline, they're carrying on with business as usual - killing people for profit, working for mining TNCs, and getting governments in the shit. Only much bigger governments this time. In May 1998, British Foreign Secretary, Robin Cook, was in deep trouble because of the revelation that the Foreign Office had been involved with Sandline in skullduggery in Sierra Leone, West Africa (Sandline's original mercenary/mining stronghold. See Watchdog 85; "The Dirty Dogs Of War: Privatised Killers: Mercenaries, Miners and Money"). Sandline said that it had mounted a coup in Sierra Leone with Foreign Office help, involving the sale of arms in violation of a UN embargo. This is the global economy in action - private killers going around the world, doing the dirty work of governments and mining TNCs. All done with a knowing wink from major Western governments that can deny all knowledge. Only trouble is that it didn't work in Bougainville. In fact, the mercenaries never even got to Bougainville before they were kicked out. Chalk that one up to the little people.

*An invaluable source of information is the Bougainville Freedom Movement, Box 134, Erskineville, NSW 2043, Australia. Its newsletter, Garamut, costs \$A20 per year (cheques made out to BFM). It produces daily, sometimes several times daily, Bougainville news on e-mail, all churned out by the indefatigable Vikki John. The address is v.john@uts.edu.au*

### **Australia, New Zealand**

Comalco reported an \$NZ257.6 million profit for 1997, compared with an \$A17.4m loss the previous year. There was a 90,000 tonnes increase in aluminium production. This was attributed to the expansions at its plants at both Boyne Island (Queensland), and at Tiwai Point.

But Comalco New Zealand reported a loss of \$2.7m, (compared to a \$13.5m loss in 1996, and a \$106.9m profit in 1995). The CEO, Kerry McDonald, attributed this to a weak exchange rate vis a vis the US dollar, which caused a tax charge (taxes? That's an unusual word in the Comalco vocabulary). The 1996 completion of the \$464m Tiwai Point upgrade had increased production by 20,400 tonnes.

The ongoing Asian economic turmoil has weakened

global demand for aluminium, with a consequent rise in stockpiles held by producer companies. The 1998 price of \$US1,450 per tonne is about \$US200 down on 1997. But Comalco predicts a rosy future of increased profit and output. This prediction is based not on any optimism about the Asian markets, but on the strong European North American markets and that hardy perennial - cost cutting. That is, shedding jobs in Australia and New Zealand. The restructuring programme is currently saving the company about \$A100m per year. Comalco is still considering building a new alumina refinery, based on Weipa bauxite. It is playing off the governments of Queensland (Gladstone) and Malaysia (Sarawak) for the site. This is a very old game that Comalco has mastered, to secure the best deal for price and long term energy supply.

The most ominous development happened in April 1998, when the NZ Government announced a three way split of ECNZ, as of 1999. The prosaically named SOE3 will be the South Island generator, running Manapouri and the Waitaki hydro stations. It will be by far the biggest of the three new SOEs, with 30% of market share. ECNZ chief executive, Dave Frow, warned that half of SOE3's capacity will be earmarked for Comalco's Tiwai Point smelter, and that Comalco would get priority due to the contract penalties for shortages in power supply. This despite the South Island hydro lakes' particular vulnerability to drought. When asked if SOE3 would service Christchurch/Dunedin or Comalco first, Frow replied: "It would have to service Comalco first" (*Press*, 8/4/98; "Comalco comes before SI consumers - ECNZ").

So fill up the bath with coal, South Islanders, and start scouring the beaches for driftwood. If it comes to a choice between you freezing and Tiwai's alumina freezing in the potline, Comalco comes first. But then it always has, hasn't it. However, we can take comfort from the fact that while the small fish, Comalco, is still swimming around happily, the biggest fish, Rio Tinto, is starting to get the warm feeling of being fried. Indeed, in Bougainville, the sea has quite dried up for this greediest of big fish.

### **DEATHS IN THE FAMILY**

CAFCA expresses our deepest sympathies to the following members who have suffered loss in their families recently.

To Llew Summers, whose partner Rose died, in Christchurch, aged 49.

To Jan Dobson, whose father John died, in Hanmer, aged 77.

# CORPORATE CODE OF RESPONSIBILITY

CAFCA had a philosophical debate in 1997, about transnational corporations (TNCs) - we discussed whether we want to kick the bastards out, or to allow them to operate here under tighter control. The TNCs can breathe easier - on pragmatic grounds we opted for the latter. New Zealand has long led the world in allowing the TNCs free rein here (the MAI extends this deregulation on a legally enforceable, global scale). CAFCA wants to see the TNCs regulated and controlled in New Zealand by law - not the rubberstamp and welcome mat setup we have at present. Most recently, the 1998 Overseas Investment Amendment Act (primarily to do with land) was passed - this gives effect to the derisory Coalition Agreement provisions on foreign investment. We made a submission urging that the existing law be toughened up to more effectively control the TNCs. It wasn't (*see article elsewhere in this issue on the Act. Ed*).

But we also decided to be pro-active and draw up a Corporate Code of Responsibility for TNCs operating in this country (we believe that TNCs are much more deserving of a Code than are beneficiaries). Throughout 1997, CAFCA (in the person of committee member John Ring) scoured international codes for a model applicable here. It was a lot of work, which went through several drafts (once again, done by John), and was sent to various sector groups for comment. They ranged from the Consumers Institute to the Royal Forest and Bird Protection Society.

It was publicly launched at the Taking Control conference, in February. Unusually for CAFCA, it is not 80 pages long. It is but a single side of an A4 sheet. It is a statement of very broad principles. It covers: human rights, workers rights, legal and government, the Treaty, environment, commercial practices and consumers, and general. Here a few quotes: "TNCs shall act in accordance with the Treaty". Straightforward you might think - but not if the MAI comes into effect. "TNCs shall allow workers the freedom and right to belong to a union, associate, organise and bargain collectively". This aspect is missing from most overseas codes, which are primarily aimed at TNCs operating in the Third World. In fact, this confronts the Employment Contracts Act head on. "TNCs shall not interfere in the internal affairs of host countries or attempt to manipulate or defeat public opinion or political leaders". That is aimed at the likes of Comalco, with its history of decades of manipulation of politicians and public opinion. And at the TNCs which comprise the Business Round Table, and those which campaigned against MMP. "TNCs shall respect local environmental legislation and standards". Right now they are campaigning to have the Resource Management Act removed. "TNCs shall not exploit a dominant market position, nor attempt to gain such a position". Think Telecom or any of the other big monopolies. "TNCs shall promote and adhere to the goals of sustainable and

equitable development and full employment". Phrases like "full employment" should produce anxiety attacks in corporate boardrooms.

The Roger Award emphasises all the negative aspects of TNCs and Big Business in general. This Code is the flip side of the coin - it lists all the positive and useful things we want TNCs to abide by. Are we terminally naive? Not a bit of it. So who is this Code aimed at? Only incidentally at the TNCs themselves. Although we see no problem in sending them a copy and asking them to sign it. After all, we're sure they agree with: "TNCs shall not kill, enslave or imprison people". Or: "TNCs shall, at all times, obey both the spirit and the letter of the law in host countries". That's motherhood and apple pie stuff.

Primarily, we see the Code as a campaigning tool. For example, that political parties be asked to adopt it as the basis of their policies towards TNCs. That local bodies require TNCs to agree to it before moving into their region. That ordinary people say that they will only accept foreign investment into NZ by TNCs which accept this Code. And, most importantly, that it be used as an indication of what we are for, rather than simply a reiteration of what we are against. The CAFCA Code was not dreamed up as a gimmick to counter balance the Government's beneficiary bashing Code of Social Responsibility - but we took full advantage of the coincidental timing. During the period for submissions on the Government's Code, we urged people to send them back a copy of this Corporate Code of Responsibility instead and demand that they get this enforced. Let's concentrate on the mugger, not the mugger's victim. We believe that the Corporate Code of Responsibility is more important and will be around long after the Government code has been forgotten.

*The Corporate Code of Responsibility is enclosed with this Watchdog. Copies are available from CAFCA, Box 2258, Christchurch; [cafca@chch.planet.org.nz](mailto:cafca@chch.planet.org.nz). or it can be Internet accessed on <http://canterbury.cyberplace.org.nz/community/CAFCA/code.html>*

## APOLOGY

We apologise to members for the delay in this getting this issue to you. The first couple of months of the year were completely dominated by organising Taking Control and the Roger Award. That took some time to get over. And our one and only paid worker, Murray Horton, was then severely distracted and disrupted by the immediate commencement of several months of major house renovations (which aren't finished yet). That's our story and we're sticking to it. But we do apologise to our members who have been writing and asking for their Watchdog. We know you value it, so, at long last, here's another encyclopaedic edition. Happy reading.